



REGULAR MEETING AGENDA

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

January 10, 2024

POLICE DEPARTMENT OPEN HOUSE

2:00 p.m.

REGULAR MEETING

Immediately following the Open House

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. EMPLOYEE

INTRODUCTION:

Esperanza Deterding, Communications Officer I
Brandon Maxey, Firefighter

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

7. APPROVAL OF MINUTES: December 13, 2023 Special Meeting

8. PUBLIC HEARINGS:

A. CB1, An Ordinance Levying General Property Taxes for the Year 2023 to Help Defray the Costs of Government for the City of Black Hawk, Colorado for the 2024 Budget Year

B. CB2, An Ordinance Approving the 2022 FTA Section 5311 Grant for Two (2) ADA Accessible BOC Replacement Buses Administered by the Colorado Department of Transportation, Division of Transit and Rail, for the Black Hawk and Central City Tramway

9. ACTION ITEMS:

C. Resolution 91-2023, A Resolution Approving a Professional Services Agreement with WW Wheeler and Associates, Inc. for the Pickle Gulch Reservoir Site Evaluation Study in the Amount Not to Exceed \$48,300.00

D. Resolution 1-2024, A Resolution Establishing a Designated Public Place for the Posting of Meeting Notices Pursuant to C.R.S. § 24-6-402(2)(c)

E. Resolution 2-2024, A Resolution Approving Certain Service Agreements for Calendar Year 2024 for CP&D

F. Resolution 3-2024, A Resolution Approving Certain Service Agreements for Calendar Year 2024 for PW

G. Resolution 4-2024, A Resolution Approving the Acquisition of Certain Real Property Known as Portions of the Fay Lode MS 13338 (0.3 Acres), the Marks Lode MS 13338 (0.8 Acres), and the Dale Lode MS 13338 (.13 Acres)

H. Resolution 5-2024, A Resolution Amending the Compensation for the Members of the Historic Preservation Commission

10. CITY MANAGER REPORT:

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

AMERICANS WITH DISABILITY ACT NOTICE Any disabled person who plans to attend any governmental meeting of the City of Black Hawk and requires special assistance can contact City Hall at (303) 582-2221. Please make any request for assistance at least 24 hours before the scheduled meeting

11. CITY ATTORNEY REPORT:

12. EXECUTIVE SESSION:

Executive Session to hold a conference with the City Attorney to receive legal advice on specific legal issues regarding potential litigation and regarding options related to City-owned property pursuant to C.R.S. § 24-6-402(4)(b), and to instruct negotiators regarding City-owned land on Gregory Hill, the Gregory Street HARD District, other City-owned property, and potential property acquisition pursuant to C.R.S § 24-6-402(4)(e).

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

AMERICANS WITH DISABILITY ACT NOTICE Any disabled person who plans to attend any governmental meeting of the City of Black Hawk and requires special assistance can contact City Hall at (303) 582-2221. Please make any request for assistance at least 24 hours before the scheduled meeting



City of Black Hawk New Employee Introduction



Esperanza Deterding
Communications Officer I

Esperanza started working at Black Hawk Police Dispatch in July. She graduated from Pittsburg State University, Kansas where she also commissioned as a 2nd Lt. in the Kansas Army National guard. She has served in the Army National Guard since August of 2019. Esperanza grew up on a small farm in Northeast Texas. She moved here in with her husband in Colorado this past June. She recently got married this past October to her husband Michael Austin in her family's barn in Texas. She spends her free time by reading, crocheting, and baking artisan breads.



City of Black Hawk New Employee Introduction



Brandon Maxey
Firefighter

I am originally from Evergreen and have lived here my whole life. I obtained a degree in Anthropology from MSU Denver, which sparked my interest in traveling and exploring different cities. I have traveled to Japan and Peru, and all over the US. I am an avid outdoors enthusiast and enjoy spending time surrounded by nature. Previously, I worked as an EMT at the Gilpin Ambulance Authority. I love working for the City of Black Hawk and I look forward to a long career here.



**City of Black Hawk
City Council**

December 13, 2023

**SPECIAL
MEETING MINUTES**

Brian Watts, owner of the Rick Thomas Distillery, rang the bell to open the meeting.

1. **CALL TO ORDER:** Mayor Spellman called the special meeting of the City Council to order on Wednesday, December 13, 2023 at 2:30 p.m.

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

Staff Present: City Attorney Hoffmann, City Manager Cole, Police Chief Moriarty, Fire Chief Woolley, Administrative Services Director/City Clerk Greiner, Finance Director Hillis, Public Works Director Isbester, City Engineer Reed, Maintenance Services Manager Jackson, Water Resource Engineer Dallam, Community Planning & Development Director Linker, Development Services Coordinator Richards, and Deputy City Clerk Martin.

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

3. **EXECUTIVE SESSION:** City Attorney Hoffmann recommended items number 1, 2, and 5 only for Executive Session.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 2:32 p.m. to hold a conference with the City Attorney to receive legal advice on specific legal issues pursuant to C.R.S. § 24-6-402(4)(b), and to instruct negotiators pursuant to C.R.S § 24-6-402(4)(e) regarding City-owned land in and adjacent to the Gregory Street HARD District; to instruct negotiators regarding the potential acquisition of property by the City pursuant to C.R.S § 24-6-402(4)(a) and C.R.S § 24-6-402(4)(e); to instruct negotiators pursuant to C.R.S § 24-6-402(4)(e) regarding the use of City-owned land in the Gregory Street HARD District and regarding other City-owned property; and to hold a conference with the City

Attorney to receive legal advice on specific legal issues pursuant to C.R.S. § 24-6-402(4)(b) regarding false alarms.

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 3:10 p.m.

MOTION PASSED

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

**RESUME BACK INTO
REGULAR OPEN
SESSION**

Mayor Spellman resumed the regular session at 3:10 p.m., noting there were no decisions made.

4. AGENDA CHANGES:

Deputy City Clerk Martin confirmed item 9D, Resolution 91 was taken off this agenda and postponed to a future meeting; there were no other changes.

5. 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. City Council noted no conflicts.

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

6. PUBLIC COMMENT:

Deputy City Clerk Martin stated three people signed up to speak: Brian Watts, Chuck Spencer, and Leza Spencer.

Brian Watts, owner of the Rick Thomas Distillery at 830 Miners Road, wanted to thank the City for all their support and to let Council know that he has reached out to the industry to find another distillery and is telling them how great of a community partner Black Hawk is. When asked, he provided an inventory of his products now and over time.

Chuck and Leza Spencer were signed up to speak on the Copper Kitchen agenda item later in the agenda.

7. APPROVAL OF
MINUTES:

November 8, 2023

**MOTION TO
APPROVE**

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

MOTION PASSED

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

8. PUBLIC HEARINGS:

A. Resolution 85-2023, 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 2024 and Ending on the Last Day of December 2024, and Appropriating Sums of Money to Various Funds and Spending Agencies in the Amount, and for the Purposes Set Forth Within the Attached 2024 Budget

Mayor Spellman read the title and opened the public hearing.

Finance Director Hillis noted a small amendment for the Gilpin Ambulance based on an update received.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 85-2023, 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 2024 and ending on the last day of December 2024, and appropriating sums of money to various funds and spending agencies in the amount, and for the purposes set forth within the attached 2024 Budget open and invited anyone wanting to address the Board either “for” or “against” the Resolution to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 85-2023, 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 2024 and ending on the last day of December 2024, and appropriating sums of money to various funds and spending agencies in the amount, and for the purposes set forth within the attached 2024 Budget.

MOTION PASSED

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

B. CB34, An Ordinance Amending Various Sections of the Black Hawk Employee Handbook

Mayor Spellman read the title and opened the public hearing.

Administrative Services Director/City Clerk Greiner noted the major changes were the additional paid time off accrual hours for employees who have completed 15 and 20 years and some legislative changes requested by the City Attorney.

The City Manager and City Attorney will schedule a meeting with Council to discuss future handbook changes.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB34, an Ordinance amending various sections of the Black Hawk Employee Handbook open and invited anyone wanting to address the Board either “for” or “against” the Ordinance to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve CB34, an Ordinance amending various sections of the Black Hawk Employee Handbook.

MOTION PASSED

After discussion, the motion **PASSED** unanimously.

C. CB35, An Ordinance Adopting the City of Black Hawk 2024 Pay Plan and Revised Job Descriptions

Mayor Spellman read the title and opened the public hearing.

Administrative Services Director/City Clerk Greiner stated the City’s in-house survey result was a 6.65% increase.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB35, an Ordinance adopting the City of Black Hawk 2024 Pay Plan and Revised Job Descriptions open and invited anyone wanting to address the Board either “for” or “against” the Ordinance to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO
APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve CB35, an Ordinance adopting the City of Black Hawk 2024 Pay Plan and Revised Job Descriptions.

MOTION PASSED

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

D. CB36, An Ordinance Approving the FTA Section 5311 Operating Grant Agreement Between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk dba Black Hawk and Central City Tramway for 2024 in an Amount Not to Exceed \$116,271.00

Mayor Spellman read the title and opened the public hearing.

Public Works Director Isbester said there were no changes.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB36, an Ordinance approving the FTA Section 5311 Operating Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk dba Black Hawk and Central City Tramway for 2024 in an amount not to exceed \$116,271.00 open and invited anyone wanting to address the Board either “for” or “against” the Ordinance to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to approve CB36, an Ordinance approving the FTA Section 5311 Operating Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk dba Black Hawk and Central City Tramway for 2024 in an amount not to exceed \$116,271.00.

MOTION PASSED

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

E. CB37, An Ordinance Approving the Intergovernmental Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority Regarding Maintenance of the Authority’s Ambulances

Mayor Spellman read the title and opened the public hearing.

Public Works Director Isbester said there were no changes.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB37, an Ordinance approving the Intergovernmental Agreement between the City of Black Hawk and the Gilpin Ambulance Authority regarding maintenance of the Authority's Ambulances open and invited anyone wanting to address the Board either "for" or "against" the Ordinance to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve CB37, an Ordinance approving the Intergovernmental Agreement between the City of Black Hawk and the Gilpin Ambulance Authority regarding maintenance of the Authority's Ambulances.

MOTION PASSED

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

F. CB38, An Ordinance Approving the Cooperative Agreement Between the Gilpin County Department of Human/Social Services and the City of Black Hawk Through the Black Hawk Police Department

Mayor Spellman read the title and opened the public hearing.

Police Chief Moriarty introduced this item.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB38, an Ordinance approving the Cooperative Agreement between the Gilpin County Department of Human/Social Services and the City of Black Hawk through the Black Hawk Police Department open and invited anyone wanting to address the Board either "for" or "against" the Ordinance to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Bennett to approve CB38, an Ordinance approving the Cooperative Agreement between the Gilpin County Department of Human/Social Services and the City of Black Hawk through the Black Hawk Police Department.

MOTION PASSED

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

G. Resolution 86-2023, A Resolution Conditionally Approving a Certificate of Architectural Compatibility to Allow for Demolition of a Structure Located at 271 Gregory Street

Mayor Spellman read the title and opened the public hearing.

Community Planning & Development Director Linker introduced this item. Daniel Gilbert, the City's historic preservation consultant from Pinyon Environmental, provided the structure's history.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 86-2023, a Resolution conditionally approving a Certificate of Architectural Compatibility to allow for demolition of a structure located at 271 Gregory Street open and invited anyone wanting to address the Board either "for" or "against" the Resolution to come forward.

No one wished to speak, and Mayor Spellman declared the Public Hearing closed.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 86-2023, a Resolution conditionally approving a Certificate of Architectural Compatibility to allow for demolition of a structure located at 271 Gregory Street.

MOTION PASSED

After much discussion, the motion **PASSED** 4-2, with Aldermen Midcap and Torres voting against it.

H. Resolution 87-2023, A Resolution Conditionally Approving a Revised Certificate of Architectural Compatibility for the Copper Kitchen Pizzeria Located at 307 Gregory Street

Mayor Spellman read the title and opened the public hearing.

Baseline Engineering Consultants Vince Harris and Alyssa Rivas introduced this item and provided a presentation. Peter Heinz & Josh Zinnecker from PEH Architects were also present for questions. The only change was the addition of the corbels on the parapet, which are the white decorative pieces on the top.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 87-2023, a Resolution conditionally approving a revised Certificate of Architectural Compatibility for the Copper Kitchen Pizzeria located at 307 Gregory Street open and invited anyone wanting to address the Board either "for" or "against" the Resolution to come forward.

Leza and Chuck Spencer, owner of Mountain Poppy Boutique and Wine Bar located at 317 Gregory Street, stated their names and address for the record. Their questions were: during construction, what areas along Gregory will be closed, for how long, and are there any construction start dates yet? Civil Engineer/Project Manager Reed replied the construction start date is April 1, and the end date is the end of June 2025. The area most affected besides the construction site will be the staircase at the east end of the plaza; he estimated it would be closed to pedestrians for one month. Mr. Reed will reach out to the Spencer's during contractor meetings to discuss pedestrian traffic, blocked view of the shops, and signage.

Eric Myhre, owner of Basin & Bend, located at 357 Gregory Street, noted the same concerns of visibility, timing, and business disruption.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 87-2023, a Resolution conditionally approving a revised Certificate of Architectural Compatibility for the Copper Kitchen Pizzeria located at 307 Gregory Street.

MOTION PASSED

After discussion, the motion **PASSED** 5-1, with Alderman Midcap voting against it.

9. ACTION ITEMS:

- A. Resolution 88-2023, A Resolution Approving Amendment No. 1 to the General Contractor Agreement Executed on April 12, 2023 Between the City of Black Hawk and MW Golden Constructors, Establishing the Guaranteed Maximum Price (GMP) of \$6,501,189.00 for Construction of the Copper Kitchen Pizzeria Project**

Mayor Spellman read the title.

City Engineer Reed introduced this item. Peter Heinz & Josh Zinnecker from PEH Architects showed interior color boards. Mr. Reed reiterated that contractor discussions would include pedestrian access, visibility, and pedestrian signage for the existing Gregory Street stores.

**MOTION TO
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 88-2023, a Resolution approving Amendment No. 1 to the General Contractor Agreement executed on April 12, 2023 between the City of Black Hawk and MW Golden Constructors,

establishing the Guaranteed Maximum Price (GMP) of \$6,501,189.00 for construction of the Copper Kitchen Pizzeria Project.

MOTION PASSED

After discussion, the motion **PASSED** 5-1, with Alderman Midcap voting against it.

B. Resolution 89-2023, A Resolution Awarding the Bid and Approving the Contract Between the City of Black Hawk and Grapes & Sons Excavating, LLC in an Amount Not to Exceed \$97,900.00 for Demolition of the Structure Located at 271 Gregory Street and Excavation of a Portion of the Livery Lot

Mayor Spellman read the title.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 89-2023, a Resolution awarding the bid and approving the contract between the City of Black Hawk and Grapes & Sons Excavating, LLC in an amount not to exceed \$97,900.00 for demolition of the structure located at 271 Gregory Street and excavation of a portion of the Livery Lot.

MOTION PASSED

After discussion, the motion **PASSED** 4-2, with Aldermen Midcap and Torres voting against it.

C. Resolution 90-2023, A Resolution Approving the Eighth Addendum to the Agreement for Transit Related Services for the Black Hawk & Central City Tramway for 2024 Between MV Transportation, Inc. and the City of Black Hawk

Mayor Spellman read the title.

Public Works Director Isbester said there were no changes.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 90-2023, a Resolution approving the Eighth Addendum to the Agreement for Transit Related Services for the Black Hawk & Central City Tramway for 2024 between MV Transportation, Inc. and the City of Black Hawk.

MOTION PASSED

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

D. Resolution 91-2023, A Resolution Approving a Professional Services Agreement with WW Wheeler and Associates, Inc. for the Pickle Gulch Reservoir Site Evaluation Study in the Amount Not to Exceed \$48,300.00

This was the item pulled from the agenda and postponed to a later date.

E. Resolution 92-2023, A Resolution Approving the Twelfth Addendum to Personal Services Agreement with 5280 Strategies, LLC

Mayor Spellman read the title.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 92-2023, a Resolution approving the Twelfth Addendum to Personal Services Agreement with 5280 Strategies, LLC.

MOTION PASSED

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

F. Resolution 93-2023, A Resolution Adopting the 2024 City Council Regular Meeting Schedule

G. Resolution 94-2023, A Resolution Adopting the 2024 Holiday Schedule

H. Resolution 95-2023, A Resolution Adopting the 2024 Historic Preservation Commission Meeting Schedule

Mayor Spellman read the titles.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 93-2023, a Resolution adopting the 2024 City Council Regular Meeting Schedule, Resolution 94-2023, a Resolution adopting the 2024 Holiday Schedule, and Resolution 95-2023, a Resolution adopting the 2024 Historic Preservation Commission Meeting Schedule.

MOTION PASSED

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

I. Resolution 96-2023, A Resolution Approving the 2024 Contract with Pinnacol Assurance for Workers' Compensation Insurance

Mayor Spellman read the title.

Administrative Services Director/City Clerk Greiner introduced this item.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 96-2023, a Resolution approving the 2024 contract with Pinnacol Assurance for Workers' Compensation Insurance.

MOTION PASSED

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

J. Resolution 97-2023, A Resolution Authorizing the Mayor to Execute a Quitclaim Deed on Behalf of the City to a Newly Registered Elector Qualified to Serve on the Silver Dollar Metropolitan District

Mayor Spellman read the title.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 97-2023, a Resolution authorizing the Mayor to execute a Quitclaim Deed on behalf of the City to a newly registered elector qualified to serve on the Silver Dollar Metropolitan District.

MOTION PASSED

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

10. CITY MANAGER REPORT:

City Manager Cole said the county has applied for a grant to conduct a housing study and has asked Black Hawk and Central City to contribute 1/3 of the \$21,700.00 matching grant each. Each share would be \$7,200.00. The consensus of Council was yes to participate.

City Manager Cole was also seeking approval of an end-of-year Team Member Gratitude Dividend of \$1,000.00, plus 2% of their base earnings for all team members, based on \$250/per quarter for their employment. It was **MOVED** by Alderman Bennett, **SECONDED** by Alderman Johnson, and **PASSED** unanimously to approve the Team Member Gratitude Dividend.

11. CITY ATTORNEY REPORT:

City Attorney Hoffmann had nothing to report.

Mayor Spellman allowed public comment at the end of the meeting for Mason Sidling from Idaho Springs, who missed the sign-up at the beginning of the meeting. He works at the dispensary next door and was interested in renting the unit across the hall from Litwood Creations for a Yoga Studio. Mayor Spellman let him know the City already has a potential tenant for that space.

12. EXECUTIVE SESSION:

City Attorney Hoffmann recommended items number 1, 2, and 5 only to continue the previous Executive Session.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 4:20 p.m. to receive legal advice on specific legal issues pursuant to C.R.S. § 24-6-402(4)(b), and to instruct negotiators pursuant to C.R.S § 24-6-402(4)(e) regarding City-owned land in and adjacent to the Gregory Street HARD District; to instruct negotiators regarding the potential acquisition of property by the City pursuant to C.R.S § 24-6-402(4)(a) and C.R.S § 24-6-402(4)(e); to instruct negotiators pursuant to C.R.S § 24-6-402(4)(e) regarding the use of City-owned land in the Gregory Street HARD District and regarding other City-owned property; and to hold a conference with the City Attorney to receive legal advice on specific legal issues pursuant to C.R.S. § 24-6-402(4)(b) regarding false alarms.

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 4:47 p.m.

MOTION PASSED

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

13. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council adjourned at 4:47 p.m.

Melissa A. Greiner, CMC
City Clerk

David D. Spellman
Mayor

**COUNCIL BILL 1
ORDINANCE 2024-1
AN ORDINANCE LEVYING
GENERAL PROPERTY
TAXES FOR THE YEAR
2023 TO HELP DEFRAID
THE COSTS OF
GOVERNMENT FOR THE
CITY OF BLACK HAWK,
COLORADO FOR THE 2024
BUDGET YEAR**

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

COUNCIL BILL: CB1

ORDINANCE NUMBER: 2024-1

TITLE: AN ORDINANCE LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2023 TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE CITY OF BLACK HAWK, COLORADO FOR THE 2024 BUDGET YEAR.

WHEREAS, the Board of Aldermen of the City of Black Hawk has adopted the annual budget in accordance with the Local Government Budget Law on December 13, 2023:

WHEREAS, the amount of money necessary to balance the budget for general operating purposes from property tax revenue is \$12,597; and

WHEREAS, the 2023 valuation for assessment for the City of Black Hawk, as certified by the Gilpin County Assessor, is \$349,917,840.

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

Section 1. For the purpose of meeting all general operating expenses of the City of Black Hawk during the 2024 budget year, there is levied a tax of .0360 mills upon each dollar of the total valuation for assessment of all taxable property within the City of Black Hawk for the year 2023.

Section 2. That the City Clerk is hereby authorized and directed to immediately certify to the County Commissioners of the County of Gilpin, Colorado the mill levy for the City of Black Hawk, Colorado as herein above determined and set.

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 this Ordinance as required by City Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: 2023 General Property Tax Mill Levy.

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

MOTION TO APPROVE: Ordinance 2024-1, An Ordinance levying the General Property Tax for the Year 2023.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: This Ordinance sets the City's property tax mill levy at .036 mills for 2023, to be collected in 2024.

AGENDA DATE: January 10, 2024

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ No

STAFF PERSON RESPONSIBLE: Lance Hillis, Finance Director

DOCUMENTS ATTACHED: Ordinance

RECORD: ☐ Yes ☒ No

CITY ATTORNEY REVIEW: ☒ Yes ☐ N/A

SUBMITTED BY:

REVIEWED BY:





Lance Hillis, Finance Director

Stephen N. Cole, City Manager

**COUNCIL BILL 2
ORDINANCE 2024-2
AN ORDINANCE
APPROVING THE 2022 FTA
SECTION 5311 GRANT FOR
TWO (2) ADA ACCESSIBLE
BOC REPLACEMENT BUSES
ADMINISTERED BY THE
COLORADO DEPARTMENT
OF TRANSPORTATION,
DIVISION OF TRANSIT AND
RAIL, FOR THE BLACK
HAWK AND CENTRAL CITY
TRAMWAY**

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

COUNCIL BILL NUMBER: CB2

ORDINANCE NUMBER: 2024-2

TITLE: AN ORDINANCE APPROVING THE 2022 FTA SECTION 5311 GRANT FOR TWO (2) ADA ACCESSIBLE BOC REPLACEMENT BUSES ADMINISTERED BY THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSIT AND RAIL, FOR THE BLACK HAWK AND CENTRAL CITY TRAMWAY

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

Section 1. The City of Black Hawk hereby approves the 2022 FTA Section 5311 Grant for Two (2) ADA Accessible BOC Replacement Buses administered by the Colorado Department of Transportation, Division of Transit and Rail, for the Black Hawk and Central City Tramway, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and authorizes the Mayor to execute any necessary documents on behalf of the City.

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

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

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

READ, PASSED AND ORDERED POSTED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Council Bill 2, an Ordinance Approving the **2022** FTA Section 5311 Grant for 2 ADA Accessible BOC Replacement Buses administered by Colorado Department of Transportation, Division of Transit and Rail, for the Black Hawk and Central City Tramway.

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

MOTION TO APPROVE CB2, Ordinance 2024-2 approving the 2022 FTA Section 5311 Grant for two (2) ADA Accessible BOC Replacement Buses administered by the Colorado Department of Transportation, Division of Transit and Rail, for the Black Hawk and Central City Tramway

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Five of the Tramway buses have long exceeded their ‘useful life’ based on the FTA’s criteria. The fleet department has been doing a stand up job in keeping the current buses operational. We have had to take one out of service and use it for parts. We have replaced the engine in another.

The City was successful in being awarded a **2022** FTA 5311 grant for 2 Body on Chasis(BOC) ‘Cutaway’ replacement buses. This grant is administered by CDOT. The ongoing personnel issues at CDOT has caused this grant to languish now for nearly two years. We were granted pre-award authority from CDOT and the units have been spec’d and ordered. The most recent eta is June of 2024. The formal grant document was just provided. This grant is for \$334,350.00 of which the City/Tramway will be reimbursed for 80% or \$267,480.00 for a net cost of \$66,870.00 for two new buses.

The City has also been awarded a 2023 FTA 5311 grant for 3 additional BOC replacement buses that have also been granted preaward authority and have been ordered. These are also due around the same timeframe. We are still awaiting the formal CDOT agreement.

AGENDA DATE: January 10, 2024

WORKSHOP DATE: January 10, 2024

FUNDING SOURCE: 204-4801-4817401 Capital Replacement-Transit

DEPARTMENT DIRECTOR APPROVAL: [X]Yes []No

STAFF PERSON RESPONSIBLE: Thomas Isbester

DOCUMENTS ATTACHED: Grant Agreement

RECORD: []Yes []No

CoBH CERTIFICATE OF INSURANCE REQUIRED []Yes [X]No

CITY ATTORNEY REVIEW: ☐ Yes ☐ N/A

SUBMITTED BY:



Thomas Isbester, Public Works Director

REVIEWED BY:



Stephen N. Cole, City Manager

STATE OF COLORADO SUBAWARD AGREEMENT

COVER PAGE

State Agency Department of Transportation	Agreement Number / PO Number 24-HTR-ZL-00033 / 491003318
Subrecipient CITY OF BLACK HAWK	Agreement Performance Beginning Date The later of the Effective Date or January 01, 2024
Subaward Agreement Amount Federal Funds Maximum Amount (80%) \$267,480.00 Local Funds Local Match Amount (20%) \$66,870.00 Agreement Total \$334,350.00	Initial Agreement Expiration Date December 31, 2025
	Fund Expenditure End Date December 31, 2025
	Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149.
Agreement Purpose In accordance with 49 USC §5311, the purpose of this Agreement is to provide capital, planning, and operating assistance to states to support public transportation in rural areas with populations less than 50,000, where many residents often rely on public transit to reach their destinations. The work to be completed under this Agreement by the Subrecipient is more specifically described in Exhibit A.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Required Federal Contract/Agreement Clauses. 5. Exhibit E – Verification of Payment. <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Exhibit C – Federal Provisions. 2. Exhibit D – Required Federal Contract/Agreement Clauses. 3. Colorado Special Provisions in §17 of the main body of this Agreement. 4. The provisions of the other sections of the main body of this Agreement. 5. Exhibit A – Statement of Work and Budget. 6. Executed Option Letters (if any). 	
Principal Representatives <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> For the State: Robin Rocke Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 robin.rocke@state.co.us </div> <div style="width: 45%;"> For Subrecipient: Tom Isbester CITY OF BLACK HAWK PO BOX 68 BLACK HAWK, CO 80422 tisbester@cityofblackhawk.org </div> </div>	

SIGNATURE PAGE**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

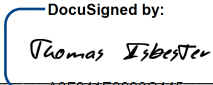

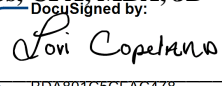
<p align="center">SUBRECIPIENT CITY OF BLACK HAWK</p> <p>DocuSigned by:  By: _____ A3F041E3998C445...</p> <p>Name: <u>Thomas Isbester</u></p> <p>Title: <u>Public Works Director</u></p> <p>Date: <u>12/14/2023</u></p>	<p align="center">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana Minkow, Executive Director</p> <p>DocuSigned by:  By: _____ 63C1F827D40E4B3...</p> <p>Name: <u>Keith Stefanik</u></p> <p>Title: <u>Chief Engineer</u></p> <p>Date: <u>12/14/2023</u></p>
<p align="center">2nd State or Subrecipient Signature if needed</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p align="center">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p align="center">N/A</p> <p>By: Assistant Attorney General</p> <p>Date: _____</p>
<p align="center">In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>DocuSigned by:  By: Department of Transportation</p> <p align="center">Effective Date: <u>12/14/2023</u></p>	

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1. PARTIES

This Agreement is entered into by and between Subrecipient named on the Cover Page for this Agreement (the “Subrecipient”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Subrecipient and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in **§5.D**, or after the Fund Expenditure End Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for Breach of Agreement by Subrecipient, which shall be governed by **§12.A.i**.

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with **§14**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in **§12.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the Subaward Maximum Amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Subrecipient is debarred or suspended under §24-109-105, C.R.S., at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day other than Saturday, Sunday, or a legal holiday as listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Deliverable"** means the outcome to be achieved or output to be provided, in the form of a tangible or intangible Good or Service that is produced as a result of Subrecipient's Work that is intended to be delivered by Subrecipient.

- H. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Agreement.
- I. **“End of Term Extension”** means the time period defined in **§2.D**.
- J. **“Exhibits”** means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- K. **“Extension Term”** means the time period defined in **§2.C**.
- L. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- M. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. Federal Transit Administration (FTA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- N. **“FTA”** means Federal Transit Administration.
- O. **“Goods”** means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- P. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- Q. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- R. **“Initial Term”** means the time period defined in **§2.B**.
- S. **“Master Agreement”** means the FTA Master Agreement document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- T. **“Matching Funds”** (Local Funds, or Local Match) means the funds provided by Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- U. **“Party”** means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- V. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- W. **“Recipient”** means the State agency shown on the Signature and Cover Pages of this Agreement, for the purposes of this Federal Award.
- X. **“Services”** means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- Y. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include but is not limited to PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party

who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- Z. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- AA. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- BB. **“State Records”** means any and all State data, information, and records regardless of physical form.
- CC. **“Subaward Maximum Amount”** means an amount equal to the total of Grant Funds for this Agreement.
- DD. **“Subcontractor”** means any third party engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of Grant Funds.
- EE. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Contractor is a Subrecipient.
- FF. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- GG. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- HH. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined elsewhere in this Agreement or in an Exhibit shall be construed and interpreted as defined in that section.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Subaward Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Subaward Maximum Amount shown on the Cover Page of this Agreement as “Federal Funds Maximum Amount”.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Subrecipient and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Subrecipient shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days' interest to be paid and the interest rate.

iii. Payment Disputes

If Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Subrecipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Subrecipient shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.E**.

v. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Subrecipient shall provide Matching Funds as provided in Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies.

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of **§5**, this Agreement, and Exhibit A. However, any costs incurred by Subrecipient prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Subrecipient for costs or expenses incurred or performance by the Subrecipient prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the

- Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.
- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the Subaward Maximum Amount shown on the Cover Page of this Agreement and on Exhibit A for all allowable costs described in this Agreement and shown in Exhibit A, except that Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change, the change does not modify the Subaward Maximum Amount or the Subaward Maximum Amount for any federal fiscal year or State Fiscal Year, and the change does not modify any requirements of the Work.
 - iii. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
 - iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all Deliverables (including documentation) as defined in this Agreement and Subrecipient's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within one year and 90 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, Subrecipient shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Subrecipient is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Subrecipient's ability to perform its obligations under this Agreement, Subrecipient shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's Principal Representative identified on the Cover Page for this Agreement.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance

allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work and the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder (collectively, the "Subrecipient Records"). Subrecipient shall maintain such records for a period of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively (the "Record Retention Period"). If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State or that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Subrecipient shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Subrecipient shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in writing by the State. Subrecipient shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Subrecipient shall immediately forward any request or demand for State Records to the State's Principal Representative identified on the Cover Page of the Agreement.

B. Other Entity Access and Nondisclosure Agreements

Subrecipient may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement.

Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Subrecipient shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Subrecipient shall provide the State with access, subject to Subrecipient's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Subrecipient shall return State Records provided to Subrecipient or destroy such State Records and certify to the State that it has done so, as directed by the State. If Subrecipient is prevented by law or regulation from returning or destroying State Confidential Information, Subrecipient warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, Subrecipient shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Subrecipient can establish that Subrecipient and its agents, employees, and Subcontractors are not the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof. The State may, in its sole discretion and at Subrecipient's sole expense, require Subrecipient to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Subrecipient shall provide the State with the results of such audit and evidence of Subrecipient's planned remediation in response to any negative findings.

E. Data Protection and Handling

Subrecipient shall ensure that all State Records and Work Product in the possession of Subrecipient or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times. As used in this section, the protections afforded Work Product only apply to Work Product that requires confidential treatment.

F. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Subrecipient shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Subrecipient under this Agreement. Such a conflict of interest would arise when a Subrecipient or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Subrecipient acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Subrecipient shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Subrecipient's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Subrecipient is uncertain whether a conflict or the appearance of a conflict has arisen, Subrecipient shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

- D. Subrecipient acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Subrecipient further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S., with regard to this Agreement. For the avoidance of doubt, an actual or apparent conflict of interest shall exist if Subrecipient employs or contracts with any State employee, any former State employee within six months following such employee's termination of employment with the State, or any immediate family member of such current or former State employee. Subrecipient shall provide a disclosure statement as described in §9.C. no later than ten days following entry into a contractual or employment relationship as described in this section. Failure to timely submit a disclosure statement shall constitute a Breach of Agreement. Subrecipient may also be subject to such penalties as are allowed by law.**

10. INSURANCE

Subrecipient shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Subrecipient or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

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

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Subrecipient and Subcontractors.

E. Primacy of Coverage

Coverage required of Subrecipient and each Subcontractor shall be primary over any insurance or self-insurance program carried by Subrecipient or the State.

F. Cancellation

All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Subrecipient and

Subrecipient shall forward such notice to the State in accordance with **§14** within seven days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

All insurance policies secured or maintained by Subrecipient or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Subrecipient or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Subrecipient shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Subrecipient shall ensure that the Subcontractor maintain at all times during the terms of this Subrecipient, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement prior to the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Subrecipient shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in **§12** for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§11**, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Agreement

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Subrecipient shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.E**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Subrecipient's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State (i) secure that right to use such Work for the State and Subrecipient;

(ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S., for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (collectively, the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

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

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, all State Records, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Subrecipient are the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination

of this Agreement for any reason, Subrecipient shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. GENERAL PROVISIONS

A. Assignment

Subrecipient's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Subrecipient's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in **§16.A**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

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

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State imposes such taxes on Subrecipient. Subrecipient shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Subrecipient may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§16.A**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Subrecipient shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Subrecipient's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

i. Subrecipient shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or

Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

- ii. Subrecipient, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this Agreement, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

T. Federal Provisions

Subrecipient shall comply with all applicable requirements of Exhibits C and D at all times during the term of this Agreement.

17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

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

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

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

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

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

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

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

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Subrecipient (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the

Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S., prior to the Effective Date of this Agreement.

EXHIBIT A, STATEMENT OF WORK AND BUDGET**EXHIBIT A: STATEMENT OF WORK AND CONDITIONS**

Project Description*	2022 FTA 5311_Black Hawk_2 ADA Accessible BOC Replacement		
Federal Awarding Agency	Federal Transit Administration (FTA)		
Federal Regional Contact	Cindy Terwilliger		
Federal Award Date	To Be Determined		
Project End Date	December 31, 2025		
FAIN	To Be Determined	CFDA #	20.509
CFDA Title	Formula Grants for Rural Areas Program		
Subrecipient	Black Hawk, City of	DUNS #	NZ3ZU3CCPAY6
Contact Name	Tom Isbester	Vendor #	2000406
Address	PO Box 68 Black Hawk, CO 804220068	Phone #	(303) 582-1324
Email	tisbester@cityofblackhawk.org	Indirect Rate	N/A
WBS**	22-11-0042.BHWK.111	ALI	11.12.04
Total Project Budget	\$334,350.00		
Federal FTA-5311 Funds (at 80% or less)			\$267,480.00
Local Funds (at 20% or more)			\$66,870.00
Total Project Amount Encumbered via this Subaward Agreement			\$334,350.00

*This is not a research and development grant.

**The WBS numbers may be replaced without changing the amount of the subaward at CDOT's discretion.

A. Project Description

City of Black Hawk shall use 2022 FTA-5311 funds, along with local matching funds, to purchase Two (2) ADA Accessible BOC as more fully described below. The purchase will support the goals of the Statewide Transit Plan.

City of Black Hawk shall use capital funds to purchase the following ADA compliant vehicles:

ALI	QTY	Fuel Type	Description	FTA Amount
11.12.04	2	Gasoline	ADA Accessible BOC	\$267,480.00

The Capital Assets being purchased are replacing the following existing fleet vehicles:

VIN	Fleet ID	COTRAMS Inventory	Year	Model	Make
5WEASSKN7DH359286	B-90	INV-00002975	2013	Passport	EBC - ElDorado Bus (EBC Inc.)
5WEASSKNXE498393	B-91	INV-00003032	2013	Passport	EBC - ElDorado Bus (EBC Inc.)

B. Performance Standards

1. Project Milestones

Milestone Description	Original Estimated Completion Date
Submit Procurement Concurrence Request (PCR) to CDOT Project Manager for Approval	10/31/2023
Submit Procurement Authorization (PA) and solicitation docs CDOT Project Manager for Approval	11/30/2023
Take Delivery of (First) Vehicle/Equipment/Project Property	8/31/2024
Take Delivery of and Accept All Vehicles/Equipment/Project Property	9/29/2024
Submit Reimbursement Request in COTRAMS	11/1/2024
IMPORTANT NOTE: All milestones in this Statement of Work (except for the final reimbursement request) must be completed no later than the expiration date of this Subaward Agreement: December 31, 2025.	

2. City of Black Hawk shall use the Capital Asset(s) purchased in its transit operations and shall perform regularly recurring maintenance with specific performance measures tied to City of Black Hawk's written maintenance plans, including manufacturer's recommendations and warranty program(s). City of Black Hawk will measure whether this project is successful and improves the efficiency, effectiveness, and safety of transportation.
3. Performance will be reviewed throughout the duration of this Subaward Agreement. City of Black Hawk shall report to the CDOT Project Manager whenever one or more of the following occurs:
 - a. Budget or schedule changes.
 - b. Scheduled milestone or completion dates are not met.
 - c. Identification of problem areas and how the problems will be resolved; and/or
 - d. Expected impacts and the efforts to recover from delays.
4. City of Black Hawk must comply and submit all reimbursements and reports associated, including the assignment of "Colorado Department of Transportation" as the lienholder on the Capital Asset(s), as a condition of project closeout.

C. Project Budget

1. The Total Project Budget is \$334,350.00. CDOT will pay no more than 80% of the eligible, actual project costs, up to the maximum amount of \$267,480.00. CDOT will retain any remaining balance of the federal share of FTA-5311 Funds. City of Black Hawk shall be solely responsible for all costs incurred in the project in excess of the amount paid by CDOT from Federal Funds for the federal share of eligible, actual costs. For CDOT accounting purposes, the Federal Funds of \$267,480.00 (80%) and matching Local Funds of \$66,870.00 (20%), will be encumbered for this Subaward Agreement.
2. No refund or reduction of the amount of City of Black Hawk's share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.
3. City of Black Hawk may use eligible federal funds for the Local Funds share, but those funds cannot be from other Federal Department of Transportation (DOT) programs. City of Black Hawk's share, together with the Federal Funds share, must be enough to ensure payment of the Total Project Budget.
4. Per the terms of this Subaward Agreement, CDOT shall have no obligation to provide state funds for use on this project. CDOT will administer Federal Funds for this project under the terms of this Subaward Agreement, provided that the federal share of FTA funds to be administered by CDOT are made available and remain available. City of Black Hawk shall initiate and prosecute to completion all actions necessary to enable City of Black Hawk to provide its share of the Total Project Budget at or prior to the time that such funds are needed to meet the Total Project Budget.

D. Procurement

Procurement of the Capital Asset(s) will comply with state procurement procedures, the DTR Quick Procurement Guide, as well as FTA's requirements and 2 CFR 200.320. In addition to the state requirements outlined below, state and FTA procedures (where applicable) for purchase of the Capital Asset(s) must be followed and will be outlined prior to purchase.

1. The first step in the procurement process will be to obtain an Independent Cost Estimate (ICE).
2. The second step will be to obtain a Procurement Concurrence Request (PCR) approval from the CDOT Project Manager through COTRAMS.
3. Prior to entering into a purchasing agreement with the selected vendor, City of Black Hawk shall request a Purchase Authorization (PA), and submit a vendor quote for the Capital Asset(s) in COTRAMS. The PA must identify a manufacturer found on the FTA's certified transit vehicle manufacturer (TVM) list. Only those TVM's listed on FTA's TVM list, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid on FTA funded vehicle procurements.
4. Upon delivery, City of Black Hawk shall be responsible for having the Capital Asset(s) inspected and accepted within **fifteen (15) calendar days of delivery**. If defects prevent acceptance of the Capital Asset(s), City of Black Hawk will contact the vendor to resolve any defects and notify CDOT.
5. City of Black Hawk shall be responsible for reimbursing the selected vendor within **forty-five (45) calendar days after acceptance** of the Capital Asset(s).

E. Reimbursement Eligibility

Requests for reimbursement for eligible project costs will be paid to City of Black Hawk upon submission of a complete reimbursement packet in COTRAMS for those eligible costs incurred during the Subaward Agreement effective dates.

Accepted reimbursement packets will include the following completed documents:

- Independent Cost Estimate (ICE)
- Procurement Concurrence Request (PCR)
- Purchase Authorization (PA)
- Signed Notice of Acceptance (NA)
- Signed Security Agreement (SA)
- Application for Title showing "Colorado Department of Transportation" as the lienholder
- Invoice
- Proof of Payment
- Post Delivery Certifications

City of Black Hawk must submit the final invoice within sixty (60) calendar days of acceptance of the Capital Asset(s), and submit a Grant Closeout and Liquidation (GCL) Form in COTRAMS within fifteen (15) calendar days of issuance of the final reimbursement payment.

F. Federal Interest-Service Life

The useful life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from revenue service. The minimum useful life in years refers to total time in transit revenue service, not time spent stockpiled or otherwise unavailable for regular transit use. The minimum useful life in miles refers to total miles in transit revenue service. Non-revenue miles and periods of extended removal from service do not count towards useful life. Changes in operating circumstances, including unforeseen difficulty maintaining vehicles, higher cost of fuel, and changes in local law limiting where vehicles can be operated are not exemptions from minimum useful life requirements.

FTA maintains its share of the remaining federal interest upon disposition of federally assisted property before the end of its useful life or for a value greater than \$5,000 after the useful life has been met, according to the provisions of FTA C 5010.E1 Chapter IV(4)(o)(1).

Minimum useful life is determined by years of service or accumulation of miles, whichever comes first, in accordance with FTA C. 5010.E1 Chapter IV(4)(f)(2).

City of Black Hawk shall not dispose or otherwise release the Capital Asset(s) to any other party while there is federal interest in the Capital Asset(s) without approval from the CDOT Project Manager.

City of Black Hawk is responsible for making the request to the CDOT Project Manager in a timely manner, providing appropriate documentation, if indicated, when a lien release is being requested in order to allow CDOT to process the release of a lien.

CDOT and City of Black Hawk will work in conjunction with Department of Revenue (DOR) to assure the lien is released according to state rules.

G. Training

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

H. Safety Data

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

I. Restrictions on Lobbying

City of Black Hawk is certifying that it complies with 2 CFR 200.450 by entering into this Subaward Agreement.

J. Special Conditions

1. City of Black Hawk will comply with all requirements imposed by CDOT on City of Black Hawk so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
2. City of Black Hawk must permit CDOT and their auditors to have access to City of Black Hawk's records and financial statements as necessary, with reasonable advance notice.
3. Record retention shall adhere to the requirements outlined in 2 CFR 200.333 and FTA C 5010.1.
4. Except as provided in this Subaward Agreement, City of Black Hawk shall not be reimbursed for any purchase, issued purchase order, or leased capital equipment prior to the execution of this Subaward Agreement.
5. City of Black Hawk cannot request reimbursement for costs on this project from more than one Federal Awarding Agency or other federal awards (i.e., no duplicate billing).
6. City of Black Hawk must obtain CDOT approval, in writing, if FTA funds are intended to be used for payment of a lease or for third-party contracts.
7. City of Black Hawk shall document any loss, damage, or theft of FTA- or state-funded property, equipment, or rolling stock in COTRAMS.

8. If receiving FTA 5311 funding, City of Black Hawk shall advertise its fixed route and/or rural based service as available to the general public and service will not be explicitly limited by trip purpose or client type.
9. If receiving FTA 5311 funding, City of Black Hawk shall maintain and report annually all information required by the National Transit Database (NTD) and any other financial, fleet, or service data.
10. If receiving FTA 5311 or 5339 funding, City of Black Hawk will ensure subcontractors and subrecipients comply with FTA Drug and Alcohol Regulations.
11. City of Black Hawk shall ensure that it does not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability in accordance with Title VI of the Civil Rights Act of 1964.
12. City of Black Hawk shall seek to ensure non-discrimination in its programs and activities by developing and maintaining a Title VI Program in accordance with the "Requirements for FTA Subrecipients" in CDOT's Title VI Program Plan and Federal Transit Administration Circular 4702.1B, "Title VI Requirements and Guidelines for FTA Recipients." The Party shall also facilitate FTA's compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating the principles of environmental justice in planning, project development, and public outreach in accordance with FTA Circular 4703.1 "Environmental Justice Policy Guidance for Federal Transit Administration Recipients."
13. City of Black Hawk will provide transportation services to persons with disabilities in accordance with Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq.
14. City of Black Hawk shall develop and maintain an ADA Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, FTA Circular 4710.1, and any additional requirements established by CDOT for FTA subrecipients.
15. City of Black Hawk shall ensure that it will comply with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FTA guidance, and any other federal, state, and/or local laws, rules and/or regulations. In any contract utilizing federal funds, land, or other federal aid, City of Black Hawk shall require its subrecipients and/or contractors to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.
16. City of Black Hawk shall agree to produce and maintain documentation that supports compliance with the Americans with Disabilities Act to CDOT upon request.
17. City of Black Hawk shall provide CDOT with an equity analysis if the project involves choosing a site or location of a facility in accordance with FTA Circular 4702.1B.
18. City of Black Hawk shall update its Agency Profile in COTRAMS with any alterations to existing construction or any new construction in accordance with FTA Circular 4710.1.
19. City of Black Hawk will adopt a Transit Asset Management Plan that complies with regulations implementing 49 U.S.C. § 5326(d).
20. City of Black Hawk shall include nondiscrimination language and the Disadvantaged Business Enterprise (DBE) assurance in all contracts and solicitations in accordance with DBE regulations, 49 CFR Part 26, and CDOT's DBE program.
21. Meal delivery must not conflict with providing public transportation service or reduce service to public transportation passengers.

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Subrecipient's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount Federal Funds Maximum Amount (%) \$0.00 Local Funds Local Match Amount (%) \$0.00 Agreement Total \$0.00	Option Agreement Number Insert CMS number or Other Contract Number of this Option Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year Current Agreement Expiration Date Month, Day, Year

1. OPTIONS:

A. Option to extend for an Extension Term or End of Term Extension.

2. REQUIRED PROVISIONS:

A. **For use with Option 1(A):** In accordance with Section(s) 2.B/2.C of the Original Agreement referenced above, the State hereby exercises its option for an additional term/end of term extension, beginning Insert start date and ending on the current agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.

3. OPTION EFFECTIVE DATE:

A. The effective date of this Option Letter is upon approval of the State Controller or ____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director By: _____ Name: _____ Title: _____ Date: _____	In accordance with §24-30-202, C.R.S., this Option Letter is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Option Letter Effective Date: _____
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EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with federal statutes, Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.
 - 2.1.5. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1

- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with

respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;

2.1.15.4. Change in present value of defined benefit and actuarial pension plans;

2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;

2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.

2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

2.1.18. “Unique Entity ID Number” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>

3. COMPLIANCE.

3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually.

4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in SAM.gov at least annually.

5. TOTAL COMPENSATION.

5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and

5.1.2. In the preceding fiscal year, Grantee received:

5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.

7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS. [INTENTIONALLY DELETED]

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.
 - 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
- 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of “federally assisted construction Agreement” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.

- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Contract with the Enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
 - 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
 - 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT D, REQUIRED FEDERAL CONTRACT/AGREEMENT CLAUSES**Section 3(I) – No Federal government obligations to third-parties by use of a disclaimer**

No Federal/State Government Commitment or Liability to Third Parties. Except as the Federal Government or CDOT expressly consents in writing, the Subrecipient agrees that:

- (1) The Federal Government or CDOT does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third party Participant at any tier, or to any other person or entity that is not a party (FTA, CDOT or the Subrecipient) to the underlying Agreement, and
- (2) Notwithstanding that the Federal Government or CDOT may have concurred in or approved any Solicitation or Third party Agreement at any tier that may affect the underlying Agreement, the Federal Government and CDOT does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA, CDOT, or the Subrecipient) to the underlying Agreement.

Section 4(f) – Program fraud and false or fraudulent statements and related acts

False or Fraudulent Statements or Claims.

- (1) Civil Fraud. The Subrecipient acknowledges and agrees that:
 - (a) Federal laws, regulations, and requirements apply to itself and its Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31.
 - (b) By executing the Agreement, the Subrecipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Subrecipient provides to the Federal Government and CDOT.
 - (c) The Federal Government and CDOT may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Subrecipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) Criminal Fraud. The Subrecipient acknowledges that 49 U.S.C. § 5323(I)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Subrecipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

Section 9. Record Retention and Access to Sites of Performance.

- (a) Types of Records. The Subrecipient agrees that it will retain, and will require its Third party Participants to retain, complete and readily accessible records related in whole or in part to the underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b). Retention Period. The Subrecipient agrees to comply with the record retention requirements in the applicable U.S. OT Common Rule. Records pertaining to its Award, the accompanying underlying Agreement, and any Amendments thereto must be retained from the day the underlying Agreement was signed by the authorized FTA (or State) official through the course of the Award, the accompanying Agreement, and any Amendments thereto until three years after the Subrecipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) Access to Recipient and Third party Participant Records. The Subrecipient agrees and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary’s duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General’s duly authorized representatives, and to the Subrecipient and each of its Subrecipients,
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Subrecipient or Third party Participant within books, records, accounts, or other locations, and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) Access to the Sites of Performance. The Subrecipient agrees to permit, and to require its Third party Participants to permit, FTA and CDOT to have access to the sites of performance of its Award, the accompanying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with State and the U.S. DOT Common Rules.
- (e) Closeout. Closeout of the Award does not alter the record retention or access requirements of this section of the Master Agreement.

3(G) – Federal Changes

Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance.

The Subrecipient agrees to comply with all applicable federal requirements and federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient's Agreement or this Master Agreement. At the time the FTA Authorized Official (or CDOT) awards federal assistance to the Subrecipient in support of the Agreement, the federal requirements and guidance that apply then may be modified from time to time and will apply to the Subrecipient or the accompanying Agreement, except as FTA determines otherwise in writing.

12 – Civil Rights

(c) Nondiscrimination – Title VI of the Civil Rights Act. The Subrecipient agrees to, and assures that each Third party Participant, will:

- (1) Prohibit discrimination on the basis of race, color, or national origin,
- (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.;
 - (ii) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
- (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 CFR § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.

(d) Equal Employment Opportunity.

- (1) Federal Requirements and Guidance. The Subrecipient agrees to, and assures that each Third Party Participant will prohibit discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;
 - (ii) Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;
 - (iii) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - (iv) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of the Master Agreement;
 - (v) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;" and
 - (vi) Follow other federal guidance pertaining to EEO laws, regulations, and requirements.
- (2). Specifics. The Subrecipient agrees to, and assures that each Third Party Participant will:
 - (i) Affirmative Action. Take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and
- (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with:
 - (i) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR chapter 60; and
 - (ii) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

(h) Nondiscrimination on the Basis of Disability. The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:

- (1) Federal laws, including:

- (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
- (2) Federal regulations and guidance, including:
- (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;
 - (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
 - (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
 - (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
 - (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
 - (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
 - (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
 - (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
 - (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609;
 - (x) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - (xi) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Incorporation of FTA Terms – 16.a.

(a) Federal Laws, Regulations, Requirements, and Guidance. The Subrecipient agrees:

- (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
- (2) To comply with the applicable U.S. DOT Common Rules; and
- (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Energy Conservation – 26.j

- (a) Energy Conservation. The Subrecipient agrees to, and assures that its Subrecipients, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, “Requirements for Energy Assessments,” 49 CFR part 622, subpart C.

Applicable to Awards exceeding \$10,000

Section 11. Right of the Federal Government to Terminate.

- (a) Justification. After providing written notice to the Subrecipient, the Subrecipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
- (1) The Subrecipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Subrecipient has violated the terms of the Agreement, especially if that violation would endanger substantial performance of the Agreement.
- (b) Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Subrecipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Agreement, and require the Subrecipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

Applicable to Awards exceeding \$25,000

From Section 4. Ethics.

- (a) Debarment and Suspension. The Subrecipient agrees to the following:
- (1) It will comply with the following requirements of 2 CFR part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR part 1200.
 - (2) It will not enter into any “covered transaction” (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any Third Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by-
 - (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200;
 - (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 CFR part 180; and
 - (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Subrecipients or Third Party Participants.
 - (3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 CFR part 1200.
 - (4) It will that its Third Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
 - (5) If the Subrecipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Subrecipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Subrecipient is located or implements the underlying Agreement,
 - (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or
 - (iii) FTA Chief Counsel.

Applicable to Awards exceeding the simplified acquisition threshold (\$100,000-see Note)

Note: Applicable when tangible property or construction will be acquired

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j).

Section 39. Disputes, Breaches, Defaults, and Litigation.

- (a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying underlying Agreement, and any Amendments thereto

including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

- (b) Notification to FTA; *Flow Down Requirement*. If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Subrecipient is located. The Subrecipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
 - (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) *Additional Notice to U.S. DOT Inspector General*. The Subrecipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Subrecipient is located, if the Subrecipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Subrecipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Subrecipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Subrecipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Subrecipient, including divisions tasked with law enforcement or investigatory functions.
- (c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Agreement. Notwithstanding the preceding sentence, the Subrecipient may return all liquidated damages it receives to its Award Budget for its Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Subrecipient receives FTA’s prior written concurrence.
- (d) Enforcement. The Subrecipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

Applicable to Awards exceeding \$100,000 by Statute

From Section 4. Ethics.

- a. Lobbying Restrictions. The Subrecipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the underlying Agreement, including any extension or modification, according to the following:
 - (1) Laws, Regulations, Requirements, and Guidance. This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, “New Restrictions on Lobbying,” 49 CFR part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and
 - (2) Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Subrecipient’s or Subrecipient’s proper official channels.

Section 26. Environmental Protections – Clean Air and Clean Water

- (d) Other Environmental Federal Laws. The Subrecipient agrees to comply or facilitate compliance, and assures that its Third Party Participants will comply or facilitate compliance, with all applicable federal laws,

regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order No. 11988, as amended, "Floodplain Management."

Applicable with the Transfer of Property or Persons

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

- (a) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (c) Cargo Preference. Preference – Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR part 381; and
- (d) Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 CFR §§ 301-10.131 – 301-10.143.

Applicable to Construction Activities

Section 24. Employee Protections.

- a. Awards Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the underlying Agreement, including the:
 - (1) Prevailing Wage Requirements of:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act");
 - (ii) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147; and
 - (iii) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
 - (2) Wage and Hour Requirements of:
 - (i) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
 - (ii) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
 - (3) "Anti-Kickback" Prohibitions of:
 - (i) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874;
 - (ii) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145; and
 - (iii) U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 CFR part 3.
 - (4) Construction Site Safety of:
 - (i) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
 - (ii) U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 CFR part 1904; "Occupational Safety and Health Standards," 29 CFR part 1910; and "Safety and Health Regulations for Construction," 29 CFR part 1926.

From Section 16

- (n) Bonding. The Subrecipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:

- (1) Construction. As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.
- (2) Activities Not Involving Construction. For each Project or related activities implementing the Agreement not involving construction, the Subrecipient will not impose excessive bonding and will follow FTA guidance.

From Section 23

- (b) Seismic Safety. The Subrecipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically, 49 CFR § 41.117.

Section 12 Civil Rights D(3)

Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:

- (i.) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR chapter 60, and
- (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

Applicable to Nonconstruction Activities

From Section 24. Employee Protections

- (b) Awards Not Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.

Applicable to Transit Operations

- a. Public Transportation Employee Protective Arrangements. As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Subrecipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
 - (1) U.S. DOL Certification. When its Awarded, the accompanying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Subrecipient agrees that the certification issued by U.S. DOL is a condition of the underlying Agreement and that the Subrecipient must comply with its terms and conditions.
 - (2) Special Warranty. When its Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Subrecipient agrees that its U.S. DOL Special Warranty is a condition of the underlying Agreement and the Subrecipient must comply with its terms and conditions.
 - (3) Special Arrangements for Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310. The Subrecipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subagreement participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by- case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 28. Charter Service.

- (a) **Prohibitions.** The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 CFR part 604, any other Federal Charter Service regulations, federal requirements, or federal guidance.
- (b) **Exceptions.** Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)-type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Subrecipient uses that federal assistance for FTA program purposes only, and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Subrecipient uses that federal assistance for program purposes only.
- (c) **Violations.** If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 CFR part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 29. School Bus Operations.

- (a) **Prohibitions.** The Subrecipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 CFR part 605, and any other applicable federal “School Bus Operations” laws, regulations, federal requirements, or applicable federal guidance.
- (b) **Violations.** If a Subrecipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Subrecipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Subrecipient or Third Party Participant from receiving federal transit assistance.

From Section 35 Substance Abuse

c. Alcohol Misuse and Prohibited Drug Use.

- (1) **Requirements.** The Subrecipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR part 40.
- (2) **Remedies for Non-Compliance.** The Subrecipient agrees that if FTA determines that the Subrecipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR part 655, the Federal Transit Administrator may bar that Subrecipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Applicable to Planning, Research, Development, and Documentation Projects

Section 17. Patent Rights.

- a. **General.** The Subrecipient agrees that:
 - (1) Depending on the nature of the Agreement, the Federal Government may acquire patent rights when the Subrecipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government’s rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the underlying Agreement; or
 - (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Subrecipient will notify FTA immediately and provide a detailed report satisfactory to FTA.
- b. **Federal Rights.** The Subrecipient agrees that:

- (1) Its rights and responsibilities, and each Third Party Participant's rights and responsibilities, in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof, and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Subrecipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR part 401.
- c. **License Fees and Royalties.** Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Agreement. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the underlying Agreement.
- (b) *General Federal Restrictions.* The following restrictions apply to all subject data first produced in the performance of the Agreement:
 - (1) *Prohibitions.* The Subrecipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) *Exceptions.* The prohibitions do not apply to publications or reproductions for the Subrecipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights.* The Subrecipient agrees that:
 - (1) *General.* It must provide a license to its "subject data" to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes, and
 - (2) *U.S. DOT Public Access Plan – Copyright License.* The Subrecipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Subrecipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs.* In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Subrecipient and its Third Party Participants. Therefore, the Subrecipient agrees that:
 - (1) *Publicly Available Report.* When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports.* It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data.* FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.
 - (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
 - (5) *Incomplete.* If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes "subject data" and must be delivered as the Federal Government may direct.

- (6) *Exception.* This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Subrecipient's use and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless.* Upon request by the Federal Government, the Subrecipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Subrecipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights.* Nothing in this section of this Master Agreement (FTA MA(23)) pertaining to rights in data either implies a license to the Federal Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.
- (h) *Data Developed Without Federal Assistance or Support.* The Subrecipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Subrecipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked "Proprietary," or "Confidential."
- (i) *Requirements to Release Data.* The Subrecipient understands and agrees that the Federal Government may be required to release data and information the Subrecipient submits to the Federal Government as required under:
- (1). The Freedom of Information Act (FOIA), 5 U.S.C. § 552,
 - (2) The U.S. DOT Common Rules,
 - (3) U.S. DOT Public Access Plan, which provides that the Subrecipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board's (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at: <http://ntl.bts.gov/publicaccess/howtocomply.html>, or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Agreement, and any Amendments thereto.

Miscellaneous Special Requirements

From Section 12. Civil Rights.

- (e) *Disadvantaged Business Enterprise.* To the extent authorized by applicable federal laws, regulations, or requirements, the Subrecipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Agreement as follows:
- (1) *Statutory and Regulatory Requirements.* The Subrecipient agrees to comply with:
 - (i) Section 11101(e) of IIJA;
 - (ii) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR part 26; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.
 - (2) *DBE Program Requirements.* A Subrecipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 the requirements of 49 CFR part 26.
 - (3) *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Subrecipient agrees that:
 - (i) *TVM Certification.* Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR part 26; and
 - (ii) *Reporting TVM Awards.* Within 30 days of any third party contract award for a vehicle purchase, the Subrecipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA's electronic award

- management system. The Subrecipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.
- (4) *Assurance*. As required by 49 CFR § 26.13(a):
- (i) *Recipient Assurance*. The Subrecipient agrees and assures that:
 - (A) It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) It must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - (C) Its DBE program, as required under 49 CFR part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - (D) Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
 - (ii) *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance*. The Subrecipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
 - (A) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - (C) Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of subparagraph 12.e(4)(b) (of FTA MA(23)) is a material breach of their subagreement, third party contract, or third party subcontract, as applicable; and
 - (D) The following remedies, or such other remedy as the Subrecipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- (5) *Remedies*. Upon notification to the Subrecipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 CFR part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

From Section 12. Civil Rights.

- (h) *Nondiscrimination on the Basis of Disability*. The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:
- (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - (2) Federal regulations and guidance, including:
 - (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;

- (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
- (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
- (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
- (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
- (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
- (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
- (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
- (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
- (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609,
- (xi) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
- (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Section 16. Procurement.

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Subrecipient agrees:
 - (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

State Requirements

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents:
 - (1) applications for federal assistance, (2) requests for proposals, or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

EXHIBIT E, VERIFICATION OF PAYMENT

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

☐ **Verification of Payment –**

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

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

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

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

- ✓ If indirect costs are being requested, an approved indirect letter from State or your cognizant agency for indirect costs, as defined in 2 CCR §200. 19, must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

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

- ✓ Submit an approval letter from the cognizant agency for indirect costs, as defined in 2 CCR §200. 19, that verifies fringe benefit, or
- ✓ Submit the following fringe benefit rate proposal package to State Audit Division:
 - Copy of Financial Statement;
 - Personnel Cost Worksheet;
 - State of Employee Benefits; and
 - Cost Policy Statement.

RESOLUTION 91-2023
A RESOLUTION
APPROVING A
PROFESSIONAL
SERVICES AGREEMENT
WITH WW WHEELER
AND ASSOCIATES, INC.
FOR THE PICKLE GULCH
RESERVOIR SITE
EVALUATION STUDY IN
THE AMOUNT NOT TO
EXCEED \$48,300.00

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 91-2023

TITLE: A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH WW WHEELER AND ASSOCIATES, INC. FOR THE PICKLE GULCH RESERVOIR SITE EVALUATION STUDY IN THE AMOUNT NOT TO EXCEED \$48,300.00

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

Section 1. The City Council hereby approves a Professional Services Agreement with WW Wheeler and Associates, Inc. for the Pickle Gulch Reservoir Site Evaluation Study, which includes engineering and geological analysis, in the amount not to exceed \$48,300.00, and the Mayor is authorized to execute the Agreement on behalf of the City.

RESOLVED AND PASSED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk



CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Resolution 91-2023, a Resolution approving a professional service agreement with WW Wheeler and Associates, Inc. for engineering services related to the Pickle Gulch Reservoir Site Evaluation Study.

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

***MOTION TO APPROVE** Resolution 91-2023, a Resolution approving a Professional Services Agreement with WW Wheeler and Associates, Inc. for the Pickle Gulch Reservoir Site Evaluation Study in the amount not to exceed \$ 48,300.00*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City has received approval from the Corp of Engineers to conduct an Alternative Analysis with selected reservoir site for the Water System Improvement Project. The three options were selected without engineering analysis, which was appropriate given the uncertainty of the alternative selection process. The proposal is to conduct a “fatal flaw” analysis on the preferred site, this will implement basic design guidelines to ensure the site will meet the City’s needs, establish limits of disturbance and potential property acquisition as well as meet the States minimum geological requirements.

WW Wheeler is well respected. The intent is if we are happy with their work that they would be retained to perform dam design once approved by all jurisdictional authorities.

This item was previously on the December 13, 2023 agenda and pulled for a future date.

AGENDA DATE: January 10, 2024

FUNDING SOURCE: 501-3151-460-74-18
Water Fund; System Improvements/EIS/ EA

STAFF PERSON RESPONSIBLE: TI/BD

DOCUMENTS ATTACHED: agreement

RECORD [] Yes [] No

CoBH Certificate of Insurance Required [] Yes [] No

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

SUBMITTED BY:

Thomas Isbester, Public Works Director

REVIEWED BY:

Stephen N. Cole, City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this the 28th day of December 2023, by and between the **CITY OF BLACK HAWK**, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and WW Wheeler and Associates, Inc. hereinafter referred to as "Contractor").

RECITALS:

A. The City requires Professional Engineering Services for the **Pickle Gulch Reservoir Site Evaluations** (the Project").

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

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City, engineering and project management services associated with Geological and Engineering analysis of the Pickle Gulch Reservoir Area, Gilpen County, for the Project.

I. SCOPE OF SERVICES

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

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

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

III. OWNERSHIP OF WORK PRODUCT

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

IV. COMPENSATION

A. Compensation shall not exceed **Forty Eight thousand three hundred dollars (\$48,300.00)** for the work described in **Exhibit A**. Payment shall be made in accordance with the schedule of charges in **also incorporated in Exhibit A**. Invoices will be itemized and include hourly breakdown for all personnel and other charges.

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

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

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

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

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

V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. Phase 1 of This Agreement shall be completed by February 28, 2024.

VI. PROFESSIONAL RESPONSIBILITY

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

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

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

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

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

VII. COMPLIANCE WITH LAW

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

VIII. INDEMNIFICATION

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

from the negligence of the Council members, officials, officers, directors, agents and employees.

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

IX. INSURANCE

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

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

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

2. **Commercial general liability insurance** with minimum combined single limits of six hundred thousand dollars (\$600,000) each occurrence and one million five hundred thousand dollars (\$1,500,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual products, and completed operations. This policy shall contain a severability of interests provision.

3. **Professional liability insurance** with minimum limits of six hundred, thousand dollars (\$600,000) each claim and one million five hundred thousand dollars (\$1,500,000) general aggregate.

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

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

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

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

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

8. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-114 et seq., 13 Colo. Rev. Stat., as from time to time amended, or otherwise available to the City, its officers, its employees, or agents.

X. NON-ASSIGNABILITY

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

XI. TERMINATION

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

XII. VENUE

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

XIII. INDEPENDENT CONTRACTOR

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

XIV. NO WAIVER

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

XV. NOTICE

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

The City:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: Melissa A. Greiner
City Clerk/Administrative Services Director

The Contractor:

W. W. Wheeler and Associates, Inc.
3700 South Inca Street
Englewood, CO 80110

XVI. ENTIRE AGREEMENT

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

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

CITY OF BLACK HAWK, COLORADO

By: _____
David Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

WW Wheeler and Associates, Inc.

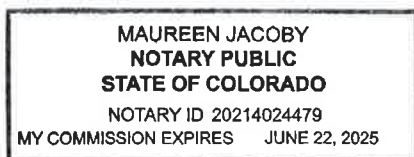
By: Stephen L. Jamieson
Its: PRESIDENT/
Wheeler Principal

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 28th day
of DECEMBER, 2023, by
STEPHEN L. JAMIESON as the PRESIDENT of
W.W. WHEELER AND ASSOC., INC.

My commission expires: JUNE 22, 2025

(S E A L)



Maureen Jacoby
Notary Public

November 10, 2023

Brad Dallam, P.E., Water Resources Engineer
City of Black Hawk
201 Selak Street, PO Box 68
Black Hawk, CO 80422

Re: Pickle Gulch Reservoir Site Evaluations

Dear Mr. Dallam,

W. W. Wheeler and Associates, Inc. (Wheeler) is pleased to provide this proposal to evaluate proposed reservoir sites in Pickle Gulch for the City of Black Hawk (City). Wheeler's evaluation will generally consist of storage evaluations, hydrology, and geologic reconnaissance. Our project understanding, proposed approach, scope of work, and fee estimate are presented in this letter.

Project Understanding

The Black Hawk Water Supply Project (Project) is critical to provide reliable current and future water supplies to the City. The Water Supply Project includes diversion, conveyance, and storage components. While the city currently has approximately 382 acre-feet of storage in reservoirs owned and operated by others, that storage is generally located in the Clear Creek basin or downstream of Black Hawk in the North Clear Creek basin. A 2020 water supply study completed by Leonard Rice Engineers calculated a need for 861 acre-feet of storage to provide a reliable firm yield that meets current demands, and up to 1,135 acre-feet to meet anticipated 2050 demands. To increase conveyance reliability and reduce vulnerabilities associated with the I-70 corridor, it is the City's goal to locate the storage within the North Clear Creek basin, upstream of Black Hawk.

An alternatives analysis completed by ERO Resources (ERO) in May 2023 evaluated numerous alternatives for supply, conveyance, and storage. The alternatives are intended to increase the City's reliability firm yield, reduce system vulnerabilities, and meet the City's unique water supply needs. The alternatives analysis found feasible reservoir sites in Upper Pickle Gulch, Lower Pickle Gulch, Missouri Creek, and an unnamed Gulch. The preferred alternative included two new reservoirs in Upper and Lower Pickle Gulch. Additionally, a third Pickle Gulch reservoir site between the upper and lower sites has been proposed by the City. The third site would inundate the existing Pickle Jar Reservoir and require removal of the existing RCC dam.

The City has requested that Wheeler complete a more detailed site feasibility study of the three potential Pickle Gulch reservoir sites. It is possible that multiple dams will be required to meet the

City's future storage needs. Due to limited availability of borrow soil for embankment fill and the probable need for overtopping dams, it is likely that the dams will be constructed of Roller Compacted Concrete (RCC). Land in Pickle Gulch is generally owned by the City or privately owned and assumed to be available for reservoir construction.

Project Team

Wheeler will provide the City with an experienced project team to complete the preliminary storage evaluations. Our project team has worked closely on numerous dam and reservoir designs and has a firm understanding of the path required to move from a preliminary dam design to a successful operating project. We understand that ERO has been integral to the Black Hawk Water Supply Project; Wheeler has worked closely with ERO on numerous water storage and conveyance projects. Our excellent relationship with ERO will facilitate moving the project forward on its current path.

Todd Street will be the project manager for the storage evaluations. Mr. Street is a Director at Wheeler and has over 20 years of experience in geotechnical engineering, hydrology and hydraulics, and dam design. Steve Jamieson, Wheeler's President, will provide technical review and has 40 years of experience with the permitting, design, construction, and operations of dams in Colorado.

Scope of Work

Our proposed scope of work generally includes completing a geologic map study and site reconnaissance to identify potential geologic hazards that prohibit construction at any of the three dam sites, generating site precipitation depths and inflow design flood data, and preparation of site base mapping and storage estimates. The study will generally consider the three proposed Pickle Gulch sites identified in Figure 1. At the conclusion of the study, Wheeler will provide a comprehensive site feasibility report that summarizes the studies and provides recommendations for next steps.

Task 1 – Initial Site Visit and Geologic Data Review

Wheeler will complete an initial site visit to become familiar with the proposed reservoir locations in Pickle Gulch. Prior to the site visit, Wheeler will complete a desktop geologic study to prepare site mapping and identify mapped geologic hazards that could negatively impact the dam site. During the site visit, Wheeler will complete a geologic reconnaissance survey to evaluate each of the sites. The evaluation will consider potential landslides, nearby faults, and previous mining activity, as well as other key factors that could impact site feasibility. Wheeler will prepare a memorandum that presents findings from the geologic reconnaissance.

Task 1 Fee Estimate: \$5,300

Task 2 – Inflow Hydrology

An important part of the reservoir design is developing an Inflow Design Flood (IDF) for the site. The IDF is the magnitude of flood that the spillway is required to safely pass. It will be used for spillway sizing and establishing the maximum water surface in the reservoir during extreme flood events. In recent years, the Colorado Division of Water Resources (DWR) Dam Safety Branch has developed updated guidance documents for calculating design storm depths and rainfall/runoff relationships and more effectively simulating basin infiltration in higher, mountain reservoirs. Wheeler is very familiar with these new methods and will use the updated methods to generate the IDF for each reservoir site.

The IDFs will be generated assuming that the dams will be classified as an Extreme Hydrologic Hazard, a State Dam Safety designation which would require dams to pass the largest design storm. Given the proximity of Picke Gulch to Highway 119 and Black Hawk, this is considered a reasonable assumption; however, once final reservoir sites are selected the Hydrologic Hazard Classification should be verified.

New hydrology methods published by the DWR also include extensive reporting and documentation requirements. Due to these requirements, we propose to develop an IDF for each site following the DWR guidance. Because the final sites have not been selected, we will not prepare a detailed, complete hydrology report that is required for final DWR approval. This report can be prepared based on our initial hydrology evaluations as part of later, once the sites have been selected. The generated inflow design floods will be used for preliminary spillway sizing, to determine maximum flood storage levels in the reservoir, and to determine the spillway crest and dam crest elevation with resulting normal storage levels. Abbreviated results of the hydrology study will be presented in a Hydrology Summary Memorandum and incorporated into the final Site Feasibility report.

Task 2 Fee Estimate: \$9,200

Task 3 – Reservoir Siting and Storage Estimate

Wheeler will use recently collected, publicly available LiDAR data generated by Gilpin County to prepare updated site mapping and reservoir storage estimates for the three proposed reservoir sites. We will use results from the hydrology study and reservoir routing to determine a normal maximum high-water line and a maximum flood pool elevation. Wheeler will develop stage-storage-area relationships for each potential reservoir location, with consideration of the 861- and 1,151-acre-foot targets and potential phasing. Conceptual design drawings will include topography, water levels, dam alignment, and property ownership. Drawings will be included in the final site feasibility report. The dam embankment layouts will be developed in AutoCAD and used to develop preliminary construction volume estimates.

Task 3 Fee Estimate: \$21,300

Task 4 – Reporting and Figures

At the conclusion of Tasks one through three, Wheeler will prepare a site feasibility study that presents results of the geologic reconnaissance, hydrology study, reservoir storage estimates, and mapping. The report will also provide construction volume estimates and recommended next steps for reservoir design and permitting. Wheeler will present a draft copy of the Site Feasibility Report to Black Hawk for review and discussion prior to finalizing it.

Task 4 Fee Estimate: \$10,200

Task 5 – Meetings, Project Management, and Coordination

Wheeler will schedule an in person meeting with Black Hawk representatives to present and discuss findings from the study. This task will also include minor coordination with the City, other project consultants, and project stakeholders as well as internal project management tasks.

Task 5 Fee Estimate: \$2,300

Project Schedule and Fee Estimate

Wheeler will complete the scope of work presented above for a not-to-exceed fee of \$48,300. We will not exceed this amount without notification and prior written approval from the City.

Wheeler will complete Task 1, the geologic data review and site visit, during the fall of 2023, weather permitting. During the site visit, the ground will need to be generally visible and free of snow. We have tentatively scheduled the site visit for Thursday November 16, 2023. If the site visit cannot be completed in 2023, Wheeler will complete Task 1 once the site is free from snow in spring of 2024 and proceed with other tasks as scheduled. We anticipate that Tasks 2 and 3 will be initiated in February 2024 and a final report will be delivered in February 2024.


Table 1 - Fee Estimate Summary

Task	Phase Description	Fee Estimate
1	Initial Site Visit and Geologic Data Review	\$5,300
2	Hydrology Study and Inflow Design Flood	\$9,200
3	Reservoir Siting and Storage Study	\$21,300
4	Site Feasibility Report	\$10,200
5	Meetings, Coordination, and Project Management	\$2,300
Total:		\$48,300

Brad Dallam
City of Black Hawk
November 10, 2023
Page 5

We look forward to working with the City of Black Hawk on this important project. Please contact us if we can provide any clarifications to this proposal. . Please feel free to call my direct number (720-996-0532) or email me at todd.street@wwwheeler.com with any questions about this proposal.

Sincerely,
W. W. Wheeler and Associates, Inc.

A handwritten signature in black ink, appearing to read "Todd S. Street", written in a cursive style.

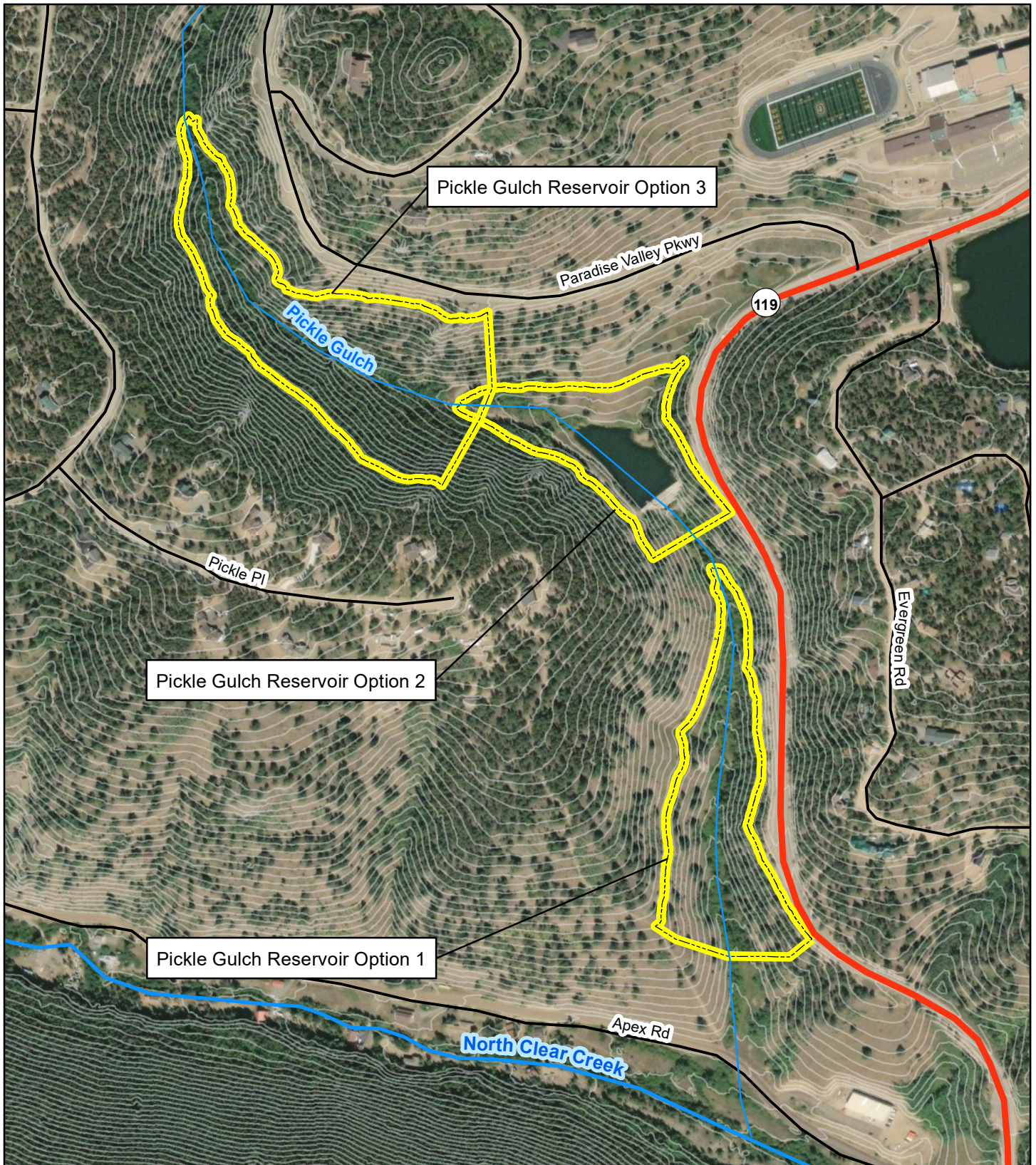
Todd S. Street, P.E., CFM

Cc: Steve Jamieson, P.E., W. W. Wheeler & Associates, Inc.

Attachments:
Attachment 1 – Location Map

Attachment 1

Location Map



- - - - - Approx. Reservoir Footprint
- - - - - 10-ft Elevation Contour

0 250 500 1,000
 Feet



NOVEMBER 2023



W. W. WHEELER
 & ASSOCIATES, INC.
Water Resources Engineers

Pickle Gulch Reservoir Sites

Z330.00.00

FIGURE 1

RESOLUTION 1-2024
A RESOLUTION
ESTABLISHING A
DESIGNATED PUBLIC
PLACE FOR THE POSTING
OF MEETING NOTICES
PURSUANT TO C.R.S. § 24-
6-402(2)(c)

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

Resolution No. 1-2024

**TITLE: A RESOLUTION ESTABLISHING A DESIGNATED PUBLIC
PLACE FOR THE POSTING OF MEETING NOTICES PURSUANT
TO C.R.S. § 24-6-402(2)(c)**

WHEREAS, C.R.S. § 24-6-402(2)(c) requires the City to annually designate the public place for posting notices to comply with the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.* (the "Open Meetings Law");

WHEREAS, consistent with House Bill 19-1087, the City hereby desires to post notice of the City's public meetings not only in physical locations, but also on the City's website as the City's official online presence to the greatest extent practicable; and

WHEREAS, the notice must have specific agenda information, posted no less than twenty-four (24) hours prior to the meeting, must be accessible at no charge to the public, must be searchable by type of meeting, date of meeting, time of meeting and agenda contents, shall link to any social media accounts of the local public body, shall provide the address of the website to the Department of Local Affairs, and shall designate a public place within the boundaries of the local public body at which it may post a notice no less than twenty-hours (24) hours prior to a meeting if it is unable to post a notice online in exigent or emergency circumstances such as a power outage or interruption in internet service that prevents the public from accessing the notice online.

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

Section 1. **Designation.** The City Council of the City of Black Hawk, in compliance with C.R.S. § 24-6-402(2)(c) of the Open Meetings Law, hereby designates the City website at www.cityofblackhawk.org as the official place for posting notices. The City may additionally post notices at City Hall, located at 201 Selak Street, and any City social media accounts. If there is a known outage or an emergency meeting, the City may post a physical notice at the public entrance of the City Hall of Black Hawk, located at 201 Selak Street.

RESOLVED AND PASSED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: 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 1-2024 Establishing a Designated Public Place for the Posting of Meeting Notices Pursuant to C.R.S. § 24-6-402(2)(c).

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City Council of the City of Black Hawk, in compliance with C.R.S. § 24-6-402(2)(c) of the Open Meetings Law, hereby designates the City website at www.cityofblackhawk.org as the official place for posting notices. The City may additionally post notices at City Hall, located at 201 Selak Street, and any City social media accounts. If there is a known power outage or an emergency meeting, the City may post a physical notice at the public entrance of the City Hall of Black Hawk, located at 201 Selak Street.

AGENDA DATE: January 10, 2024

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ No

STAFF PERSON RESPONSIBLE: Melissa Greiner
City Clerk/Administrative Services Director

DOCUMENTS ATTACHED: N/A

RECORD: ☐ Yes ☒ No

CITY ATTORNEY REVIEW: ☒ Yes ☐ N/A

SUBMITTED BY:

REVIEWED BY:



Michele Martin, CMC
Deputy City Clerk



Stephen N. Cole, Acting City Manager

RESOLUTION 2-2024
A RESOLUTION
APPROVING CERTAIN
SERVICE AGREEMENTS
FOR CALENDAR YEAR
2024 FOR CP&D

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

Resolution No. 2-2024

**TITLE: A RESOLUTION APPROVING CERTAIN SERVICE AGREEMENTS
FOR CALENDAR YEAR 2024**

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

Section 1. The City Council hereby approves the Service Agreements for Community Planning and Development services, with the entities and for the services set forth below (the "Agreements"), and authorizes the Mayor to sign the Agreements on behalf of the City.

<u>Entity</u>	<u>Service</u>	<u>Not to Exceed Amount</u>
ATIS Elevator Inspections, LLC	Conveyance	\$50,000
Baseline Engineering Corporation	Land Use	\$227,400
Bruce Michalak	City Advocate Grant Program	\$50,000
Independent Painting	Exterior Paint Program	\$200,000
Pinyon Environmental, Inc.	Historic Preservation	\$118,000 (with \$1,000 month retainer)
SAFEbuilt Colorado, LLC	Building Official, Plan Review, Inspection Services	\$50,000
SAFEbuilt Colorado, LLC	Commercial Code Enforcement	\$50,000
Weecycle Environmental Consulting, Inc.	Environmental Hazards	\$50,000

RESOLVED AND PASSED this 10th day of January 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: A Resolution approving certain Service Agreements for calendar Year 2024 for Community Planning and Development (CP&D).

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

MOTION TO APPROVE: RESOLUTION NO. 2-2024, a Resolution approving certain Service Agreements for calendar year 2024 for CP&D.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Community Planning and Development (CP&D) uses professional services to supplement City staff time. The selected firms provide an independent perspective, ensure credibility, and serve as technical advisors to the CP&D. The Professional and Personal Services Agreements are budgeted items, each with a not-to-exceed amount reflected below, completed according to the Scope of Work and Schedule of Values. Compensation shall not exceed the amount below or the Schedule of Values amounts. Special Projects require prior approval by CP&D, with the consultants providing a quote based on the Schedule of Values. Effective dates for these agreements are January 10, 2024, through and including January 8, 2025.

Staff recommends using the following consultants:

<u>Entity</u>	<u>Service</u>	<u>Amount</u>
ATIS Elevator Inspections LLC	Conveyance	Not to Exceed \$50,000
Baseline Engineering Corporation	Land Use	Not to Exceed \$227,400
Bruce Michalak	Grant Program – City Advocate	Not to Exceed \$50,000
Independent Painting	Exterior Paint Program	Not to Exceed \$200,000
Pinyon Environmental, Inc.	Historic Preservation	Not to Exceed \$118,000 Plus, a guaranteed \$1,000 per month retainer
SAFEbuilt Colorado, LLC	Building Official Plan Review Inspection Services	Not to Exceed \$50,000
SAFEbuilt Colorado, LLC	Commercial Code Enforcement	Not to Exceed \$50,000
Weecycle Environmental Consulting, Inc.	Environmental Hazards	Not to Exceed \$50,000

AGENDA DATE:

January 10, 2024

WORKSHOP DATE:

N/A

FUNDING SOURCE:

010-1901-4193319 – Prof Svs / Other Consultants
010-0000-1151500 – Prof Svs / Services Billed Out
010-1101-4115813 – Residential Paint Program
203-0000-5025800 – Preservation / Prog Expenses
305-3101-4317570 – Residential Restoration Program

DEPARTMENT DIRECTOR APPROVAL:

☒ Yes ☐ No

STAFF PERSON RESPONSIBLE:

Cynthia L. Linker, CP&D Director

DOCUMENTS ATTACHED:

Resolution 2-2024
First Addendum to the Professional Services
Agreements and a Personal Services Agreement

RECORD:

☐ Yes ☒ No

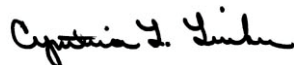
CoBH CERTIFICATE OF INSURANCE REQUIRED

☒ Yes ☐ No

CITY ATTORNEY REVIEW:

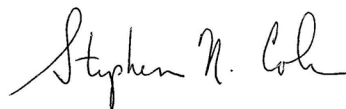
☒ Yes ☐ N/A

SUBMITTED BY:



Cynthia L. Linker, CP&D Director

REVIEWED BY:



Stephen N. Cole, City Manager

CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

ATIS ELEVATOR INSPECTIONS, LLC

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024** by and between the **City of Black Hawk, Colorado** (hereinafter referred to as the "City") and **ATIS Elevator Inspections, LLC.** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this First Addendum for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$50,000.00 or the amounts described in Exhibit A-1 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with ATIS Elevator Inspections, LLC providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

ATIS ELEVATOR INSPECTIONS, LLC
26 W. Dry Creek Circle, Suite No. 650
Littleton, CO 80120

Telephone: 314-926-1408

Email: tmcqueen@atis.com

By: _____
Tricia McQueen

Its: Contracts Manager

Date: _____

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES - 2024**

ATIS ELEVATOR INSPECTIONS, LLC

PURPOSE:

1. The City of Black Hawk (City) requires a committed team of dedicated, trained experts and certified and licensed professionals to support the City by playing a key role in providing a full-service, all-inclusive Conveyance Program.
2. As the Authority Having Jurisdiction (AHJ), the City manages and enforces the Conveyance Inspection Program. This responsibility includes meeting State of Colorado mandates to ensure all conveyances meet or exceed minimum safety standards and to protect the riding public and industry personnel in the State of Colorado and the City of Black Hawk from the hazards of dangerous conveyances.

GENERAL PROVISIONS:

ATIS references the Standard Operating Procedures for Conveyance on the City's website, which was developed as a guide to ensure consistency and quality control, productivity and performance, safety and compliance, knowledge transfer, and training and onboarding.

ATIS PROVISIONS:

1. NetSuite software;
2. Vehicles, fuel, and vehicle maintenance;
3. Cell phones and iPads;
4. Insurance;
5. Salaries and benefits;
6. Professional appearance, attire, and badge;
7. Membership dues and certifications;
8. Provide customer service with professionalism, patience, and a people-first attitude. Interact with customers to address their concerns, answer their questions, and successfully assist them with their needs;
9. Current resumes and certificates for all ATIS staff assigned to the City.
10. Follow the Colorado Conveyance Program Requirements outlined by the Colorado Department of Labor and Employment, the Division of Oil and Public Safety, and the City of Black Hawk Standard Operating Procedure for Conveyance. ATIS shall make all potential conflicts of interest known to the City.

TECHNICAL ADVISOR:

1. Reference the Standard Operating Procedures for Conveyance on the City's website.
2. Act as the dedicated technical advisor and expert resource for City staff, consultants, and business communities for all Conveyance questions. Provide expert, independent perspectives to ensure program credibility.
3. Provide an expert, independent perspective to ensure program credibility while administering, managing, and overseeing coordination obligations to ensure completion of inspections and inspection reports before the certificate expiration date.
4. Interpret legal code requirements and recommend compliance procedures.
5. Attend the Weekly Progress meetings, Development Review Committee meetings, or Construction Project meetings as required.

6. Assist the Black Hawk Building and Fire Department with elevator-related issues and code adoptions.
7. Use the City's fee schedule for all invoice and permit fees.
8. Use Conveyance@cityofblackhawk.org to email correspondence to the City.

ADMINISTRATIVE AND INSPECTION SCHEDULING SERVICES:

1. Reference the Standard Operating Procedures for Conveyance on the City's website.
2. Use Dropbox as the City's depository to store all finalized records and share files for each Conveyance registered in Black Hawk. NetSuite is another City-approved cloud storage service.
3. Track all data and compliance status, including critical inspection and service expiration dates, through the Master Excel Spreadsheet in Dropbox and NetSuite.
4. Automatically schedule and track all inspections and site visits using the Master Excel Spreadsheet and NetSuite.
5. Use the Outlook Calendar invite to schedule inspections upon a certificate's expiration. Acceptance of the invite by the Conveyance Owner, the Conveyance Contractor/Mechanic automatically permits ATIS staff to perform the inspection.
6. Send all inspection tickets and certificates in Word and PDF formats to the City at Conveyance@cityofblackhawk.org for processing and distribution to the Conveyance Owner within ten (10) business days from the inspection date.
7. Create a correct and accurate invoice in Word and PDF formats and send it to the City with the corresponding Inspection Ticket and Certificate to Conveyance@cityofblackhawk.org. The City must receive Invoices no later than thirty (30) business days from the inspection date.

PERMIT PLAN REVIEW:

1. Reference the Standard Operating Procedures for Conveyance on the City's website.

INSPECTION SERVICES:

1. Inspectors are mutually agreed upon by the City and ATIS and are trained based on the City's Standard Operating Procedures.
2. Reference the Standard Operating Procedures for Conveyance on the City's website.

CITY OF BLACK HAWK RESPONSIBILITIES:

1. Reference the Standard Operating Procedures for Conveyance on the City's website.
2. Provide access to CommunityCore and Dropbox, a centralized location to manage conveyance files and data functioning as the City's depository for all finalized records generated for each Project.
3. Bluebeam Revue studio session host with a multi-department review, if required.
3. Oversee the building permit application process, using CommunityCore, from application submittal, plan review, fee collection, and issuance of approved plans, inspection cards, and inspection scheduling instructions.
4. Upload all submitted, reviewed, and approved documents weekly to Dropbox.
5. Evaluate for accuracy all invoices and submit them to the Finance Department for payment.
6. Evaluate all Conveyance Certificates for accuracy and email them to the Conveyance Owner within 30 days of the inspection.
7. Review the weekly inspection reports in NetSuite and Master Excel spreadsheet for accuracy and compliance.
8. Participate in Weekly Progress meetings.

All items outlined in this Scope of Services shall follow the Schedule of Charges described in Exhibit A-1.

**EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES - 2024**

ATIS ELEVATOR INSPECTIONS, LLC

Reference the current adopted Fee Schedule on the City of Black Hawk website.

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

ATIS ELEVATOR INSPECTIONS, LLC



AMERTES-01

WROWEIV

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/28/2023

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 have ADDITIONAL INSURED provisions or 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 Smith McGehee 222 S. Central Suite 700 Clayton, MO 63105	CONTACT NAME:		
	PHONE (A/C, No, Ext):	(314) 394-1130	FAX (A/C, No): (314) 394-1751
	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE	NAIC #	
	INSURER A : Lloyd's	524210	
INSURED American Testing & Inspection Services, LLC ATIS Elevator Inspections, LLC Liberty Elevator Experts, LLC CNY Elevator Inspections, LLC 600 Emerson Rd., Suite 225 Creve Coeur, MO 63141	INSURER B : Endurance American Insurance Company	10641	
	INSURER C : National Liability & Fire Insurance	20052	
	INSURER D : Admiral Insurance Company	24856	
	INSURER E : The Hanover Insurance Company	22292	
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GLL-11026-01	12/10/2023	12/10/2024	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
							MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE			EXC30000224007	12/10/2023	12/10/2024	EACH OCCURRENCE \$ 9,000,000
							AGGREGATE \$ 9,000,000
	DED <input type="checkbox"/> RETENTION \$						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	V9WC544697	1/1/2024	1/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liabili			EO00003140709	12/10/2023	12/10/2024	Per Claim & Aggregat \$ 5,000,000
E	Crime			BDK-D862898-01	12/10/2022	12/10/2024	Per Claim \$ 1,000,000

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

Primary Umbrella Above: Aggregate \$5,000,000

Excess Umbrella: Carrier Crum & Forster; Term: 12/10/23 to 12/10/24; Policy #SEO-127418; Aggregate, : \$4,000,000; Retention: \$0


Total Umbrella Limit: \$9,000,000

Professional Liability: Carrier Admiral Insurance; Term: 12/10/23 to 12/10/24; Policy #E000031407-09; Aggregate/Claim \$5,000,000; Deductible \$25,000

City of Blackhawk, its officers and employees and contractors are included as Additional Insured on a Primary & Non-Contributory basis with respects to the General Liability Policy as required by written contract and where permitted by law and with respects to work performed by the insured.

CERTIFICATE HOLDER

CANCELLATION

City of Blackhawk 211 Church St Black Hawk, CO 80422	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

CITY OF BLACK HAWK, COLORADO



**FIRST ADDENDUM
PROFESSIONAL SERVICES AGREEMENT
BASELINE ENGINEERING CORPORATION**

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and **Baseline Engineering Corporation** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this **First Addendum** for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1** and **Exhibit A-2**, and incorporated by this reference. **Compensation shall not exceed \$227,400.00 or the amounts described in Exhibit A-1 and Exhibit A-2 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with Baseline Engineering Corporation providing a quote based on the attached schedule of charges in **Exhibit A-1 and Exhibit A-2**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:


Corey Y. Hoffmann
City Attorney

BASELINE ENGINEERING CORPORATION

112 North Rubey Drive, Suite 210
Golden, CO 80403

Telephone: 303.912.1900

Email: vince@baselinecorp.com

DocuSigned by:
By: 
8BE3539F909C435...
Vince Harris, Vice President

Its: Vice President

Date: 12/27/2023

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES – 2024**

BASELINE ENGINEERING CORPORATION

PURPOSE:

The City of Black Hawk (City) requires a committed team of dedicated, trained, knowledgeable, certified, and licensed professionals to support the City by providing full-service, all-inclusive Public Sector Community Planning and Development services.

GENERAL PROVISIONS:

1. Baseline supplements City staff time, acting as a technical advisor and resource, offering an independent perspective, and ensuring credibility while administering, managing, and overseeing coordination obligations for all phases of the City's Community Planning and Development projects.
2. Baseline provides a sustainable approach to all planning and land development assignments and projects with professionalism, patience, and a people-first attitude.
3. Baseline provides the below scope of services to the City, which includes, but may not be limited to, the following tasks:

PROFESSIONAL PLANNING ACTIVITIES:

1. Participate in the creation of workflow processes and standard operating procedures. Assist in keeping the information current.
2. Advise the CP&D Director and staff on planning matters, workflow processes, and procedures.
3. Act as a technical advisor and resource for the City staff, consultants, and residential and business communities.
4. Make recommendations and advise the City on adopting and amending Municipal Code regulations, Commercial Design Guidelines, and Black Hawk Planning Calendar. Advise how changes and amendments may adversely impact development projects.
5. Oversee specialized planning functions such as large-scale new development proposals and projects.
6. Review all land-use applications and development proposals following regulations and accepted planning practices. Monitor and ensure compliance with local, state, and federal laws. Prepare all staff report documents and coordinate council packets based on the approved City Council planning calendar. Review building applications for land use purposes, as requested.
7. Perform public outreach, research, and special studies, and prepare PowerPoint presentations as directed.
8. Handle simple to complex tasks efficiently and effectively by providing professional planning services that include but are not limited to the following:
Address Changes, Annexations/Deannexations, Board of Appeals, Certificates of Architectural Compatibility, Commercial Design Guidelines, Comprehensive Plan, Conditional Use Permits, Development Agreements, Easements, Floodplain/FEMA Regulatory Requirements/Permitting, Illustration Design and Mapping, Landscape Design/Plan Review, Planned Unit Developments, Plats (Annexation/Minor/Major/Subdivision), Signage (Comprehensive/Standard), Site Development Plans, Site/Land Inspections, Special Use Permits, Vacation Requests, Variance Requests, Zoning/Rezoning Requests.

9. Attend Progress Meetings, Development Review Committee, Owner/Architect/Contractor, and City Council meetings in person or remotely, as required. Perform post-administrative actions as directed and provide follow-up communications within the designated deadline.
10. Update standard operating procedures, applications, checklists, and related forms as the City directs.
11. Use CommunityCore to process and workflow all Land Use applications.
12. Oversee and administer the FEMA Floodplain development program for the City.
13. Provide engineering services for the Historic Restoration and Community Preservation Program. Attend pre-construction design and construction meetings as directed by the City and provide design input and inspection throughout the Project, from pre-construction to construction and the closeout of the Project.

PLAN REVIEW SERVICES:

1. Accept the City's Dropbox as the place to store, share files, and collaborate on projects or other City-approved cloud storage services.
2. Upload all submitted, reviewed, and approved documents weekly into the City Dropbox.
3. Bluebeam Revue studio session Host:
 - a. Bluebeam is an electronic Plan review management software that can track and keep teams on the same page throughout the plan review process and helps move the Project forward to permit issuance or document approval.
 - b. The Host is the person who starts and controls the Studio Session.
 - c. The Host begins the Session, adds the documents, is responsible for referral agency coordination, invites the attendees, and defines security and permissions.
 - d. The Host includes a Black Hawk-approved cover sheet, generates a mark-up summary, and returns the submittal documents with the cover sheet and mark-up summary to the applicant and Black Hawk Development Services Coordinator within the established review cycle.
 - e. The Host manages the Session throughout its life cycle, adding new documents, removing old ones, and inviting new attendees.
 - f. Once the Session has run its course, the Host distributes one (1) set of electronically stamped finalized approved plans and all supporting documentation to the applicant, Dropbox, and Black Hawk Development Services Coordinator and closes the Session.
4. Baseline representatives complete review within established review cycles as specified in the City's Land Use Standard Operating Procedures and Black Hawk Planning Calendar:
 - a. The City evaluates projects that require an extended review time on a case-by-case basis.
 - b. Review cycles are subject to change based on the City of Black Hawk City Manager and City Council.

INSPECTION SERVICES:

1. Applicant requests all initial and re-inspections 48 hours in advance via CommunityCore. Baseline schedules the inspection Monday-Friday from 9:00 a.m. – 3:00 p.m. (excluding City and Baseline holidays).
2. **Certificate of Architectural Compatibility.** Compile and distribute the report to the applicant and City within **two (2) business days** of the inspection.
3. **Miscellaneous Project Inspections.** Perform various inspections identified by the City. Compile and distribute the report to the applicant and City within **two (2) business days** of the inspection.

CIVIL ENGINEERING SERVICES:

1. Provide the City with a mutually agreed upon Civil Engineer to participate in the Historic Restoration and Community Preservation Program, providing civil engineering services.
2. Attend pre-construction design, providing design input and construction meetings and inspections as directed by the Architect and the City throughout the Project, from pre-construction to construction and the closeout of the Project.

THE CITY OF BLACK HAWK PROVIDED SERVICES:

1. Provide City-approved forms and documents electronically.
2. Provide access to CommunityCore.
3. Provide access to Dropbox, a centralized location to store, share, and manage land use files and data. This cloud storage device is the City's depository for all finalized records generated for each Project.

EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES – PLANNING & LANDSCAPE - 2024

BASELINE ENGINEERING CORPORATION

Title	Reg Rate	City Rate
Lead Planner, AICP	\$197	\$177
Planning Manager	\$168	\$151
Senior Planning Project Manager	\$158	\$142
Senior Planner	\$139	\$125
Principal Planner	\$130	\$117
Associate Planner	\$119	\$107
CAD Technician I	\$112	\$101
Planning Technician	\$100	\$90
Landscape Architect (PLA)	\$144	\$130
Landscape Designer II	\$126	\$113
Landscape Designer I	\$110	\$99
Administrative	\$84	\$76

**EXHIBIT A-2
FIRST ADDENDUM
SCHEDULE OF CHARGES – ENGINEERING - 2024**

BASELINE ENGINEERING CORPORATION

Title	Reg Rate	City Rate
Division Manager	\$225	\$203
Senior Project Manager, PE	\$209	\$188
Project Manager, PE	\$188	\$169
Project Engineer, PE II	\$166	\$149
Project Engineer, PE I	\$147	\$132
Project Engineer, EIT	\$137	\$123
Staff Engineer/Designer III	\$132	\$119
Staff Engineer/Designer II	\$123	\$111
Staff Engineer/Designer	\$116	\$104
CAD Technician I	\$113	\$102
Administrative	\$84	\$76

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

BASELINE ENGINEERING CORPORATION



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/24/2023

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 have ADDITIONAL INSURED provisions or 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 RISKPRO Insurance Agency, LLC 901 Waterfall Way, Suite 407 Richardson, TX 75080	CONTACT NAME:	
	PHONE (A/C, No, Ext): () -	FAX (A/C, No): () -
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Charter Oak Fire Insurance Co	
	INSURER B: Travelers Indemnity Company of CT	
INSURED Baseline Engineering Corporation 112 N Rubey Drive, Suite 210 Golden, CO 80403	NAIC #	
	25615	
	INSURER C: QBE Insurance Corporation	
	25682	
	INSURER D:	
	39217	
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<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 checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			6801J167550	5/23/2023	5/23/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BA7F996126	5/23/2023	5/23/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB5K267509	5/23/2023	5/23/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			ANE46803-04	5/23/2023	5/23/2024	Each Claim \$1,000,000 Aggregate \$2,000,000

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

Coverage is subject to all policy terms, conditions, exclusions and endorsements.

City of Black Hawk, its officers and employees as additional insureds on general liability as required by written contract but only as respects operations of the named insured.

CERTIFICATE HOLDER

CANCELLATION

City of Black Hawk
P.O. Box 68
211 Church Street
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

BRUCE MICHALAK, PROGRAM ADVOCATE

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and **Bruce Michalak, Program Advocate** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, the Contractor shall provide to the City the additional Work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this **First Addendum** for one additional year, from January 10, 2024, through and including January 8, 2025.
- 2. The Contractor shall perform all Work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$50,000.00 or the amounts described in Exhibit A for the Work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with Bruce Michalak providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

BRUCE MICHALAK, PROGRAM ADVOCATE

2462 CR 21

Fort Lupton, CO 80621

Telephone: 720.635.7456

Email: bruce2462@yahoo.com

By: 
Bruce Michalak

Date: 1/3/2024

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES – 2024**

BRUCE MICHALAK - PROGRAM ADVOCATE

The City of Black Hawk (City) requires a Historic Restoration and Community Preservation Program Advocate (Advocate). The successful candidate acts on behalf of the City and the Property Owner to ensure the Residential Preservation and Rehabilitation Project(s) meet or exceed the quality control standards set by the City and outlined in the approved construction drawings and specifications. **The Scope of Service includes but may not be limited to the following:**

- Listen to and communicate with all parties in an open-minded manner;
- Perform on-site quality control inspection for workmanship, quality of materials, and conformity with approved construction drawings and specifications;
- Identify and document all quality control concerns, issues, and problems;
- Stop all Work that does not meet the quality control standards set by the City and outlined in the approved construction drawings and specifications and request corrective measures;
- Make corrective measure recommendations to remedy quality control concerns, issues, and problems;
- Attend pre-construction design meetings and construction weekly progress and pay application meetings;
- Assist Community Planning & Development with reviewing the Contractor pay applications to verify the evidence of work, schedule of values, and lien waivers.

**EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES - 2024**

BRUCE MICHALAK - PROGRAM ADVOCATE

Task	Rate
Field Inspections:	\$130/per hour
<ul style="list-style-type: none">Conducted Monday through Thursday – 8:00 a.m. to 5:00 p.m.	
Meetings:	\$120/per hour
<ul style="list-style-type: none">In-PersonZoom	
Administrative Work:	\$110/per hour
<ul style="list-style-type: none">Building Consulting/Miscellaneous Services, etc.<ul style="list-style-type: none">➤ Building Plan Review➤ Project or Material Specification Review➤ Project Schedule Review➤ Pay Application ReviewReceive or Make Phone Calls, etc.Receive or Initiate Emails, etc.Generate Letters or Reports, etc.	
Travel and Vehicle Maintenance:	
<ul style="list-style-type: none">Door-to-Door Travel - To and From Black Hawk	\$180/per trip
<ul style="list-style-type: none">Door-to-Door Travel – Locations Other Than Black Hawk	\$130/per hour

**HOURLY RATES CALCULATED AT 15-MINUTE INTERVALS
RATES ARE ALL-INCLUSIVE**

**CERTIFICATE OF INSURANCE - 2024
FIRST ADDENDUM**

BRUCE MICHALAK - PROGRAM ADVOCATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/16/2023

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.

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PRODUCER Your Policy dba JNR Insurance Agency 21 N 1st Ave Ste 140 Brighton, CO 80601 License #: 2609555	CONTACT NAME: Rachel Munoz PHONE (A/C, No, Ext): (303)659-5200 FAX (A/C, No): (303)496-7200 E-MAIL ADDRESS: rachel@jnrinsuranceagency.com INSURER(S) AFFORDING COVERAGE INSURER A: Hiscox INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC #
INSURED Bruce Michalak DBA: Bruce Michalak 2462 Cty Rd 21 Fort Lupton, CO 80621		

COVERAGES**CERTIFICATE NUMBER: 95990447-38269****REVISION NUMBER: 2**


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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		P101.573.018.2	07/26/2023	07/26/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Prof. Liability	Y		P101.52.769.2	07/26/2023	07/26/2024	1,000,000

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

This agreement and shall provide that the coverage afforded under the policies shall not be cancelled, terminated, or materially changed until at least 30 day prior written notice has been given to the City.

CERTIFICATE HOLDER**CANCELLATION**

City of Black Hawk 201 Selak St PO Box 68 Black Hawk, CO 80422	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  (JRM)
---	--

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CITY OF BLACK HAWK, COLORADO



AGREEMENT FOR PERSONAL SERVICES

INDEPENDENT PAINTING

RESOLUTION 2-2024

JANUARY 10, 2024

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the **City of Black Hawk**, hereinafter referred to as "City," and **Independent Painting**, whose address is **PO Box 672, Central City, CO 80427**, hereinafter referred to as "Contractor" as follows:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR.** The Contractor shall perform the following: instruction and/or services during the days and times and at the location, as more particularly described in **Exhibit "A,"** which is attached hereto and incorporated herein and made a part hereof by this reference.
2. **TERM.** The term of this Agreement shall **commence on the 10th day of January 2024** and shall **terminate on the 8th day of January 2025** unless earlier terminated pursuant to Section 9 herein.
3. **COMPENSATION.** In consideration of the performance of the instruction and/or services provided herein, the Contractor shall receive compensation as provided through the **rate schedule listed in Exhibit "A."**
4. **METHOD OF PAYMENT.** The City shall pay the compensation provided in Section 3 to the Property Owner after the Property Owner submits a Check and Payment Reimbursement Request form, with the Paint Consultant's invoice specifying the services provided. The invoice is paid to the Property Owner in an FBO (for the Benefit Of) format to include the company name of the Paint Contractor for the Project.
5. **EQUIPMENT, MATERIALS, AND SUPPLIES.** Unless otherwise agreed by the City, the Contractor shall acquire, provide, maintain and repair at the Contractor's sole cost and expense such equipment, materials, supplies, etc., as necessary for the proper conduct of the aforesaid instruction and/or services.
6. **COMPLIANCES.** In the conduct of the instruction and/or services contemplated hereunder, the Contractor shall comply with all applicable laws, rules, and regulations and the directives or instructions issued by the City or its designated representatives.
7. **INDEPENDENT CONTRACTOR.** The Contractor agrees that he/she is an independent contractor and that, accordingly, neither he/she nor his employees are covered by the City's workers' compensation policy or any other worker's compensation policy.
8. **HOLD HARMLESS.** The Contractor, to the fullest extent permitted by law, shall indemnify, defend and hold harmless the City, its officers, agents, and employees, from and against any and all loss, damage, injuries, claims, or causes of action, or any liability of any kind whatsoever resulting from, arising out of or in connection with the instruction and/or services provided by Contractor pursuant to this Agreement.
9. **TERMINATION.** The City shall have the right to terminate this Agreement upon three (3) days' notice if the Contractor fails to comply with the terms and conditions set forth in this Agreement.
10. **ASSIGNMENT.** The Contractor shall not assign or otherwise transfer this Agreement or any rights or

obligations therein without first receiving the prior written consent of the City.

11. **INSURANCE.** The Contractor understands and agrees that the Contractor shall have no right of coverage under any and all existing or future City comprehensive or personal injury liability policies, and in that regard, the Contractor agrees to provide insurance coverage on behalf of the Contractor that will sufficiently protect Contractor, or his agents, servants, and employees, in connection with the services which are to be provided by Contractor pursuant to this Agreement.

12. CONTRACT INTERPRETATION

- A. No amendment or modification of this Agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Agreement.
- B. This is a completely integrated Agreement and contains the entire Agreement of the parties, and any prior written or oral agreement which are different from the terms, conditions, and provisions of this Agreement shall be of no effect and shall not be binding upon either party.
- C. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors; provided that neither party may assign its rights hereunder without the previous written consent of the other party, which shall not be unreasonably withheld.
- D. Notice required or permitted to be given hereunder (including any notice of change of address) shall be considered delivered when hand-delivered or when mailed, by United States mail, first-class postage paid, as follows:

The City:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: Melissa A. Greiner, City Clerk/Administrative Services Director
MGreiner@cityofblackhawk.org

And

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: Cynthia L. Linker, Community Planning & Development Director
Clinker@cityofblackhawk.org

The Contractor:

Eric Miller
Independent Painting
PO Box 672
Central City, Colorado 80427
cochipclub@gmail.com
Telephone 720-938-5398

All notices so given shall be considered effective when delivered by hand-delivery or in writing, as stated above.

- E. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original hereof and all of which together shall constitute a single agreement.
- F. This Agreement is made and delivered in the State of Colorado and shall be construed and enforced in accordance with the laws thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written opposite their respective signatures.

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney


INDEPENDENT PAINTING

PO Box 672
Central City, CO 80427

Telephone: (720) 938-5398
Email: cochipclub@gmail.com

By:

DocuSigned by:


Eric Miller

80250F0CB75E4F3...

Its: Owner

Date: 1/3/2024

EXHIBIT A
SCOPE OF SERVICES - 2024

INDEPENDENT PAINTING

1. The City of Black Hawk provides a Scope of Work on a project-by-project basis for Independent Painting.
2. Independent Painting provides a proposal on a project-by-project basis that includes all labor, materials, products, supplies, equipment, accessories, profit, and overhead.
3. Independent Painting is not allowed to subcontract work.
4. The City is not responsible for the theft, loss, or damage of materials, equipment, tools, or personal belongings. Secure all equipment and supplies daily. No persons are allowed on the site unless they have specific business.
5. No personal pets are permitted onsite.
6. Remove trash daily, provide refuse collection containers, and keep the site clean and free of debris, including cigarette butts.
7. Use only high-quality products approved by the City.
8. Select a sheen with a light gloss, low reflective finish, good at hiding surface imperfection, stays clean, is easily washed, and stands up to abrasion. Flat paint is not acceptable.
9. Coated surfaces of the house include exterior siding, soffits, eaves, trim, metalwork, decks, porches, exterior wood doors, wood fences, wood windows, metal fences, previously painted gutters, downspouts, vertical concrete, and select outbuildings approved by the City.
10. Accountable for Painting under adverse conditions. Schedule work to apply paint when weather conditions are per the manufacturer's specifications. Assume all responsibility when painting in adverse conditions. Siding is dry from dew and frost before applying paint, and work ceases in time to allow the paint to dry before dew and frost form.
11. Gently wash the structure exterior to remove all surface contamination, such as oil, grease, loose paint, dirt, foreign matter, rust, mold, mildew, or mortar efflorescence.
12. Mask all areas requiring protection from overspray and take into consideration any wind. Responsible for material damaged by paint on surfaces such as brick, concrete, roofing, vehicles, landscaping, etc., during the Project.
13. Perform incidental repairs; scrape and sand all failing paint from the substrate, including peeling and bubbling areas. Patch and caulk all joints in exterior trim, including areas where wood joins siding, all other cracks, imperfections, windows, and small holes.
14. Conceal all wood siding nail holes and reset any nails separating from the siding.
15. Prep and prime all exposed wood surfaces. The primer coat differs in color. Apply at least one (1) coat primer.
16. Apply at least two (2) coats of the base coat paint per the manufacturer's recommendation and thickness.
17. If transitioning from a stain to paint, apply per the manufacturer's recommendation with a minimum thickness of one (1) coat of primer and (2) coats of paint.
18. Back-roll all sprayed surfaces.

19. All stains are two (2) coats with a clear natural satin finish per the manufacturer's recommendation and thickness.
20. Paint the top and the bottom edge of all doors and windows.
21. Paint the bottom edge of all siding, corner stiles, shutters, and bay windows. Remove shutters before Painting and reinstall.
22. Paint all roof vents and flashing black or another specified color, or leave them raw per the Property Owner's preference. Mechanical vents located within the siding match the siding color.
23. The job is free of runs, sags, cracking, and skips, with edges cut neatly.
24. Attend onsite progress meetings as needed with the Property Owner and CP&D Staff.
25. Upon substantial completion, clean the site. Pickup and dispose of all paint chips, de-mask all areas, and ensure exterior windows are paint-free and operable.
26. Request a final inspection with the Property Owner and CP&D Staff.
27. Change Order(s) from the approved Scope of Work must be reviewed and approved by the City before implementation. Because the approved Change Order amount is taxable income to the Property Owner, the Grant Program Agreement amendment requires City Council approval.
28. The City releases the deposit at the start of the Project and the final payment after the substantial completion inspection and project closeout with the Property Owner. Subcontract work requires a Lien Release.
29. Leave the Property Owner a minimum of one (1) quart of each color, varnish, and stain for touch-ups. Supply the paint cans and mark each can to identify the product and paint code.
30. Provide a one (1) year limited warranty from the date of substantial completion covering all manufacturer's defects in the products and 100% of the workmanship, including cracking, peeling, fading, or chipping. Items not covered in the limited warranty include:
 - a. Acts of God that include such items as damage from fire or weather such as tornado, flooding, hail, or hurricane-force winds;
 - b. Damage caused by the Property Owner or Tenant after the job is complete;
 - c. Existing structural damage, layers of old and peeling paint, or other problems with the house that may cause a paint job to fail;
 - d. Product failure due to misuse or lack of proper maintenance by the Property Owner or Tenant;
 - e. The Property Owner or Tenant making significant product alterations affecting its performance.

CERTIFICATE OF INSURANCE
INDEPENDENT PAINTING



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/20/2023

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 have **ADDITIONAL INSURED** provisions or 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 Next First Insurance Agency, Inc. PO Box 60787 Palo Alto, CA 94306	CONTACT NAME:		
	PHONE (A/C, No. Ext): (855) 222-5919	FAX (A/C, No):	
	E-MAIL ADDRESS: support@nextinsurance.com		
INSURED Eric Miller Independent Painting 207 Eureka Street Central City, CO 80427	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: State National Insurance Company, Inc.		12831
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 641008244

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			NXT6H5RGRZ-04-GL	09/20/2023	09/20/2024	EACH OCCURRENCE	\$1,000,000.00
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000.00
							MED EXP (Any one person)	\$15,000.00
							PERSONAL & ADV INJURY	\$1,000,000.00
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$2,000,000.00
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$2,000,000.00
	OTHER:							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
								\$
								\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED	RETENTION \$					\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y / <input checked="" type="checkbox"/> N	N / A				E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A	Contractors Errors and Omissions			NXT6H5RGRZ-04-GL	09/20/2023	09/20/2024	Each Occurrence:	\$25,000.00
							Aggregate:	\$50,000.00

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

Proof of Insurance.

CERTIFICATE HOLDER

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

LIVE CERTIFICATE



[Click or scan to view](#)

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

PINYON ENVIRONMENTAL, INC.

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk, Colorado** (hereinafter referred to as the "City") and **Pinyon Environmental, Inc.** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this **First Addendum** for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$118,000.00 or the amounts described in Exhibit A-1 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with Pinyon Environmental, Inc. providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By:

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

PINYON ENVIRONMENTAL, INC.
Corporate Headquarters
3222 South Vance Street, Suite 200
Lakewood, CO 80227

Telephone 303-980-5200

Email: partington@pinyon-env.com

DocuSigned by:
By: Brian Partington
Brian Partington

Its: Principal

Date: 1/3/2024

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES - 2024**

PINYON ENVIRONMENTAL, INC.

Services and responsibilities may include, but not necessarily be limited to the following:

1. Provide Historic Preservation Consulting Services.
2. Advise Black Hawk Historic Preservation Commission.
3. Advise Black Hawk City Council.
4. Advise Black Hawk City Staff.
5. Provide Special Projects:

Complete the reconnaissance survey for up to 100 resources as part of the first phase (year 1) of a more extended, 4-year project. Approximately ten percent (10) of the properties surveyed in the Phase 1 reconnaissance survey may be identified for intensive evaluation (year 2). Pinyon assumes Public Engagement with the Black Hawk City Council and the Historic Preservation Commission. All reconnaissance surveys are conducted from the public right-of-way. Intensive evaluation of up to 10 properties selected requires more than public right-of-way evaluations, and the City shall coordinate permission with property owners for access to the property.

The **City of Black Hawk** provides a **Scope of Work** to **Pinyon Environmental, Inc.** on a project-by-project basis.

Pinyon Environmental, Inc. provides a quote based on the attached **Schedule of Charges - Exhibit A-1** and **Scope of Work** provided by the **City of Black Hawk** on a project-by-project basis.

**EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES - 2024
PINYON ENVIRONMENTAL, INC.**

Employee Type	Rate
General Labor Categories	
Administration	\$80
Assistant Technical Specialist	\$65
Field Specialist / Project Assistant	\$110
Field Specialist / Project Assistant I	\$115
Project Controller	\$125
Field Engineer/ Scientist	\$120
Field Engineer/ Scientist I	\$125
Field Engineer/ Scientist II	\$130
Field Engineer/ Scientist III	\$140
Drafting/CAD/GIS	
CAD/GIS Specialist	\$125
CAD/GIS Specialist I	\$140
CAD/GIS Specialist II	\$155
CAD/GIS Specialist III	\$180
Cultural Resources	
Assistant Historian/Archaeology Technician	\$65
Assistant Historian/Archaeology Technician I	\$75
Assistant Historian/Archaeology Technician II	\$85
Assistant Historian/Archaeology Technician III	\$95
Cultural Field Specialist	\$100
Cultural Field Specialist I	\$110
Cultural Resource Specialist	\$120
Cultural Resource Specialist I	\$135
Cultural Resource Specialist II	\$145
Cultural Resource Specialist III	\$180
Cultural Resource Specialist IV	\$205
Industrial Hygiene	
Regulated Materials Specialist	\$95
Regulated Materials Specialist I	\$105
Regulated Materials Specialist II	\$115
Industrial Hygienist	\$140
Industrial Hygienist I	\$150
Industrial Hygienist II	\$185
Industrial Hygienist III	\$220
Landscape Architecture	
Landscape Designer	\$105
Landscape Designer I	\$120
Landscape Designer II	\$135
Landscape Architect	\$145
Landscape Architect I	\$155
Landscape Architect II	\$185
Landscape Architect III	\$220
General Science and Engineering (Air Quality, Biological Resources, Due Diligence & Site Characterization, Engineering, NEPA & Planning, Regulatory Compliance, Remediation)	
Engineer / Scientist	\$150
Engineer / Scientist I	\$160
Engineer / Scientist II	\$190
Engineer / Scientist III	\$240
Engineer / Scientist IV	\$260
Engineer / Scientist V	\$275
Project Management	
Task Manager	\$170
Project Manager	\$190
Project Manager I	\$200
Project Manager II	\$220
Program Manager	\$235
Lump Sum Equipment Charges	
General Field Visits (general projects, asbestos sampling kit [bulk sampling])	\$50/day
Biological Field Visit (includes sub-meter GPS, wetland flags, field notebook, and other incidentals)	\$250/day
Field Visit (Biology CQST Mapping)	\$350/day
Soil Logging/Screening (during drilling/test pits; includes PID or other instruments, GPS, and other incidentals)	\$250/day
Groundwater Sampling (includes YSI field measurements, water level meter, bailers, and other incidentals)	\$250/day
Noise Monitoring	\$250/day
Asbestos Air Monitoring Field Kit	\$115/day
Mileage (passenger car)	Current IRS rate
Outside Expenses (e.g., shipping, rental equipment, travel, subcontractor/subconsultant, laboratory fees)	Cost + 10%
Specialty In-House Equipment Billed as Indicated in Project-specific Proposals	

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

PINYON ENVIRONMENTAL, INC.

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/10/2023

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 have ADDITIONAL INSURED provisions or 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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC P.O. Box 7050 Englewood, CO 80155 800 873-8500	CONTACT NAME: PHONE (A/C, No, Ext): 800 873-8500 FAX (A/C, No): E-MAIL ADDRESS: den.certificate@usi.com														
INSURED Pinyon Environmental, Inc. dba: Pinyon Environmental Engineering Resources Inc 3222 S. Vance St., #200 Lakewood, CO 80227	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Admiral Insurance Company</td> <td>24856</td> </tr> <tr> <td>INSURER B : Hartford - WC Multiple Issuing Cos</td> <td>00914</td> </tr> <tr> <td>INSURER C : Hartford Underwriters Insurance Company</td> <td>30104</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Admiral Insurance Company	24856	INSURER B : Hartford - WC Multiple Issuing Cos	00914	INSURER C : Hartford Underwriters Insurance Company	30104	INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BI/PD Ded:5,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	FEIECC1713910	08/13/2023	08/13/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	34UEGFZ8225	08/13/2023	08/13/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	X	X	FEIEXS1714010	08/13/2023	08/13/2024	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	34WEGBX3924	08/13/2023	08/13/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liability Claims Made		X	FEIECC1713910	08/13/2023	08/13/2024	\$1,000,000 Per Claim \$2,000,000 Aggregate

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

As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Additional Insured under Pollution Liability; Designated Insured under Automobile Liability; and Additional Insureds under Excess Liability but only with respect to liability arising out of the Named Insured work performed on behalf of (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

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

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



DESCRIPTIONS (Continued from Page 1)

the certificate holder and owner. The General Liability, Pollution Liability, Automobile Liability, Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Excess Liability, Pollution Liability, Workers Compensation and Professional Liability. The Excess Liability policy provides excess coverage over the General Liability, Automobile Liability, Employers Liability, Contractors Pollution Liability & Professional Liability. Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.

Pollution Liability

Admiral Insurance Company Policy #FEIECC1713910

Policy Term: 8/13/23-24

Limits:

\$1,000,000 Each Occurrence, Claim or Pollution Condition

\$2,000,000 Aggregate

RE: Historic Preservation Consulting and Advising Service.

Additional Insured: City of Black Hawk and their officers and employees.

CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

**SAFEBUILT LLC
COMMERCIAL AND RESIDENTIAL BUILDING SERVICES**

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and **SAFEbuilt LLC for Residential and Commercial Building Services** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this First Addendum for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$50,000.00 or the amounts described in Exhibit A-1 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with SAFEbuilt LLC providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

SAFEbuilt, LLC
Attn: Joe DeRosa, CFO
3755 Precision Drive, Suite #140
Loveland, CO 80538

By: _____
Joe DeRosa

Its: CFO

Date: _____

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES – 2024**

SAFEBUILT LLC – BUILDING SERVICES

PURPOSE:

The City of Black Hawk (City) requires a committed team of dedicated, trained, knowledgeable, certified, and licensed professionals to support the City by providing full-service, all-inclusive building department services. These services include but are not limited to building official services, administrative support, building code services, code adoptions, compliance, interpretation and enforcement, plan reviews, and inspection services.

GENERAL PROVISIONS:

SAFEbuilt provides the below scope of services to the City, which includes but may not be limited to the following tasks:

SAFEBUILT PROVISIONS:

1. CommunityCore Solutions software;
2. Vehicles, fuel, and vehicle maintenance;
3. Cell phones and iPads;
4. Insurance;
5. Salaries and benefits;
6. Professional appearance, attire, and badge;
7. Membership dues and certifications;
8. Provide customer service with professionalism, patience, and a people-first attitude. Interact with customers to address their concerns, answer their questions, and successfully assist them with their needs;
9. Current resumes and certificates for all SAFEbuilt staff assigned to the City.

BUILDING OFFICIAL SERVICES TO INCLUDE BUT NOT LIMITED TO:

1. The City Manager appoints a SAFEbuilt representative as the City's designated Building Official. The City grants the SAFEbuilt representative all rights and privileges, as established by Chapter 18 of the Black Hawk Municipal Code. SAFEbuilt and the City mutually agree to any change in the Building Official.
2. SAFEbuilt representative acts as technical advisor and resource for the City staff, consultants, residential and business communities, explaining the complexities of the Municipal Code, International Code, Electrical Code, and amendments.
3. SAFEbuilt representative monitors changes to the International Codes, Electrical Code adopted by the State of Colorado, including state or local requirements, and communicates this information to the City.
4. SAFEbuilt representative makes recommendations and advises the City on adopting Code regulations and how changes and amendments may impact development in the City.
5. SAFEbuilt representative updates the City's International Codes and Municipal Code amendments as requested by the City.
6. SAFEbuilt representative performs quality control inspections on specific projects identified by the City. Ensure materials and construction practices meet the City's construction standards and guidelines.

INSPECTION SERVICES:

1. SAFEbuilt provides inspections during Regular Business Hours, Monday through Friday, between 9:00 a.m. and 4:00 p.m. when scheduled 24 hours in advance through CommunityCore.
2. SAFEbuilt performs no inspections on SAFEbuilt, City, or National Holidays.
3. SAFEbuilt representatives schedule all inspections received via CommunityCore by 4:00 p.m. the business day before the requested inspection date.
4. SAFEbuilt may perform ***NON-EMERGENCY INSPECTIONS OUTSIDE REGULAR BUSINESS HOURS*** when the following applies:
 - a. The City receives the request 48 hours in advance;
 - b. The City contacts SAFEbuilt with the request and confirms if an inspector is available;
 - c. SAFEbuilt is not obligated to fulfill the request if an inspector is not readily available;
 - d. If an inspector is available, the City provides authorization to SAFEbuilt to perform the inspection;
 - e. The City generates an invoice for the additional fees that apply, which are collected through CommunityCore before the inspection takes place.
5. SAFEbuilt may perform ***SAME-DAY INSPECTIONS*** when the following applies:
 - a. The City receives the Same Day inspection request during Regular Business Hours;
 - b. The City contacts SAFEbuilt with the request and confirms if an inspector is available;
 - c. SAFEbuilt is not obligated to fulfill the request if an inspector is not readily available;
 - d. If an inspector is available, the City provides authorization to SAFEbuilt to perform the inspection;
 - e. The City generates an invoice for the additional fees that apply, which are collected through CommunityCore before the inspection takes place.
6. SAFEbuilt may perform ***EMERGENCY LIFE & SAFETY INSPECTIONS*** when the following applies:
 - a. A call is placed to the SAFEbuilt Emergency Box Phone Number at 720-749-1088. The Caller leaves their Name, Contact Number, Address, and the Nature of the Emergency. A SAFEbuilt representative will return the call.
 - b. An Emergency Life and Safety inspection is conducted as needed and is not subject to inspection Outside of Regular Business Hours or Same-Day fees.
7. SAFEbuilt provides certified and licensed combination inspectors to the City. SAFEbuilt and the City of Black Hawk mutually agree to staff changes.
8. SAFEbuilt representatives perform consistent code-compliant inspections to determine that construction complies with issued permits, approved plans, and currently adopted International and Electrical Codes, amendments, and Municipal Codes.
9. SAFEbuilt representatives read and interpret technical manuals, drawings, instructions, and project specifications.
10. SAFEbuilt representatives notify the Contractor of code violations with verbal dialogue and written inspection reports at the time of inspection. Cite all Municipal, International, and Electrical Code sections that pertain to violations.
11. SAFEbuilt representatives perform re-inspection to verify the correction of violations.
12. SAFEbuilt representatives confirm that all required special inspections are completed and reviewed for completeness. Provide a copy of the "Reviewed" electronic file to the City's Development Services Coordinator.
13. SAFEbuilt representatives review testing data and reports for conformance to specifications. Provide a copy of the "Reviewed" electronic file to the City's Development Services Coordinator.
14. SAFEbuilt representatives provide their Administrative Staff with a copy of inspection results or SAFEbuilt representatives' results in the field, automatically informing contractors

- of inspection results. SAFEbuilt representatives can schedule inspections in the field.
15. SAFEbuilt representatives notify the City's Development Services Coordinator of any failed or problematic inspection results.
 16. SAFEbuilt representatives provide onsite consultations to the residential/business community and contractors while performing inspections.
 17. SAFEbuilt representatives issue stop-work notices for non-conforming activities – as needed.

PLAN REVIEW SERVICES:

1. SAFEbuilt representatives provide commercial and residential International Code Council-certified and experienced plans examiners.
2. SAFEbuilt representatives perform building plans, calculations, and specification reviews.
3. SAFEbuilt representatives adhered to the City's Municipal Code and adopted International Codes, Electrical Code, and amendments.
4. SAFEbuilt representatives determine the type of construction, use, occupancy classification, and types of inspections required, including special inspections. The Plans Examiner includes this information on the building inspection card.
5. SAFEbuilt representatives shall complete reviews within the established review cycle:
 - a. **Residential Project: 5 business days**
 - b. **Minor Project (total project valuation under \$2 Million): 10 business days**
 - c. **Major Project (total project valuation over \$2 Million): 20 business days**
 - d. Review Cycles are subject to change based on the City of Black Hawk City Manager and City Council.
6. SAFEbuilt representatives return one (1) set of electronically stamped finalized approved plans and all supporting documentation to the Development Services Coordinator, uploaded into CommunityCore.
7. SAFEbuilt representatives interpret legal requirements and recommend compliance procedures.
8. SAFEbuilt representatives address all issues by documented comments with applicable code sections.

STRUCTURAL ENGINEERING REVIEWS AND RESOURCES:

1. SAFEbuilt provides a State-licensed structural engineer.
2. SAFEbuilt representatives shall complete reviews within the established review cycle:
 - e. **Residential Project: 5 business days**
 - f. **Minor Project (total project valuation under \$2 Million): 10 business days**
 - g. **Major Project (total project valuation over \$2 Million): 20 business days**
 - h. Review Cycles are subject to change based on the City of Black Hawk City Manager and City Council.
3. SAFEbuilt representatives return one (1) set of electronically stamped finalized approved plans and all supporting documentation to the Development Services Coordinator, uploaded into CommunityCore.
4. SAFEbuilt representatives interpret legal requirements and recommend compliance procedures.
5. SAFEbuilt representatives address all issues by documented comments with applicable code sections.

ADDITIONAL SAFEbuilt RESPONSIBILITIES:

1. SAFEbuilt provides access to CommunityCore Solutions, a permitting software that combines web-based and mobile tools to streamline the daily building department functions.
2. SAFEbuilt Colorado Operations Manager, Building Official, and Administrative staff meet on an as-needed basis with the Community Planning and Development Director and Development Services Coordinator.
3. As required or directed, the Building Official and designated SAFEbuilt representatives will attend Weekly Progress, Development Review Committee, Owner/Architect/Contractor of significant projects, and City Council meetings in person or remotely, as needed.
4. SAFEbuilt representatives and the City of Black Hawk Fire Department staff regularly walk significant projects on a mutually agreed upon schedule to identify code-related issues.
5. SAFEbuilt representatives and City staff work together to establish policies and procedures for tracking such items as, but not limited to, Requests for Information, Special Inspections, etc.

THE CITY OF BLACK HAWK PROVIDED LIST OF SERVICES:

1. Black Hawk Development Services Coordinator is the designated liaison with the SAFEbuilt Permit Technician.
2. Black Hawk Development Services Coordinator is the designated technical support staff for CommunityCore Solutions. CommunityCore is a centralized location to manage building files and data, functioning as the City's depository for all finalized records generated for each Project.
3. Black Hawk Development Services Coordinator is the Bluebeam Revue studio session host for multi-department review when needed.
 - a. Bluebeam is an electronic Plan review management software that can track and keep teams on the same page throughout the plan review process and helps move the Project forward to permit issuance or document approval.
 - b. The Host is the person who starts and controls the Studio Session.
 - c. The Host begins the Session, adds the documents, is responsible for referral agency coordination, invites the attendees, and defines security and permissions.
 - d. The Host includes a Black Hawk-approved cover sheet, generates a mark-up summary, and returns the submittal documents with the cover sheet and mark-up summary to the applicant within the established review cycle.
 - e. The Host manages the Session throughout its life cycle, adding new documents, removing old ones, and inviting new attendees.
 - f. Once the Session has run its course, the Host distributes one (1) set of electronically stamped finalized approved plans and all supporting documentation to the applicant, Dropbox, and closes the Session.
4. Black Hawk Development Services Coordinator calculates permit fees and issues permits.
5. Black Hawk Development Services Coordinator uploads all submitted, reviewed, and approved documents weekly to Dropbox.
6. The Black Hawk Development Services Coordinator maintains the Building Department webpage tab.

**EXHIBIT A-1
FIRST ADDENDUM
2024 - SCHEDULE OF CHARGES**

SAFEBUILT LLC – BUILDING SERVICES

FEE SCHEDULE

- Municipality and Consultant will review the Municipal Fee Schedule and valuation tables annually to discuss making adjustments to reflect increases in the costs incurred by the Consultant to provide Services.
- Beginning January 01, 2023, and annually thereafter, the hourly and flat rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally Adjusted, All Urban Consumers, referred to herein as the “CPI”) for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.

Consultant fees for Services provided pursuant to this Agreement will be as follows:

2024 SERVICE FEE SCHEDULE	
NEW PERMITS ISSUED	
Building Permit Fee (Includes inspections billed at \$105 per stop/per hour until the initial building permit fee collected is exhausted. After the initial building permit fee is exhausted, see Permit Fees and Inspections Beyond Initial Building Permit Fees Collected)	70% of the fee collected by CoBH – Regular Rate 50% of the fee collected by CoBH – City Rate - City Projects Only
Electrical Permit Fee	70% of the fee collected by CoBH – Regular Rate 50% of the fee collected by CoBH – City Rate - City Projects Only
Building Plan Review Fee (Includes initial review with one (1) round of response comments)	70% of the fee collected by CoBH – Regular Rate 50% of the fee collected by CoBH – City Rate – City Projects Only

Additional Building Plan Reviews and Response Comments (Initial response comments beyond one (1) round and reviews of previously approved plans because of changes, additions, or revisions)	\$155.00 an hour, one (1) hour minimum
Permit Fees and Inspections Beyond Initial Building Permit Fees Collected	\$109.00 an hour, one (1) hour minimum
Building Consulting / Miscellaneous Services	\$155.00 an hour, one (1) hour minimum. This category includes all services not listed
Land Use Plan Reviews and Response Comments	\$150.00 an hour, one (1) hour minimum
Structural Engineering Review Fee	Actual Costs – The City reserves the right to have a 3rd party Structural Engineer perform an independent review. The applicant or property owner shall pay all associated costs above and beyond the standard permit fee.
Re-Inspection Fee SAFEbuilt shall charge a re-inspection fee in the following instances: <ol style="list-style-type: none"> 1. The Contractor schedules an inspection and is not ready when SAFEbuilt arrives. 2. The Contractor schedules an inspection and provides an incorrect address. 3. The Contractor schedules an inspection but is not available to walk with SAFEbuilt. 4. The Contractor or homeowner disregards correction items listed from the previous inspection and schedules a re-inspection without making the required corrections. 	\$155.00 an hour – one (1) hour minimum collected before inspection through CommunityCore
Same Day Building Inspections During Regular Business Hours 9:00 a.m. - 4:00 p.m., Monday thru Friday	\$155.00 an hour - two (2) hours minimum – collected before inspection through CommunityCore.
Inspections Outside of Regular Business Hours 9:00 a.m. – 4:00 p.m. – Monday-Friday or any Municipal or SAFEbuilt Holiday	\$207.00 an hour – four (4) hours minimum – collected before inspection through CommunityCore
Emergency Life & Safety Inspections – When Placed Through the SAFEbuilt Emergency Box Phone Number	No Charge

Expert Witness/Court Testimony	Actual Costs
Attend Staff, Development Review Committee (DRC), or City Council meetings	No Charge
Special Investigation Fee – starting work without a permit.	\$500.00 – 1 st Occurrence Collect through CommunityCore \$1000.00 – 2 nd Occurrence Collect through CommunityCore \$1500.00 – 3 rd Occurrence Collect through CommunityCore
Administrative Services	\$52.00 an hour – one (1) hour minimum
Miscellaneous: <ol style="list-style-type: none"> 1. Rates are all-inclusive – no separate billing for mileage or vehicle expenses. 2. SAFEbuilt shall not invoice contractors or homeowners directly. SAFEbuilt shall invoice the CoBH. 3. In the event of termination of this Agreement, SAFEbuilt agrees to complete any plan reviews and inspections paid in advance. 4. Fees from the currently adopted CoBH Fee Schedule may also apply. 	

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

SAFEBUILT LLC – BUILDING SERVICES - 2024



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/2/2023

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 have **ADDITIONAL INSURED** provisions or 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 McGriff Insurance Services LLC 1200 weston road 2nd floor weston FL 33326	CONTACT NAME: Lauren Mayer PHONE (A/C, No, Ext): 954-385-6022 E-MAIL ADDRESS: lauren.mayer@mcgriff.com	FAX (A/C, No): 866-802-8684
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Everest Indemnity Insurance Company		20044
INSURER B : Lexington Insurance Company		19437
INSURER C : Endurance American Specialty Ins. Co.		37532
INSURER D : Everest Indemnity Insurance Company		10851
INSURER E : United Specialty Insurance Co		12537
INSURER F :		

COVERAGES

CERTIFICATE NUMBER: 638486254

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> 10,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	CF3GL00415231	10/3/2023	10/3/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A C	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	CF3CA00337231 19039760	10/3/2023 10/3/2023	10/3/2024 10/3/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Excess Auto Occ/Agg \$ \$1,000,000
B E	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	Y	19040712 19040714	10/3/2023 10/3/2023	10/3/2024 10/3/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y	SAWC458304	5/12/2023	5/12/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			TER5070488	10/3/2023	10/3/2024	Each Claim/Aggregate 10,000,000

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

A Waivers of Subrogation in favor of the certificate holder with respect to Workers Compensation as required by a written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Black Hawk
P. O. Box 68
Black Hawk CO 80422-0068

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

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (1) The agreement requires you to provide direct primary insurance for the lessor and
 - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

- (1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:
 - f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

- e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.



COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and

- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
 - d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
 - e. **Incidental Medical Malpractice And Good Samaritan Coverage**
 "Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
 - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
 - (b) Any health or therapeutic service, treatment, advice or instruction; or
 - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
 - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
 - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,

enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or

settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

i. Infringement Of Intellectual Property Rights

- (1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or
- (2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

- (1) Infringement, in your "advertisement", of:
 - (a) Copyright;
 - (b) Slogan; or
 - (c) Title of any literary or artistic work; or
- (2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Internet Advertisements And Content Of Others

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

- (4) Computer code, software or programming used to enable:

(a) Your web site; or

(b) The presentation or functionality of an "advertisement" or other content on your web site.

q. Right Of Privacy Created By Statute

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

r. Violation Of Anti-Trust law

"Personal and advertising injury" arising out of a violation of any anti-trust law.

s. Securities

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

t. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

u. Employment-Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

v. Asbestos

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

w. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and
- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors Of Land Or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
 - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. **"Auto"** means:
- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

- c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

18. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

SAFEBUILT LLC COMMERCIAL CODE ENFORCEMENT

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and **SAFEbuilt LLC for Commercial Code Enforcement** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this First Addendum for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$50,000.00 or the amounts described in Exhibit A-1 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with SAFEbuilt LLC providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

SAFEbuilt, LLC
Attn: Joe DeRosa, CFO
3755 Precision Drive, Suite #140
Loveland, CO 80538

By: _____
Joe DeRosa

Its: CFO

Date: _____

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES – 2024**

SAFEBUILT LLC - COMMERCIAL CODE ENFORCEMENT

PURPOSE:

The City of Black Hawk (City) requires a committed individual or team of dedicated, trained, knowledgeable professionals to support the City by providing full-service, all-inclusive Commercial Code Enforcement services.

GENERAL PROVISIONS:

1. SAFEbuilt provides the below scope of services to the City, which includes but may not be limited to the following tasks:

SAFEBUILT PROVISIONS:

1. CommunityCore Solutions software;
2. Vehicles, fuel, and vehicle maintenance;
3. Cell phones and iPads;
4. Insurance;
5. Salaries and benefits;
6. Professional appearance, attire, and badge;
7. Membership dues and certifications;
8. Provide customer service with professionalism, patience, and a people-first attitude. Interact with customers to address their concerns, answer their questions, and successfully correct the violation(s);
9. Current resumes and certificates for all SAFEbuilt staff assigned to the City.

PROFESSIONAL COMMERCIAL CODE ENFORCEMENT ACTIVITIES:

1. Use CommunityCore to process all violations.
2. Participate in the transition from the City's Land Use consultant to SAFEbuilt. Provide input and make recommendations to ensure an easy conversion.
3. Provide City Staff and the City's Land Use Consultant with the information needed for any Code Enforcement Violation resulting in Land Use applications.
4. Provide a sustainable approach to the City's Commercial Code Enforcement Program.
5. Act as a technical advisor to City staff, City consultants, and the business community.
6. Offer an independent perspective to ensure credibility while administering, managing, and overseeing coordination obligations for all phases of the City's Commercial Code Enforcement Program.
7. Inform and advise the CP&D Director and staff on Code Enforcement matters, workflow processes, and procedures.
8. Provide professional recommendations for code revisions – as needed.
9. Work with businesses to complete Code Enforcement Violations promptly.
10. Attend Progress meetings with City staff, City consultants, and business representatives as required.
11. Review and update standard operating procedures for the City's Commercial Code Enforcement Program.
12. Assist in preparing Code Enforcement Violation cases for court appearances, and attend preparation meetings and court proceedings as requested.

INSPECTION SERVICES:

1. Perform inspections on the 1st and 3rd Monday of each month or as mutually agreed. No inspections are conducted on SAFEbuilt, Municipal, or National holidays.
2. Perform various Code Enforcement inspections as identified by the City.

THE CITY OF BLACK HAWK PROVIDED SERVICES:

1. Provide City-approved forms and documents electronically.
2. Provide access to CommunityCore.
3. Provide access to Dropbox, a centralized location to store, share, and manage land use files and data. This cloud storage device is the City's depository for all finalized records generated for each Project.

**EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES**

SAFEBUILT LLC - COMMERCIAL CODE ENFORCEMENT - 2024

FEE SCHEDULE

- Beginning January 01, 2023, and annually thereafter, the hourly and flat rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the "CPI") for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.

Consultant fees for Services provided under this Agreement will be as follows:

2024 - COMMERCIAL CODE ENFORCEMENT FEE SCHEDULE	
Expert Witness/Court Testimony	Actual Costs
Attend Staff and Development Review Committee (DRC) meetings	No Charge
Administrative Services	\$52.00 an hour – one (1) hour minimum
All-Inclusive Code Enforcement Services	\$88.40 per hour – four (4) hours minimum
Miscellaneous: <ol style="list-style-type: none">Rates are all-inclusive – no separate billing for mileage or vehicle expenses.SAFEbuilt shall not invoice contractors or homeowners directly. SAFEbuilt shall invoice the CoBH.In the event of termination of this Agreement, SAFEbuilt agrees to complete any plan reviews and inspections paid in advance.Fees from the currently adopted CoBH Fee Schedule may also apply.	

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

SAFEBUILT LLC - COMMERCIAL CODE ENFORCEMENT



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/2/2023

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 have **ADDITIONAL INSURED** provisions or 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 McGriff Insurance Services LLC 1200 weston road 2nd floor weston FL 33326	CONTACT NAME: Lauren Mayer PHONE (A/C, No, Ext): 954-385-6022 E-MAIL ADDRESS: lauren.mayer@mcgriff.com	FAX (A/C, No): 866-802-8684
INSURED SAFEbuilt LLC 444 N Cleveland Ave Loveland CO 80538		132SAFEBLLC
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Everest Indemnity Insurance Company		20044
INSURER B: Lexington Insurance Company		19437
INSURER C: Endurance American Specialty Ins. Co.		37532
INSURER D: Everest Indemnity Insurance Company		10851
INSURER E: United Specialty Insurance Co		12537
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:** 638486254**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> 10,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	CF3GL00415231	10/3/2023	10/3/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A C	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	CF3CA00337231 19039760	10/3/2023 10/3/2023	10/3/2024 10/3/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Excess Auto Occ/Agg \$ \$1,000,000
B E	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	Y	19040712 19040714	10/3/2023 10/3/2023	10/3/2024 10/3/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y	SAWC458304	5/12/2023	5/12/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			TER5070488	10/3/2023	10/3/2024	Each Claim/Aggregate 10,000,000

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

A Waivers of Subrogation in favor of the certificate holder with respect to Workers Compensation as required by a written contract.

CERTIFICATE HOLDER**CANCELLATION**City of Black Hawk
P. O. Box 68
Black Hawk CO 80422-0068

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

Felice Vinarub

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (1) The agreement requires you to provide direct primary insurance for the lessor and
 - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

- (1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:
 - f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

- e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.



COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and

- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
 - d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
 - e. **Incidental Medical Malpractice And Good Samaritan Coverage**
 "Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
 - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
 - (b) Any health or therapeutic service, treatment, advice or instruction; or
 - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
 - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
 - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,

enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or

settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

i. Infringement Of Intellectual Property Rights

- (1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or
- (2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

- (1) Infringement, in your "advertisement", of:
 - (a) Copyright;
 - (b) Slogan; or
 - (c) Title of any literary or artistic work; or
- (2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Internet Advertisements And Content Of Others

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

- (4) Computer code, software or programming used to enable:

(a) Your web site; or

(b) The presentation or functionality of an "advertisement" or other content on your web site.

q. Right Of Privacy Created By Statute

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

r. Violation Of Anti-Trust law

"Personal and advertising injury" arising out of a violation of any anti-trust law.

s. Securities

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

t. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

u. Employment-Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

v. Asbestos

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

w. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and

- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors Of Land Or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
 - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. **"Auto"** means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

- c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

18. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

CITY OF BLACK HAWK, COLORADO



FIRST ADDENDUM PROFESSIONAL SERVICES AGREEMENT

WEECYCLE ENVIRONMENTAL CONSULTING, INC.

**RESOLUTION 2-2024
JANUARY 10, 2024**

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this **10th day of January 2024**, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and **Weecycle Environmental Consulting, Inc.** (hereinafter referred to as "Contractor").

RECITALS:

- A. On **January 11, 2023**, the City and Contractor entered into a Professional Services Agreement (the "Agreement").
- B. On **January 10, 2024**, the City and Contractor entered into the **First Addendum** to Professional Services Agreement (the "First Addendum").
- C. The parties desire to further extend the Agreement with this **First Addendum** for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this **First Addendum**.

- 1. The contract term for the Agreement is hereby extended by this **First Addendum** for one additional year, from **January 10, 2024, through and including January 8, 2025**.
- 2. The Contractor shall perform all work as set forth in the Agreement in accordance with the Scope of Work in **Exhibit A** and the Contractor's rate schedule attached hereto as **Exhibit A-1**, and incorporated by this reference. **Compensation shall not exceed \$50,000.00 or the amounts described in Exhibit A-1 for the work described in Exhibit A, without prior approval from the City.** Special Projects require prior approval with Weecycle Environmental Consulting, Inc. providing a quote based on the attached schedule of charges in **Exhibit A-1**.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

Weecycle Environmental Consulting, Inc.
1208 Commerce Court, Suite 5B
Lafayette, CO 80026

Telephone: 303-413-0452

Email: jsawitsky@weecycle-env.com

By: _____
Judith E. Sawitsky

Its: President

Date: _____

**EXHIBIT A
FIRST ADDENDUM
SCOPE OF SERVICES - 2024**

WEECYCLE ENVIRONMENTAL CONSULTING, INC.

Services and responsibilities may include, but not necessarily be limited to the following:

1. Asbestos:
 - a. Perform asbestos inspection and testing and provide an official report documenting results.
 - b. If required, create the abatement scope of work and conduct the formal bid process on behalf of the City.
 - c. Advise the City on the bid results and assist the City in selecting the lowest, most cost-effective, and responsible bidder.
 - d. Provide project management oversight of the abatement Contractor and its staff and verify each worker is certified per State regulations.
 - e. Provide a final clearance report verifying work was completed per the approved scope of work and the hazard no longer exists.
 - f. All documentation is legally defensible for each State Certified Assessment.
2. Mold and Indoor Air Quality:
 - a. Perform a mold and indoor air quality inspection and testing and provide an official report documenting results.
 - b. If required, create the abatement scope of work and conduct the formal bid process on behalf of the City.
 - c. Advise the City on the bid results and assist the City in selecting the lowest, most cost-effective, and responsible bidder.
 - d. Provide project management oversight of the abatement Contractor and its staff and verify each worker is certified per State regulations.
 - e. Provide a final clearance report verifying work was completed per the approved scope of work and the hazard no longer exists.
 - f. All documentation is legally defensible for each State Certified Assessment.
3. Lead-based Paint
 - a. Perform an inspection of the interior and exterior of the structure and provide an official report documenting results.
 - b. Perform pre and post-soils testing on the exterior and provide the initial findings report and a post-clearance report after exterior abatement. The City and its general contractor are responsible for the exterior abatement.
 - c. If required, create the interior abatement scope of work and conduct the formal bid process on behalf of the City.
 - d. Advise the City on the bid results and assist the City in selecting the lowest, most cost-effective, and responsible bidder.
 - e. Provide interior project management oversight of the abatement Contractor and its staff and verify each worker is certified per State regulations.
 - f. Provide a final interior clearance report verifying work was completed per the approved scope of work and the hazard no longer exists.

- g. All documentation is legally defensible for each State Certified Assessment.
4. Radon
- a. The City provides the construction drawings and specifications for the proposed radon system installation.
 - b. Perform a pre-air monitoring inspection and testing of the structure's interior and provide an official report documenting results.
 - c. Perform a post-air monitoring inspection and test of the structure's interior and provide the findings to determine if the radon system installation is performing per the construction drawings and specifications.
 - d. Provide a final interior clearance report for occupancy verifying Radon levels are within an acceptable range and that the hazard no longer exists.
 - e. All documentation is legally defensible for each State Certified Assessment.
5. Methamphetamine:
- a. Perform an initial screening survey or preliminary assessment to determine if a contamination level exists and provide an official report documenting results.
 - b. If required, create the abatement scope of work and conduct the formal bid process on behalf of the City to select a contractor.
 - c. Advise the City on the bid results and assist the City in selecting the lowest, most cost-effective, and responsible contractor.
 - d. Provide project management oversight of the abatement contractor and its staff and verify each worker is certified per State regulations.
 - e. Provide an official post-decontamination assessment documenting the cleanup effort.
 - f. Provide a final clearance report for re-occupancy, verifying work was completed per the approved scope of work and that the hazard no longer exists.
 - g. All documentation is legally defensible for each State Certified Assessment.
6. Hazardous Waste Removal.
- a. Advise Black Hawk City Staff of current environmental laws and the development and implementation of new technologies.

The City of Black Hawk and Weecycle Environmental Consulting, Inc. mutually create a **Scope of Work** on a project-by-project basis.

Weecycle Environmental Consulting, Inc. provides a quote based on the attached **Schedule of Charges - Exhibit A-1** and the **Scope of Work** mutually agreed upon by the **City of Black Hawk** and **Weecycle Environmental Consulting, Inc.** on a project-by-project basis.

**EXHIBIT A-1
FIRST ADDENDUM
SCHEDULE OF CHARGES - 2024**

WEECYCLE ENVIRONMENTAL CONSULTING, INC.

CATEGORY	PER HOUR
Project Manager	\$125.00/hour
Geologist	\$145.00/hour
Environmental Scientist	\$ 85.00/hour
Senior Technician	\$ 75.00/hour
Environmental Technician	\$ 65.00/hour
Lead Inspector/Lead Risk Assessor	\$ 95.00/hour
Lead Supervisor	\$ 95.00/hour
Asbestos Project Designer	\$150.00/hour
Asbestos Project Manager	\$ 110.00/hour
Asbestos Inspector	\$ 95.00/hour
Air Monitoring Specialist	\$ 85.00/hour
Drafting	\$ 95.00/hour
Document preparation/Word Processing/Clerical	\$ 50.00/hour
LEAD BASED PAINT (LBP) SERVICES	PER HOUR
Lead Survey + Samples	\$450.00/hour
Lead Hazard Screen	\$350.00/hour
Risk Assessment	\$475.00/hour
Pre-renovation Testing	\$325.00/hour
ASBESTOS SERVICES	PER DAY
Asbestos Survey + Samples	\$575.00/day
75Daily Rate – Project Over-Site	\$675.00/day
Daily Rate – (Set & Collect)	\$375.00/day
Final Visual Inspection & Air Monitoring Clearances	\$550.00/day
Weekend Rate	\$625.00/day
Out of Town Rate	\$725.00/day
ENVIRONMENTAL ASSESSMENTS	PER ITEM
Phase I Environmental Assessments	\$1600.00 - \$2800.00/per site
Phase II Environmental Assessments	\$ 120.00/per hour
Wetland/NEPA Compliance	\$ 550.00 - \$700.00/per site

LABORATORY		PER SAMPLE
<u>Lead</u>		
Wipe/Soil Samples (Lead)		
6 hr rush		\$60.00/sample
24 hr		\$35.00/sample
Bulk Chip Samples (Lead)		
24 hr		\$40.00/sample
<u>Asbestos</u>		
PCM Analysis Asbestos		\$15.00/sample
Bulk Asbestos (PLM)		
2 hr rush		\$40.00/sample
24 hr		\$30.00/sample
3-5 day		\$15.00/sample
Point Count		
6 hours		\$80.00/sample
24 hr		\$75.00/sample
3 Day		\$50.00/sample
<u>INDOOR AIR QUALITY</u>		
Bulk Samples		\$60.00/sample
Air-O-Cell		\$60.00/sample
<u>SAFETY GEAR</u>		PER PERSON & PER DAY
Level A		\$500.00/per day
Level B		\$250.00/per day
Level C		\$ 50.00/per day
Level D		\$ 25.00/per day
<u>TRAVEL</u>		PER PERSON & PER ITEM
Car Mileage		Current IRS Rate/mile
Truck & Equipment Trailer		\$250.00/100 mile roundtrip
Travel		\$ 50.00/hour
<u>FIELD INSTRUMENTS</u>	<u>PER DAY</u>	<u>PER WEEK</u>
Photo Ionization Detector	\$ 95.00/day	\$300.00/week
PH/Temp Meter	\$ 40.00/day	\$ 90.00/week
Conductivity/pH/Temp Meter	\$ 65.00/day	\$150.00/week
Water Level Indicator	\$ 45.00/day	\$ 115.00/week
Peristaltic Pump	\$ 50.00/day	\$135.00/week
Submersible Pump	\$245.00/day	\$570.00/week
Generator	\$ 95.00/day	\$250.00/week
Radiation Detector	\$ 55.00/day	\$175.00/week

OTHER EXPENSES	PER ITEM
Miscellaneous Expenses	Actual Cost + 10%
Project Supplies	\$ 55.00/project
Laboratory Analysis (not listed)	Cost + 10%
Mileage	Current IRS Rate/mile
Camera	\$ 10.00/day
Cell Phone	\$ 10.00/day
Black & White Copies	\$ 0.10/page
Color Printing	\$ 0.75/page
Per Diem	\$ 65.00 - \$125.00 (Geographically Dependent)

**CERTIFICATE OF INSURANCE – 2024
FIRST ADDENDUM**

WEECYCLE ENVIRONMENTAL CONSULTING, INC.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/17/2022

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 Van Oppen & Co. 2, Inc. VOCO 2 Insurance & Risk Control Services P.O. Box 793 Teton Village WY 83025	CONTACT NAME: Brenda Todd PHONE (A/C, No, Ext): 800-746-0048 E-MAIL ADDRESS: service@vanoppenco2.com	FAX (A/C, No):
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Homeland Insurance Company of New York		34452
INSURED Weecycle Environmental Consulting, Inc. 1208 Commerce Ct #5B Lafayette CO 80026		WEECY-1
INSURER B :		
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES**CERTIFICATE NUMBER:** 1615088364**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CPL (Pollution) GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	793-00-78-72-0002	4/11/2022	4/11/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/> N / A					PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liab "Claims Made"			793-00-78-72-0002	4/11/2022	4/11/2024	Each Claim 2,000,000 Aggregate 2,000,000 Subject to GL Agg

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

The City of Black Hawk is included as additional insured on the general liability as required by written contract.

CERTIFICATE HOLDER**CANCELLATION**City of Black Hawk
Attn: City Clerk
PO Box 68
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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RESOLUTION 3-2024
A RESOLUTION
APPROVING CERTAIN
SERVICE AGREEMENTS
FOR CALENDAR YEAR
2024 FOR PW

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

Resolution No. 3-2024

**TITLE: A RESOLUTION APPROVING CERTAIN SERVICE AGREEMENTS
FOR CALENDAR YEAR 2024**

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

Section 1. The City Council hereby approves the Services Agreements for the Public
Works Department, with the entities and for the services and not to exceed amounts set forth below
(the “Agreements”), and authorizes the Mayor to sign the Agreements on behalf of the City.

<u>Entity</u>	<u>Service and (Not to Exceed Amount)</u>
Baseline Engineering Corp	Surveying (\$25,000)
Stolfus & Associates	Roadway/Traffic (\$25,000)
Terracon	Geotechnical (\$30,000)
Ostrander Consulting	Transit/Shuttle (\$40,000)
Grapes & Sons Excavating	Waterline Repair/General Excavation (\$50,000)
One-Way	Residential Trash Service (\$22,000)
LSI	Water Plants SCADA, Controls Programing (\$50,000)
LREWater	Water Rights Engineering & Accounting (\$350,000)
PEH	Architectural (\$30,000)
Coloring Colorado	Horticulture maintenance (\$50,000)
Frontier Fire	Fire Detection/Alarm system maintenance (\$30,000)
Sun Valley Electric	Water Plant Electrical Maintenance (\$25,000)
Lumin8 Transportation Technologies	Traffic Signal and Lighting Maintenance (\$55,000)
Drexel, Barrell, & Co.	Structural Engineering (\$30,000)

RESOLVED AND PASSED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Resolution 3-2024, a Resolution authorizing the Mayor to execute the annual On-Call Agreements for various service providers for Public Works.

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

MOTION TO APPROVE Resolution 3-2024, a Resolution approving certain service agreements for calendar year 2024.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The Public Works Department utilizes several service providers to supplement City staff for items ranging from engineering to trash removal. The proposed service providers are listed below with NTE amounts-unless modified by change order:

Baseline Engineering Corp	Surveying (\$25,000)
Stolfus & Associates	Roadway/Traffic(\$25,000)
Terracon	Geotechnical (\$30,000)
Ostrander Consulting	Transit/Shuttle (\$40,000)
Grapes & Sons Excavating	Waterline Repair/General Excavation (\$50,000)
One-Way	Residential Trash Service (\$22,000.00)
LSI	Water PlantsSCADA, Controls,Programing (\$50,000)
LREWater	Water Rights Engineering & Accounting (\$350,000)
PEH	Architectural (\$30,000)
Coloring Colorado	Horticulture maintenance (\$50,000)
Frontier Fire	Fire Detection/Alarm system maintenance(\$30,000)
Sun Valley Electric	Water Plant Electrical Maintenance (\$25,000)
Lumin8 Transporation Technologies	Traffic Signal and Lighting Maintenance (\$55,000)
Drexel, Barrell & Co.	Civil/Structural Engineering (\$30,000)

AGENDA DATE: January 10, 2024

WORKSHOP DATE: January 10, 2024

FUNDING SOURCE: varies by project

DEPARTMENT DIRECTOR APPROVAL: [x]Yes []No

STAFF PERSON RESPONSIBLE: TI/MR/BD/ES

DOCUMENTS ATTACHED: agreements

RECORD: []Yes []No

CoBH CERTIFICATE OF INSURANCE REQUIRED [x]Yes []No

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

SUBMITTED BY:



Thomas Isbester, PublicWorks Director

REVIEWED BY:



Stephen N. Cole, City Manager

SIXTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS SIXTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "Sixth Addendum") is made and entered into this _____ day of _____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and **Baseline Engineering Corporation** (hereinafter referred to as "Consultant").

RECITALS:

- A. On November 10, 2017 the City and Consultant entered into a Professional Services Agreement (the "Agreement") for **Survey On-Call** Services.
- B. On November 26, 2018 the City and Consultant entered into the First Addendum to Professional Services Agreement (the "First Addendum").
- C. On January 22, 2020 the City and Consultant entered into the Second Addendum to Professional Services Agreement (the "Second Addendum").
- D. On January 13, 2021 the City and Consultant entered into the Third Addendum to Professional Services Agreement (the "Third Addendum").
- E. On January 12, 2022 the City and Consultant entered into the Fourth Addendum to Professional Services Agreement (the "Fourth Addendum").
- F. On January 25, 2023 the City and Consultant entered into the Fifth Addendum to Professional Services Agreement (the "Fifth Addendum").
- G. The parties desire to further extend the Agreement with this Sixth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Consultant shall provide to the City, the additional work as needed in the manner provided in this Sixth Addendum.

- 1. The contract term for the Agreement is hereby extended by this Sixth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.
- 2. Consultant shall perform all work as set forth in the Agreement in accordance with Consultant's rate schedule attached hereto as **Exhibit A**, and incorporated by this reference.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Consultant. The original Agreement, the First Addendum, the Second Addendum, the Third Addendum, the Fourth Addendum, the Fifth Addendum, and this Sixth Addendum constitute all of the agreements between the City and the Consultant.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

Baseline Engineering Corp.

By: _____



Print Name

AARON DEMKO

SURVEY DIVISION MANAGER 11/21/24

Title

Date

ATTEST:

By: _____

DOUGLAS K. LANCASTER

Print Name

SURVEY PROJECT MANAGER 01.02.2024

Title

Date

EXHIBIT A

Schedule of Charges – 2024

<u>Description / Job Title</u>	<u>Regular Rate</u>	<u>City Rate</u>
Professional Land Surveyor	\$205	\$187
Survey Project Manager	\$173	\$160
Land Surveyor (crew chief office work)	\$116	\$106
Survey Crew	\$205	\$187
Survey Truck	\$28	\$25
CAD Technician	\$121	\$110
Administrative	\$84	\$76



Policy Number:

Date Entered: 05/19/2023

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/24/2023

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 have ADDITIONAL INSURED provisions or 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 RISKPRO Insurance Agency, LLC 901 Waterfall Way, Suite 407 Richardson, TX 75080	CONTACT NAME:		
	PHONE (A/C, No, Ext): () -	FAX (A/C, No): () -	
INSURED Baseline Engineering Corporation 112 N Rubey Drive, Suite 210 Golden, CO 80403	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Charter Oak Fire Insurance Co		25615
	INSURER B: Travelers Indemnity Company of CT		25682
	INSURER C: QBE Insurance Corporation		39217
	INSURER D:		
	INSURER E:		
INSURER F:			

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<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 checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6801J167550	5/23/2023	5/23/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BA7F996126	5/23/2023	5/23/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	UB5K267509	5/23/2023	5/23/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			ANE46803-04	5/23/2023	5/23/2024	Each Claim \$1,000,000 Aggregate \$2,000,000

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

Coverage is subject to all policy terms, conditions, exclusions and endorsements.

City of Black Hawk, its officers and employees as additional insureds on general liability as required by written contract but only as respects operations of the named insured.

CERTIFICATE HOLDER**CANCELLATION**

City of Black Hawk
P.O. Box 68
211 Church Street
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "Eighth Addendum") is made and entered into this _____ day of _____, _____ by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Stolfus and Associates, Inc. (hereinafter referred to as "Consultant").

RECITALS:

- A. On December 9, 2015 the City and Consultant entered into a Professional Services Agreement (the "Agreement").
- B. On January 11, 2017 the City and Consultant entered into the First Addendum to Professional Services Agreement (the "First Addendum").
- C. On December 13, 2017 the City and Consultant entered into the Second Addendum to Professional Services Agreement (the "Second Addendum").
- D. On December 12, 2018 the City and Consultant entered into the Third Addendum to Professional Services Agreement (the "Third Addendum").
- E. On January 22, 2020 the City and Consultant entered into the Fourth Addendum to Professional Services Agreement (the "Fourth Addendum").
- F. On January 13, 2021 the City and Consultant entered into the Fifth Addendum to Professional Services Agreement (the "Fifth Addendum").
- G. On January 12, 2022 the City and Consultant entered into the Sixth Addendum to Professional Services Agreement (the "Sixth Addendum").
- H. On January 25, 2023 the City and Consultant entered into the Seventh Addendum to Professional Services Agreement (the "Seventh Addendum").
- I. The parties desire to further extend the Agreement with this Eighth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Consultant shall provide to the City, the additional work as needed in the manner provided in this Eighth Addendum.

- 1. The contract term for the Agreement is hereby extended by this Eighth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.
- 2. Consultant shall perform all work as set forth in the Agreement in accordance with Consultant's rate schedule attached hereto as **Exhibit A**, and incorporated by this reference.
- 3. The original Agreement is in full force and effect and is hereby ratified by the City and the Consultant. The original Agreement, the First Addendum, the Second Addendum, the Third Addendum, the Fourth Addendum, the Fifth Addendum, the Sixth Addendum, the Seventh

Addendum, and this Eighth Addendum constitute all of the agreements between the City and the Consultant.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

CONSULTANT

By: _____
Elizabeth B. Stoffus
Print Name

President 12/29/2023
Title Date

ATTEST:

By: _____
Stephen Mystkowski
Print Name
Business Administration 12/29/23
Title Director Date



2024 STANDARD HOURLY RATES

Professional Services

Principal-President	\$265
Vice President	\$240
Professional Engineer 5	\$225
Professional Engineer 4	\$215
Professional Engineer 3	\$205
Professional Engineer 2	\$180
Professional Engineer 1	\$165
Engineering Intern 3	\$150
Engineering Intern 2	\$145
Engineering Intern 1	\$140
Engineering Student Intern	\$ 80
Transportation Data Analyst 2	\$145
Transportation Data Analyst 1	\$140
Community Engagement Director	\$200
Community Engagement Manager	\$160
Community Engagement Specialist	\$120
Graphics Specialist	\$105
Office Manager	\$115
Staff Accountant 2	\$115
Staff Accountant 1	\$100
Administrative Assistant	\$ 85

Expert Witness Services*

Expert Witness (Principal-President)	\$500
Expert Witness (Vice President)	\$450
Expert Witness (Professional Engineer 5)	\$400

*includes deposition testimony, courtroom appearances, transcript review, etc.

Outside Consultants at cost

Other Direct Costs

Mileage	at Standard Federal Rate
Outside reproduction	at cost
Other expenses	at cost

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/03/2024

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 have ADDITIONAL INSURED provisions or 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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC 4600 S. Ulster Street, Suite 1200 Denver, CO 80237 800 873-8500		CONTACT NAME: PHONE (A/C, No, Ext): 800 873-8500 FAX (A/C, No): E-MAIL: den.certificate@usi.com ADDRESS:	
		INSURER(S) AFFORDING COVERAGE NAIC #	
		INSURER A : Hartford Casualty Insurance Company 29424	
		INSURER B : Sentinel Insurance Company Ltd. 11000	
		INSURER C : XL Specialty Insurance Company 37885	
		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	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	34SBWPD4904	10/01/2023	10/01/2024	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	34SBWPD4904	10/01/2023	10/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 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 checked="" type="checkbox"/> RETENTION \$10000	X	X	34SBWPD4904	10/01/2023	10/01/2024	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	34WEGBS5226	10/01/2023	10/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Professional Liability Claims Made			DPR5018679	10/01/2023	10/01/2024	\$2,000,000 per claim \$2,000,000 annl aggr.

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

As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insureds under Umbrella/Excess Liability but only with respect to liability arising out of the Named Insured work performed on behalf of the certificate holder and owner. (See Attached Descriptions)

CERTIFICATE HOLDER City of Black Hawk 987 Miners Mesa Road P. O. Box 68 Black Hawk, CO 80422	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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DESCRIPTIONS (Continued from Page 1)

The General Liability, Automobile Liability, Umbrella/Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella/Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability. Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.

RE: City of Black Hawk On-Call Transportation Engineering Services.

Additional Insured Includes: City of Black Hawk.

FIFTH ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES

THIS FIFTH ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Fifth Addendum") is made and entered into this _____ day of _____, 20____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Terracon Consultants, Inc. (hereinafter referred to as the "Contractor").

RECITALS

- A. On December 12, 2018, the City and Contractor entered into an Agreement for Professional Services (the "Agreement").
- B. On January 22, 2020, the City and Contractor executed a First Addendum to extend the Agreement by one year (the "First Addendum").
- C. On January 13, 2021, the City and Contractor executed a Second Addendum to extend the Agreement by one year (the "Second Addendum").
- D. On January 12, 2022, the City and Contractor executed a Third Addendum to extend the Agreement by one year (the "Third Addendum").
- E. On January 25, 2023, the City and Contractor executed a Fourth Addendum to extend the Agreement by one year (the "Fourth Addendum").
- F. The parties desire to extend the Agreement with this Fifth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City the additional work as needed in the manner provided in this Fifth Addendum.

- A. The contract term for the Agreement is hereby extended by this Fifth Addendum for one additional year, from January 1, 2024 through December 31, 2024.
- B. Contractor shall complete the scope of services as described in **Exhibit A**, attached hereto and incorporated herein by this reference. Compensation shall not exceed Thirty thousand dollars (\$30,000) for the work described in **Exhibit A**.
- C. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule as described in **Exhibit B**, attached hereto and incorporated herein by this reference.
- D. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

TERRACON CONSULTANTS, INC.

By: _____
Its: Office Manager

STATE OF COLORADO)
COUNTY OF Jefferson) ss.

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 3rd day of January, 2024, by JOHN HAAS as the OFFICE MANAGER of TERRACON CONSULTANTS INC.

My commission expires: 01-05-2025

(SEAL)

Notary Public



EXHIBIT A

SCOPE OF SERVICES

2024 On-Call Geotechnical Services

Services and responsibilities may include, but not necessarily be limited to, the following:

Subsurface exploration and geotechnical analysis. Contractor shall have expertise and equipment as necessary to examine existing site conditions and prepare complete geotechnical recommendations and reports.

Materials testing. Contractor shall have ready access to a laboratory equipped to provide all material testing associated with general construction.

Pavement design and analysis. The City may request the Contractor to design full-depth asphalt, concrete, and composite pavement sections. Contractor shall evaluate existing pavements and recommend rehabilitative procedures.

Retaining wall and foundation design recommendations. Contractor shall collaborate with the City-retained structural engineer to evaluate and provide recommendations for retaining walls, building foundations, and other similar structures.

Construction inspection. Contractor shall provide qualified personnel to inspect general construction and paving projects.

Rock excavation and stabilization. Contractor shall provide recommendations for rock removal, which may include preparation of drilling and blasting specifications. Contractor shall evaluate rock stability and recommend various rock stabilization methods as necessary.

Opinions of probable construction costs. Contractor shall estimate and/or review geotechnical-related construction costs.

Meeting attendance. The City may request the Contractor to provide competent engineering and technician personnel at one-time or regular meetings during construction projects.

Contractor shall retain qualified in-house personnel, including licensed Professional Engineers and Geologists, to perform the above Scope of Work.

City of Black Hawk

2024 On-Call Geotechnical Services

Reimbursement Schedule for Geotechnical Engineering
and Materials Services

December 28, 2023



10625 W I-70 Frontage Rd. N., Ste. 3
Wheat Ridge, Colorado, 80033
P (303) 423-3300

Nationwide
[Terracon.com](https://terracon.com)

■ Environmental
■ Facilities
■ Geotechnical
■ Materials

City Of Black Hawk 2024 On-Call Geotechnical Services

REIMBURSEMENT SCHEDULE Geotechnical Engineering and Materials Services*

Personnel	Rate (\$)
Subject Matter Expert	235.00/hr
Authorized Project Reviewer (APR)	215.00/hr
Department Manager	185.00/hr
Project Engineer	170.00/hr
Senior Project Manager	170.00/hr
Staff Engineer	115.00/hr
Structural Steel Inspector	115.00/hr
Senior Engineering Technician	85.00/hr
CADD/Drafting	75.00/hr
Special Inspector	85.00/hr
Engineering Technician (concrete, soils and asphalt)	75.00/hr

Note: An overtime premium of 1.5 times the hourly rate will apply for services provided Monday through Friday that are in excess of 8 hours per day and for services provided before 7:00 AM and after 6:00 PM, as well as for services provided on same day calls, Saturday, Sunday, and Terracon recognized Holidays. All charges are portal to portal. A minimum charge of 4 hours will be incurred for field work excluding sample pick-up.

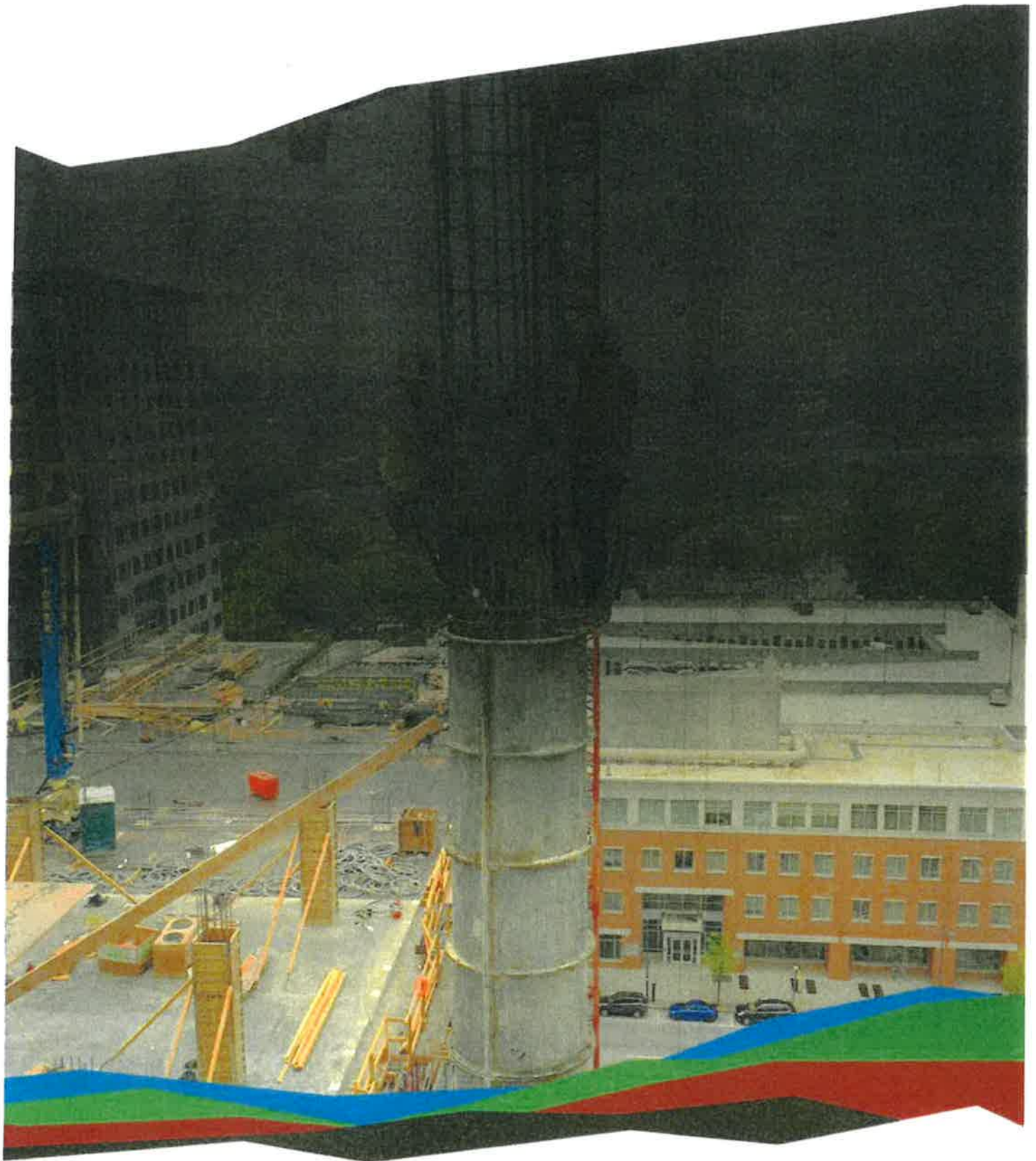
Laboratory Testing	Rate (\$)
Atterberg Limits	100.00/ea
Sieve Analysis (washed)	100.00/ea
-200	50.00/ea
One Point Check	82.00/ea
Proctor D-698 Moisture-Density Relationships	200.00/ea
Proctor D-1557 Moisture-Density Relationships	220.00/ea
Moisture Content	20.00/ea
Dry Density	20.00/ea
Swell-Consolidation	90.00/ea
Unconfined Compression	90.00/ea
Remolded Unconfined Compression (proctor not included)	170.00/ea
R-Value	380.00/ea
Soluble Sulfate	23.00/ea
pH	15.00/ea
Resistivity	60.00/ea
Corrosivity (includes soluble sulfate and pH)	70.00/ea
Concrete Compressive Strength	25.00/ea
Mortar/Grout Compressive Strength	25.00/ea
Masonry Prism Compressive Strength	70.00/ea
Gyratory Compaction	200.00/ea
Asphalt Content/Gradation	200.00/ea
Maximum Theoretical Density	200.00/ea
Thickness/Density	40.00/ea

City Of Black Hawk 2024 On Call Geotechnical Services

REIMBURSEMENT SCHEDULE Geotechnical Engineering and Materials Services*

Equipment	Rate (\$)
Private Utility Clearance	120.00/hr (3 hour minimum)
Drill Rig Mobilization and Drilling	300.00/hr
Floor Flatness/Floor Levelness Testing	400.00/trip
Ultrasonic Testing (UT) Equipment	160.00/day
Magnetic Particle Testing (MT) Equipment	100.00/day
Mileage	0.75/mi
Material Report Preparation & Review	50.00/report
Outside services	At cost + 20%

**Project-specific fees for geotechnical explorations, laboratory testing schedules and analyses/reports shall be provided on a per-project basis via specific geotechnical proposals and lump sum budgets once project specifics have been provided to Terracon.*



CONTACT:

Daniel E. Redman
Senior Project Manager
 D (303) 454-5243
 M (303) 994-0174
Dan.Redman@Terracon.com



Nationwide
Terracon.com

✦ Environmental
 ✦ Facilities
 ✦ Geotechnical
 ✦ Materials

M252 of 1401

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Black Hawk, hereinafter referred to as "City" and Ostrander Consulting, Inc. whose address is 1250 Humboldt, Unit 1401, Denver, CO 80218 hereinafter referred to as "Consultant" as follows:

1. **SERVICES TO BE PERFORMED BY CONSULTANT.** Consultant shall perform the following: instruction and/or services during the days and times, and at the location, as more particularly described in Attachment "A", which is attached hereto and incorporated herein and made a part hereof by this reference.
2. **TERM.** The term of this Agreement shall commence on the 1st day of January, 2024 and shall terminate on the 31st day of December, 2024 unless earlier terminated pursuant to Section 9 herein.
3. **COMPENSATION.** In consideration of the performance of the instruction and/or services provided herein, Consultant shall receive compensation as provided through the rate schedule listed in Attachment "A" but not to Exceed Forty Thousand Dollars (\$40,000) unless otherwise approved.
4. **METHOD OF PAYMENT.** The compensation provided in Section 3 shall be paid by the City to Consultant upon filing of an invoice specifying the services provided.
5. **EQUIPMENT, MATERIALS AND SUPPLIES.** Unless otherwise agreed by the City, Consultant shall acquire, provide, maintain and repair at Consultant's sole cost and expense such equipment, materials, supplies, etc., as necessary for the proper conduct of the aforesaid instruction and/or services.
6. **COMPLIANCES.** In the conduct of the instruction and/or services contemplated hereunder, Consultant shall comply with all applicable laws, rules and regulations, and the directives or instructions issued by the City or its designated representatives.
7. **INDEPENDENT CONSULTANT.** Consultant agrees that he/she is an independent consultant and that accordingly neither he she nor his employees are covered by the City's workers' compensation policy, or any other worker's compensation policy.
8. **HOLD HARMLESS.** Consultant, to the fullest extent permitted by law, shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all loss, damage, injuries, claims, or causes of action, or any liability of any kind whatsoever resulting from, arising out of or in connection with the instruction and/or services provided by Consultant pursuant to this agreement.
9. **TERMINATION.** The City shall have the right to terminate this Agreement upon three (3) days notice, if Consultant fails to comply with the terms and conditions set forth in this Agreement.
10. **ASSIGNMENT.** Consultant shall not assign or otherwise transfer this Agreement or any rights or obligations therein, without first receiving prior written consent of the City.

11. **INSURANCE.** Consultant understands and agrees that Consultant shall have no right of coverage under any and all existing or future City comprehensive or personal injury liability policies, and in that regard, Consultant agrees to provide insurance coverage on behalf of the Consultant, that will sufficiently protect Consultant, or his agents, servants and employees, in connection with the services which are to be provided by Consultant pursuant to this Agreement.

12. CONTRACT INTERPRETATION

- A. No amendment or modification of this agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Agreement.
- B. This is a completely integrated Agreement and contains the entire Agreement of the parties, and any prior written or oral agreement which are different from the terms, conditions and provisions of this Agreement shall be of no effect and shall not be binding upon either party.
- C. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors; provided that neither party may assign its rights hereunder without the previous written consent of the other party which shall not be unreasonably withheld.
- D. Notice required or permitted to be given hereunder (including any notice of change of address) shall be considered delivered when hand-delivered or when mailed, by United States mail, first-class postage paid, as follows:

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

Consultant:
Amy Ostrander
Ostrander Consulting, Inc.
1250 Humboldt, Unit 1401
Denver, CO 80218

All notices so given shall be considered effective when delivered by hand-delivery, or in writing, as stated above.

- E. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original hereof and all of which together shall constitute a single agreement.
- F. This Agreement is made and delivered in the State of Colorado, and shall be construed and enforced in accordance with the laws thereof.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates written opposite their respective signatures.

COLORADO

CITY OF BLACK HAWK,

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, cmc
City Clerk

INC.

OSTRANDER CONSULTING,

By:

Amy Ostrander

Amy Ostrander

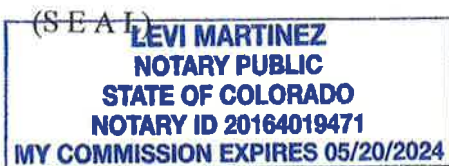
STATE OF COLORADO)

) ss.

COUNTY OF Denver)

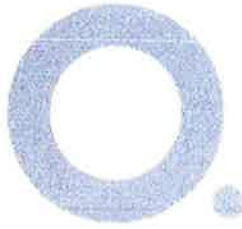
The foregoing instrument was subscribed, sworn to, and acknowledged before me
this 3rd day of January, 2024, by
Amy Ostrander.

My commission expires: 05/20/2024



[Signature]

Notary Public



OSTRANDER CONSULTING INC

DEFINING TRANSPORTATION SOLUTIONS

Amy Ostrander

1250 Humboldt Unit 1401 Denver, CO 80218

Voice 720.855.7404 Fax 720.855.8984

E-mail aostranderconsulting@msn.com

ATTACHMENT A

City of Black Hawk

On-Call Technical Assistance to Support City Transit Service for 2024

Ostrander Consulting, Inc. focuses on defining solutions for rural, resort, and specialized transportation services. Ostrander Consulting, Inc., led by principal Amy Ostrander, combines a strong educational and professional background in transportation with significant operations experience.

Technical Assistance will be provided to the City of Black Hawk in the area following areas to support City transit services:

Area
Marketing/advertising support
Passenger service improvement/rider surveys
Operational planning
Risk management and safety
Strategic planning
Maintenance management and capital replacement
State and federal regulatory compliance
Grants application/management
Contract provider oversight
Other planning areas as directed
Other technical assistance as directed

Consultant Service Fee Schedule

Technical Assistance Ostrander \$190.00/hour

Marketing Assistance Contract \$60.00/hour

(Brochure Distribution/Survey Work/Other as Assigned)

Reimbursable expenses must be accompanied by proof of payment.

No work will be commenced without authorization of the City of Black Hawk Staff. This service will be provided on-call only. The City of Black Hawk has no commitment to any minimum level of work or time frame for requesting assistance.

December 21, 2023



Policy Number:

Date Entered: 3/6/2023

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/ 6/2023

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 have **ADDITIONAL INSURED** provisions or 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 INSURANCE GROUP OF COLORADO LLC 1113 East Alameda Avenue Denver, CO 80209	CONTACT NAME: DAVE MECHLING OR JP DIZEREGA	
	PHONE (A/C, No, Ext): (303) 778-7811 FAX (A/C, No): (303) 778-8991	
INSURED OSTRANDER CONSULTING, INC. 1250 HUMBOLDT STREET UNIT 1401 DENVER, CO 80218	E-MAIL ADDRESS: dave@compsrvs.com or jp@compsrvs.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: HARTFORD INSURANCE COMPANY	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			34 SBA AP8EJJ	2/12/2023	2/12/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CITY OF BLACK HAWK IS INLUDED AS ADDITIONAL INSURED AS REQUIRED PER WRITTEN CONTRACT WITH RESPECTS TO THE GENERAL LIABILITY POLICY.

CERTIFICATE HOLDER**CANCELLATION**

CITY OF BLACK HAWK
ATTENTION : PUBLIC WORKS
PO BOX 68
BLACK HAWK, COLORADO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

SECOND ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES

THIS SECOND ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Second Addendum") is made and entered into this ____ day of _____, 20____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Grapes & Sons Excavating, LLC (hereinafter referred to as the "Contractor").

RECITALS

- A. On January 12, 2022, the City and Contractor entered into an Agreement for Professional Services (the "Agreement").
- B. On January 25, 2023, the City and Contractor executed a First Addendum to extend the Agreement by one year (the "First Addendum").
- C. The parties desire to extend the Agreement with this Second Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City the additional work as needed in the manner provided in this Second Addendum.

- A. The contract term for the Agreement is hereby extended by this Second Addendum for one additional year, from January 1, 2024 through December 31, 2024.
- B. Contractor shall complete waterline repair and general excavation services as requested by the City in accordance with Contractor's rate schedule as described in **Exhibit A**, attached hereto and incorporated herein by this reference. Compensation shall not exceed Fifty thousand dollars (\$50,000).
- C. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

GRAPES & SONS EXCAVATING, LLC

By: Bil [Signature]

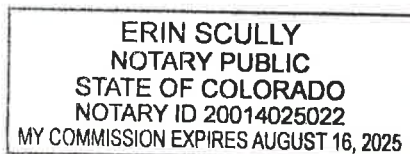
Its: member

STATE OF COLORADO)
COUNTY OF Gilpin) ss.
)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this
4 day of December, 2023, by
Robert Grapes as the member of
Grapes & Sons Excavating

My commission expires: 8.16.2025

(S E A L)



[Signature]
Notary Public

Case 350 Excavator	@ \$260.00 per hr
Case 245 Excavator	@ \$230.00 per hr
w/hammer	@ \$265.00 per hr
Case 210 Excavator	@ \$225.00 per hr
w/hammer	@ \$265.00 per hr
Case 9040 - 60,000 pound Excavator	@ \$210.00 per hr
Case 160C - 40,000 Pound Excavator	@ \$185.00 per hr
w/hammer	@ \$245.00 per hr
Yanmar SV100 - 20,000 Pound Excavator	@ \$170.00 per hr
w/Hydro Hammer	@ \$210.00 per hr
Case 60 Mini Excavator	@ \$140.00 per hr
w/Hammer	@ \$170.00 per hr
Yanmar Vio 35 Mini Excavator	@ \$ 115.00 per hr
Case 821 Loader Rubber tires	@ \$210.00 per hr
Case Track Skid Steer	@ \$120.00 per hr
w/masticator	@ \$175.00 per hr
Case 1150 Dozer	@ \$210.00 per hr
3½ yard 953 Crawler Loader	@ \$160.00 per hr
54" Smooth Drum Roller Compactor	@ \$ 110.00 per hr
Cat Double Drum Roller	@ \$ 100.00 per hr
Wacker Remote Control Walk - Behind Compactor	@ \$ 95.00 per hr
Jumping Jack	@ \$ 85.00 per hr
Plate Compactor	@ \$ 85.00 per hr
Chop Saw	@ \$ 75.00 per hr
Manual Labor	@ \$ 55.00 per hr
Supervisor	@ \$ 70.00 per hr

<u>John Deer 770 Grader</u>	<u>@ \$165.00 per hr</u>
<u>Chipper</u>	<u>@ \$120.00 per hr</u>
<u>Lowboy</u>	<u>@ \$ 135.00 per hr</u>
<u>Side dump</u>	<u>@ \$ 140.00 per hr</u>
<u>Tandem Dump Truck</u>	<u>@ \$ 125.00 per hr</u>
<u>Triaxle Dump Truck</u>	<u>@ \$ 130.00 per hr</u>
<u>Air Compressor and Jack Hammer</u>	<u>@ \$ 185.00 per hr</u>
<u>Hammer Drill</u>	<u>@ \$ 75.00 per hr</u>
<u>Ground Thaw Machine</u>	<u>To be determined per project</u>

Note: If we outsource trucking and use a sub-contractor it will be per their hourly rate



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/6/2023

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 have ADDITIONAL INSURED provisions or 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 TrueNorth Companies, L.C. 7900 E. Union Avenue Suite 300 Denver CO 80237	CONTACT NAME: Michelle DeVore PHONE (A/C, No, Ext): 303-268-4404 E-MAIL: mdevore@truenorthcompanies.com ADDRESS: mdevore@truenorthcompanies.com	FAX (A/C, No):
INSURED Grapes & Sons Excavating 15003 Highway 119 Black Hawk CO 80422	INSURER(S) AFFORDING COVERAGE INSURER A : Pinnacol Assurance INSURER B : Selective Insurance Company of South Carolina INSURER C : INSURER D : INSURER E : INSURER F :	NAIC # 41190 19259

COVERAGES

CERTIFICATE NUMBER: 468537559

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<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 checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	S 2501123	11/1/2023	11/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		S 2501123	11/1/2023	11/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input type="checkbox"/> RETENTION \$		S 2501123	11/1/2023	11/1/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	4233765	11/1/2023	11/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Limited Pollution Liability for Materials Insured brings onto the worksite		S 2501123	11/1/2023	11/1/2024	Each Occurrence Aggregate Limit 1,000,000 1,000,000

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

Umbrella Liability sits above the General Liability, Auto Liability and Employers Liability coverage.
City of Black Hawk and the City's officers, employees and contractors, and CDOT Recon 1 are included as additional insured with respect to General Liability for ongoing and completed operations on a primary and non-contributory basis when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Black Hawk
211 Church St
PO Box 68
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "Eighth Addendum") is made and entered into this _____ day of _____, 2024, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and One Way, Inc. (hereinafter referred to as "Contractor").

RECITALS:

A. On December 9, 2015 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. On January 11, 2017 the City and Contractor entered into the First Addendum to Professional Services Agreement (the "First Addendum").

C. On December 28, 2017 the City and Contractor entered into the Second Addendum to Professional Services Agreement (the "Second Addendum").

D. On January 23, 2019 the City and Contractor entered into the Third Addendum to Professional Services Agreement (the "Third Addendum").

E. On January 22, 2020 the City and Contractor entered into the Fourth Addendum to Professional Services Agreement (the "Fourth Addendum").

F. On January 13, 2021 the City and Contractor entered into the Fifth Addendum to Professional Services Agreement (the "Fifth Addendum").

G. On January 12, 2022 the City and Contractor entered into the Sixth Addendum to Professional Services Agreement (the "Sixth Addendum").

H. On January 25, 2023 the City and Contractor entered into the Seventh Addendum to Professional Services Agreement (the "Seventh Addendum").

I. The parties desire to further extend the Agreement with this Eighth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this Eighth Addendum.

1. The contract term for the Agreement is hereby extended by this Eighth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as **Exhibit A**, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, the First Addendum, the Second Addendum, the Third

Addendum, the Fourth Addendum, the Fifth Addendum, the Sixth Addendum, the Seventh Addendum, and this Eighth Addendum constitute all of the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman
Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

CONTRACTOR

By: One way in
Angel montoya
Print Name

ATTEST:

By: Angel montoya
Angel montoya
Print Name

Manager
Title Date

Manager
Title Date

EXHIBIT A

One Way, Inc.
101 Martin St
Longmont CO 80501

DBA One Way Trash
DBA One Way Disposal



Thursday, October 12, 2023

CITY OF BLACK HAWK
ATTN PUBLIC WORKS
P.O. BOX 68
BLACK HAWK CO 80422

RECEIVED

OCT 19 2023

CITY OF BLACK HAWK
PUBLIC WORKS

Account No.: 10477
RE: Notice of Rate Increase
Effective Date: 01/01/2024

Dear City of Black Hawk,

As the beginning of the new year approaches, we have revisited the cost of hauling material in your area. Based upon our review, rates in your area will increase as of January 1, 2024.

Since 1993, One Way has brought our community reasonable prices on quality service. We realize that increases in prices may impact your business, but we assure you that this increase is absolutely necessary to cover the cost of collection. We hope to continue our excellent relationship with our clients, and assure you that we will continue to offer our customers superior customer service.

Thank you for your ongoing support and understanding that this increase means that we can continue to maintain our superior standard of service for the coming year.

The rates for 65 customers within the City of Black Hawk are as follows:

\$26.26 per resident for weekly collection of 128 gallons trash

\$1707.22/month to be billed to the City of Black Hawk

Residents will continue to be responsible for any additional services not covered by the City of Black Hawk.

For inquiries, suggestions, and concerns regarding this increase or our service, do not hesitate to contact customer service at 303-823-0556 or onewaytrash@aol.com. We have staff available Monday – Friday 8:00 am – 4:00 pm to assist you with your account.

Sincerely,
Angel Montoya
Director of Operations
One Way, Inc.
(303) 823-0556
Cell: (720) 723-0796
Email: Allison.westfall@onewaytrash.com

EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "Eighth Addendum") is made and entered into this _____ day of _____, 2024, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and **Logical Systems, Inc.** (hereinafter referred to as "Contractor").

RECITALS:

A. On January 27, 2016 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. On January 18, 2017 the City and Contractor entered into the First Addendum to Professional Services Agreement (the "First Addendum").

C. On December 13, 2017 the City and Contractor entered into the Second Addendum to Professional Services Agreement (the "Second Addendum").

D. On December 13, 2018 the City and Contractor entered into the Third Addendum to Professional Services Agreement (the "Third Addendum").

E. On January 22, 2020 the City and Contractor entered into the Fourth Addendum to Professional Services Agreement (the "Fourth Addendum").

F. On January 13, 2021 the City and Contractor entered into the Fifth Addendum to Professional Services Agreement (the "Fifth Addendum").

G. On January 12, 2022 the City and Contractor entered into the Sixth Addendum to Professional Services Agreement (the "Sixth Addendum").

H. On January 25, 2023 the City and Contractor entered into the Seventh Addendum to Professional Services Agreement (the "Seventh Addendum").

I. The parties desire to further extend the Agreement with this Eighth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this Eighth Addendum.

1. The contract term for the Agreement is hereby extended by this Eighth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as **Exhibit A**, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, the First Addendum, the Second Addendum, the Third Addendum, the Fourth Addendum, the Fifth Addendum, the Sixth Addendum, the Seventh

Addendum and this Eighth Addendum constitute all of the agreements between the City and the Contractor. IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

CONTRACTOR

By: _____
Patience Taylor Moore
Print Name

CAO 01/03/2024
Title Date

ATTEST:

By: _____
Stacey Wolff
Stacey Wolff
Print Name
Notary 1-3-24
Title Date

**LOGICAL SYSTEMS, LLC.**

2756 Appling Center Cove

Memphis, TN 38133

PH: (901) 377-5574 FAX: (901) 377-1812

LSI Standard Rate Sheet**Effective January 1, 2024 through December 31, 2024**

Classification / Title	Hourly Rate
Engineer	
Intern	\$ 45.00
Level I	\$ 101.00
Level II	\$ 124.00
Level III	\$ 140.00
Level IV / Senior	\$ 154.00
Level V / Lead	\$ 170.00

Controls Engineer / DCS Programmer	
Level I	\$ 103.00
Level II	\$ 127.00
Level III	\$ 143.00
Level IV / Senior	\$ 159.00
Level V / Lead	\$ 175.00

Process Engineer	
Level I	\$ 109.00
Level II	\$ 131.00
Level III	\$ 147.00
Level IV / Senior	\$ 166.00
Level V / Lead	\$ 187.00

ICS / OT Networking & Cybersecurity	
Level I	\$ 182.00
Level II	\$ 200.00
Level III	\$ 227.00
Level IV	\$ 258.00

Data Intelligence / MES	
Level I	\$ 163.00
Level II	\$ 182.00
Level III	\$ 199.00
Level IV / Senior	\$ 227.00

Project Manager / Construction Manager	
Level I	\$ 119.00
Level II	\$ 136.00
Level III	\$ 154.00
Level IV / Senior	\$ 167.00
Level V / Lead	\$ 181.00

Classification / Title	Hourly Rate
Designer / Controls Technician	
Level I	\$ 102.00
Level II	\$ 114.00
Level III / Senior	\$ 130.00
Level IV / Lead	\$ 143.00

Field Engineer / Controls Specialist	
Level I	\$ 100.00
Level II	\$ 112.00
Level III	\$ 127.00
Level IV	\$ 144.00
Level V / Lead	\$ 151.00

CADD Specialist	
Level I	\$ 49.00
Level II	\$ 75.00
Level III	\$ 84.00
Level IV	\$ 97.00

Safety Coordinator	\$ 91.00
Safety Professional	\$ 123.00

Principal Engineer / Engineering Manager	\$ 196.00
Executive Engineer	\$ 237.00

Project Support	
Level I / Clerical	\$ 45.00
Level II / Project Admin	\$ 60.00

Project Contracts / Procurement Specialist	
Level I	\$ 85.00
Level II	\$ 106.00
Level III	\$ 127.00

Fabrication / Field Technician	
Level I	\$ 56.00
Level II	\$ 67.00
Level III	\$ 79.00
Level IV	\$ 91.00

Service Call Support (Minimum 4hrs)	\$ 275.00
--	-----------

Over eight hours in 24-hour period.....1.5 times the hourly rate.

Over 40 hours in 5 days.....1.5 times the hourly rate.

National holiday and Sunday.....2.0 times the hourly rate.

- No overtime without customer approval.
- Travel time will be billed at the regular rate portal to portal
- Auto mileage billed at the IRS set amount.
- If an employee is required to be on site in excess of 2 weeks, normal expenses will include round trip transportation home once every two weeks
- In addition to the above hourly rates LSI will also charge 1.5% of the open invoice amount every 30th day from the invoice due date. Invoices shall be considered open until good funds are received by LSI. Notwithstanding any provisions in the contract or subsequent purchase orders to the contrary, LSI shall be allowed to assess and collect these charges on all projects to which this rate sheet is agreed to as part of the proposal or contract.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/28/2023

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 McDaniel-Whitley, Inc. P.O. Box 382007 Memphis TN 38183-2007	CONTACT NAME: Tammy Quinn PHONE (A/C, No, Ext): (901) 881-6464 E-MAIL ADDRESS: tqinn@mcwins.com INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Accident & Indemnity INSURER B: Trumbull Insurance Company INSURER C: Hartford Casualty Insurance Company INSURER D: Hartford Fire Insurance Company INSURER E: Aspen Insurance Company INSURER F: Continental Casualty Company	FAX (A/C, No): (901) 881-6467 NAIC # 22357 27120 29424 19682 10717 20443
--	--	---

COVERAGES

CERTIFICATE NUMBER: 23-24 Master

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			20UUNIB9275	6/30/2023	6/30/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			20UUNIB9275	6/30/2023	6/30/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			20XHUIB8073	6/30/2023	6/30/2024	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	20WEAB6J11	6/30/2023	6/30/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liability			20TE033022418	6/30/2023	6/30/2024	LIMIT OF INSURANCE 5,000,000
F	Excess Professional Liab			652349860	6/30/2023	6/30/2024	LIMIT OF INSURANCE 5,000,000

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

E. Pollution Liability Pol#ER00D0C23 6/30/2023 to 6/30/2024 - \$5,000,000 Limit of Insurance

CERTIFICATE HOLDER

CANCELLATION

(303) 582-0429

City of Black Hawk
987 Miners Mesa Road
PO Box 68
Black Hawk, CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

R Whitley/QUINN

Richard Whitley

COMMENTS/REMARKS

When required by written contract, certificate holder is named as an additional insured, primary and non-contributory on general liability and automobile liability. When required by written contract, waiver of subrogation is provided in favor of the certificate holder with respect to general liability, automobile liability, workers' compensation and professional liability. Umbrella follows form for general liability, automobile liability and employers liability.

EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS EIGHTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("Eighth Addendum") is made and entered into this _____ day _____ of 2024, by and between the **City of Black Hawk**, Colorado (hereinafter referred to as the "City") and Leonard Rice Engineers, Inc., doing business as **LRE Water, Inc.** (hereinafter referred to as "Consultant").

RECITALS:

A. On January 27, 2016 the City and Consultant entered into a Professional Services Agreement (the "Agreement").

B. On January 11, 2017 the City and Consultant entered into the First Addendum to Professional Services Agreement ("First Addendum").

C. On December 13, 2017 the City and Consultant entered into the Second Addendum to Professional Services Agreement ("Second Addendum").

D. On January 23, 2019 the City and Consultant entered into the Third Addendum to Professional Services Agreement ("Third Addendum").

E. On January 20, 2020 the City and Consultant entered into the Fourth Addendum to Professional Services Agreement ("Fourth Addendum").

F. On January 13, 2021 the City and Consultant entered into the Fifth Addendum to Professional Services Agreement ("Fifth Addendum").

G. On January 12, 2022 the City and Consultant entered into the Sixth Addendum to Professional Services Agreement ("Sixth Addendum").

H. On January 25, 2023 the City and Consultant entered into the Seventh Addendum to Professional Services Agreement ("Seventh Addendum").

The parties desire to further extend the Agreement with this Eighth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Consultant shall provide to the City, the additional work as needed in the manner provided in this Eighth Addendum.

1. The contract term for the Agreement is hereby extended by this Eighth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.

2. Consultant shall perform all work as set forth in the Scope of Services, attached hereto as **Exhibit A**, in accordance with Consultant rate schedule attached hereto as **Exhibit B**, both incorporated by this reference and in accordance with the Agreement.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Consultant. The original Agreement, the First Addendum, the Second Addendum, the Third Addendum, the Fourth Addendum, the Fifth Addendum, the Sixth Addendum, the Seventh Addendum, and this Eighth Addendum constitute all of the agreements between the City and the Consultant.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor


ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:


Corey Y. Hoffmann
City Attorney

LEONARD RICE ENGINEERS, INC.

By: _____


William H. Fronczak, P.E., Esq.
Print Name

Vice President – Risk Management 12/29/2023
Title Date

ATTEST: _____
By:  _____

Stephanie Luce
Print Name

Project Manager 12/29/2023
Title Date

EXHIBIT A

LRE Water SCOPE OF SERVICES

In accordance with your request, LRE Water (LRE) is pleased to provide the following description of services to assist the City of Black Hawk with water resources planning and water rights related tasks in calendar year 2024:

- **Task 925BLH01:** LRE will assist the City of Black Hawk with general water supply matters related to planning, water quality, and regulatory issues for the City of Black Hawk, as directed by the City. Budget estimate: **\$18,000**.
 - **General Planning:** Provide general water quality, regulatory, and ground water consulting as requested. Projects requiring budget amounts over and above the budget estimate will be performed upon the request and authorization of the City.
 - **Water Quality Stipulation:** Additional services may include addressing water quality issues related to data analysis for the Standley Lake Cities and the settlement stipulation and agreements in Case No. 94CW036, and participation in discussions with Standley Lake Cities re: modifications to existing Standley Lake Agreement for water quality standards implementation.
- **Task 925BLH02:** LRE will assist the City of Black Hawk and water rights counsel with water rights and water supply planning matters. Budget estimate: **\$332,000**.
 - **General Planning:** Provide general water resources planning and consulting; continuing assistance with Georgetown Lake and Green Lake issues; review of opportunities to participate in water projects or to purchase or lease water rights offered for sale to the City or requested from the City; and assistance with planning for proposed water projects, including assistance with the US Army Corps of Engineers permitting effort.
 - **Water Rights Applications:** Provide engineering support for Black Hawk water right applications, including diligence applications; represent Black Hawk's interests in providing review and comment on guidelines proposed by the State and Division Engineers' Offices; review of applications of other entities, including SWSP applications and water rights applications, and provide comments or engineering on selected cases, to help protect Black Hawk's water right interests (preparation for and participation in trials would require additional budget).
 - **Accounting and Operations:** Preparation and distribution of weekly and monthly accounting reports of water use for the Water Commissioner, reporting on the amount of water diverted under the City's water rights, and reporting on replacement water provided as required by decrees. Update accounting to reflect new decrees and/or information requested by the Division Engineer. Coordination of water operations.
 - **USACE Permitting Support:** Provide engineering support for Black Hawk as it continues to work towards obtaining the necessary permits to develop its North Clear Creek conditional water rights, including modeling and coordinating with various agencies.

This contract authorizes LRE to perform the above services up to a budget of **\$350,000**. If these or other services require additional time and budget, they will be performed as requested and upon authorization. As the project proceeds and additional facts are discovered, it may be necessary to perform additional services and some items described may not be needed.

We will bill the City for the actual time spent on the tasks performed, at the rates in effect at the time service is rendered. The LRE rate schedule currently in effect is attached as **Exhibit B**.

**LRE WATER
2024 RATE SCHEDULE**

Effective December 26, 2023

	<u>Hourly Rate</u>
Student Intern.....	\$70 - \$105
Data Processor/Admin Support	\$80 - \$145
Technician/IT Support	\$100 - \$155
Staff I	
Engineer/Hydrologist/Geologist/Scientist	\$110 - \$145
Staff II	
Engineer/Hydrologist/Geologist/Scientist	\$120 - \$165
Staff III	
Engineer/Hydrologist/Geologist/Scientist	\$135 - \$180
Project	
Engineer/Hydrologist/Geologist/Scientist	\$160 - \$195
Senior Project	
Engineer/Hydrologist/Geologist/Scientist	\$170 - \$205
Project Manager	\$180 - \$230
Senior Project Manager	\$190 - \$280
Principal, Senior Advisor	\$200 - \$280

Expenses such as laboratory analysis, obtaining aerial photos, or other special services incurred directly in connection with the project are billed at cost plus 5 percent to cover handling and administration. Reimbursable expenses billed at cost include airfare, automobile rental, and other travel or per diem costs including mileage billed at the current IRS rate (rounded up to the nearest \$0.05). Subconsultants to LRE are billed at cost plus 10 percent.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/1/2024

11/1/2023

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 have ADDITIONAL INSURED provisions or 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 Lockton Companies 3280 Peachtree Road NE, Suite #1000 Atlanta GA 30305 (404) 460-3600	CONTACT NAME:																				
	PHONE (A/C, No, Ext): FAX (A/C, No):																				
INSURED 1530966 Leonard Rice Consulting Water Engineers, LLC DBA LRE Water 1221 Auraria Parkway Denver CO 80204	E-MAIL ADDRESS:																				
	<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td colspan="2">INSURER A: Navigators Specialty Insurance Company</td><td>36056</td></tr><tr><td colspan="2">INSURER B: Hartford Accident and Indemnity Company</td><td>22357</td></tr><tr><td colspan="2">INSURER C: Hartford Insurance Co of the Southeast</td><td>38261</td></tr><tr><td colspan="2">INSURER D:</td><td></td></tr><tr><td colspan="2">INSURER E:</td><td></td></tr><tr><td colspan="2">INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: Navigators Specialty Insurance Company		36056	INSURER B: Hartford Accident and Indemnity Company		22357	INSURER C: Hartford Insurance Co of the Southeast		38261	INSURER D:			INSURER E:			INSURER F:	
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INSURER C: Hartford Insurance Co of the Southeast		38261																			
INSURER D:																					
INSURER E:																					
INSURER F:																					

COVERAGES**CERTIFICATE NUMBER:** 19887811**REVISION NUMBER:** XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	N	GA23NP4Z0FK1VQN	11/1/2023	11/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 OTHER: \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	22 UEN AF8557	11/1/2023	11/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX OTHER: \$
A	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	N	N	GA23NP4Z0FK1VQN	11/1/2023	11/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 OTHER: \$ XXXXXXXX
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	22 WB AW0G6T	11/1/2023	11/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability & Pollution Liability	N	N	GA23NP4Z0FK1VQN	11/1/2023	11/1/2024	Liab \$1M Ea Occ/\$2M Agg \$1M Ea Occ/\$2M Agg

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

City of Black Hawk and the City's officers, employees, and Consultants are named as Additional Insureds with respects to General Liability where required by written contract. The above referenced liability policies are primary & non-contributory where required by written contract. Should any of the above described policies be cancelled by the issuing insurer before the expiration date thereof, we will endeavor to provide 30 days' written notice (except 10 days for nonpayment of premium) to the Certificate Holder.

CERTIFICATE HOLDER**CANCELLATION** See Attachment

19887811
City of Black Hawk
PO Box 68
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

Named Insured Addendum

Spheros Environmental Group Topco, LLC

Spheros Environmental Group Holdings Inc.

Spheros Environmental Group Parent Inc.

Sonoma Technology, Inc.

STI Topco, LLC

Leonard Rice Consulting Water Engineers, LLC DBA LRE Water

Leonard Rice Consulting Water Engineers, LLC

dba LRE Water

dba Leonard Rice Engineers, Inc.

dba Resource Engineering

NextSource Water Solutions, LLC

LRE Water, LLC

FIFTH ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES

THIS FIFTH ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Fifth Addendum") is made and entered into this ____ day of _____, 20____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and PEH Architects (hereinafter referred to as the "Contractor").

RECITALS

- A. On December 12, 2018, the City and Contractor entered into an Agreement for Professional Services (the "Agreement").
- B. On January 22, 2020, the City and Contractor executed a First Addendum to extend the Agreement by one year (the "First Addendum").
- C. On January 13, 2021, the City and Contractor executed a Second Addendum to extend the Agreement by one year (the "Second Addendum").
- D. On January 12, 2022, the City and Contractor executed a Third Addendum to extend the Agreement by one year (the "Third Addendum").
- E. On January 25, 2023, the City and Contractor executed a Fourth Addendum to extend the Agreement by one year (the "Fourth Addendum").
- F. The parties desire to extend the Agreement with this Fifth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City the additional work as needed in the manner provided in this Fifth Addendum.

- A. The contract term for the Agreement is hereby extended by this Fifth Addendum for one additional year, from January 1, 2024 through December 31, 2024.
- B. Contractor shall complete the scope of services as described in **Exhibit A**, attached hereto and incorporated herein by this reference. Compensation shall not exceed Thirty thousand dollars (\$30,000) for the work described in **Exhibit A**.
- C. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule as described in **Exhibit B**, attached hereto and incorporated herein by this reference.
- D. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

PEH ARCHITECTS

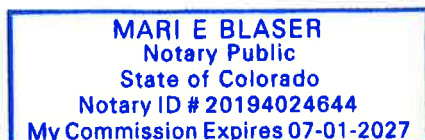
By: _____
Its: _____
Peter Heinz
PRESIDENT

STATE OF COLORADO)
COUNTY OF Boulder) ss.
)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this
21 day of NOVEMBER, 2023, by
PETER F. HEINZ as the PRESIDENT of
PEH ARCHITECTS.

My commission expires: 7/1/27

(S E A L)



Mari Blaser
Notary Public

EXHIBIT A

SCOPE OF SERVICES 2024 On-Call Architectural Services

Services and responsibilities may include, but not necessarily be limited to, the following:

Development review. Contractor may review and comment on proposed development plans and reports that are received by the City. Contractor shall ensure proposed developments conform to applicable architectural standards and specifications.

General architectural design. The City may request the Contractor to complete various architectural designs and prepare architectural plans and specifications.

Opinions of probable construction costs. Contractor may prepare and/or review construction cost estimates pertaining to architectural work.

Meeting attendance. The City may request the Contractor to provide competent architectural personnel at one-time or regular meetings during design and/or construction phases of projects.

Contractor shall retain qualified personnel, including Architects registered in the State of Colorado, to perform the above Scope of Services.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/20/2023

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

PRODUCER Taggart & Associates, Inc. 1680 38th Street Suite 110 Boulder CO 80301		CONTACT NAME: Luz Amancha PHONE (A/C, No, Ext): 303-442-1484 E-MAIL: certificates@taggartinsurance.com FAX (A/C, No): 303-442-8822	
INSURED PEH Architects, Inc. 1600 38th Street Suite 102 Boulder CO 80301		INSURER(S) AFFORDING COVERAGE	
PEHARCH-01		INSURER A: The Travelers Indemnity Company of Connecticut	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 30067989**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y		6805H707450	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

City of Blackhawk and their officers, employees and consultants are included as Additional Insured on General Liability policy when required by written contract.

CERTIFICATE HOLDERCity of Black Hawk
PO Box 68
Black Hawk CO 80402
USA**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/05/2023

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 have ADDITIONAL INSURED provisions or 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 Pinnacol Assurance 7501 E. Lowry Blvd. Denver, CO 80230-7006	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Pinnacol Assurance INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	FAX (A/C, No): NAIC # 41190
INSURED PEH Architects Inc 1720 14th St Ste 100 Boulder, CO 80302		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						EACH OCCURRENCE AGGREGATE
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A	2097982	12/01/2023	12/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Unless otherwise stated in the policy provisions, coverage in Colorado only.

CERTIFICATE HOLDER

2375737
City of Black Hawk
PO Box 68
Black Hawk, CO 80422
peheinz@peharch.com

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Pinnacol Assurance

FOURTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FOURTH ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "Fourth Addendum") is made and entered into this _____ day of _____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Coloring Colorado Gardens (hereinafter referred to as "Contractor").

RECITALS:

A. On April 24, 2020 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. On January 29, 2021 the City and Contractor entered into the First Addendum to Professional Services Agreement (the "First Addendum")

C. On January 12, 2022 the City and Contractor entered into the Second Addendum to Professional Services Agreement (the "Second Addendum")

D. On January 25, 2023 the City and Contractor entered into the Third Addendum to Professional Services Agreement (the "Third Addendum")

The parties desire to further extend the Agreement with this Fourth Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the work as needed in the manner provided in this Fourth Addendum.

1. The contract term for the Agreement is hereby extended by this Fourth Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule & scope attached hereto as **Exhibit A**, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and the First Addendum, the Second Addendum, the Third Addendum, and this Fourth Addendum constitute all of the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

CONTRACTOR:

Coloring Colorado Gardens

By: _____

E. Allen

Elizabeth Allen
Print Name

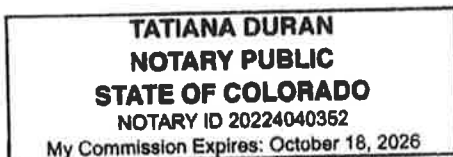
Owner
Title

1/2/24
Date

ATTEST:

By: _____
Tatiana Duran
Tatiana Duran
Print Name

Notary Public 01/02/24
Title Date





8/21/23

PO Box #8
Nederland, CO 80466
info@coloringcolorado.com
(303) 818-6208

Recipient:
City of Black Hawk
Attn: Steve Jackson
PO Box #68
Black Hawk, CO 80422

RE: 2024 Garden Maintenance Estimate for City of Black Hawk, CO

1. Season Duration

Start date – week of April 1, 2024 (first full week in April, dependent upon weather)
End date – week of November 11, 2024 (2nd full week in November, dependent upon weather)
Number of weeks = 33 weeks

2. Garden Locations

Hidden Treasure Trailhead
Mountain Life Park
Entrance to post office center
Courage Triad
Stroehle Square
City Hall under stairs
City Hall behind offices
Crooks Palace
Gregory Street Plaza
Gregory Diggings/Monument
Barn garden and shrubs
Public Works garden beds
Fleet Headquarters sign bed

3. Scope of Work

Hourly skilled maintenance includes plant assessment, watering, cleaning, weeding, deadheading, staking, pruning, fertilizing, etc., and diagnosis and treatment of plant pests and diseases within mulched garden beds.

For Stroehle Square, includes weed management in rocky area between ponds and around front of waterfall.

For Gregory Diggings/Monument, includes minimal string trimming around beds, litter pickup/weeding/blowout of small patio area and planting/tending annuals in the ore cart.

Includes procurement and installation of plants.

Includes horticultural consultation for the City of Black Hawk.

4. Duration and Frequency of Visits

It is estimated that 18 hours per week will allow for the scope of work to be performed. This will break down into three six-hour days per week.

5. Materials – Hard goods (non-plant)

Amount	Product	Price ¹	Total	Description
1	Roundup super concentrate 1 gal	\$110.00	\$110.00	For weed control at Stroehle Square, Gregory Street Plaza and other limited application areas
2	Safer spray 32 oz	\$12.00	\$24.00	Organic pest control
4	Molemax mole & vole repellent	\$30.00	\$120.00	Organic mole and vole repellent
1	Slow release fertilizer 50 lb	\$175.00	\$175.00	Granular fertilizer for all garden beds
1	Liquid fertilizer for flowers	\$20.00	\$20.00	Bloom boost for annuals and perennials as needed
	Total		\$449.00	Rounding to \$450

¹ Prices quoted from Amazon.com as of 08/2023, subject to change.

Materials – Green goods (plants)

Amount	Product	Price	Total	Description
45	Multi-colored geranium – 4.5 to 6" pots	TBD	\$250.00 (est.)	For Mountain Life Sign to be grown by Brown's Nursery
	Annuals for ore cart ²	--	--	For Gregory Diggings/Monument
	Perennials		\$2500.00 ³	For replacement of plants damaged by people and weather, also to add to the gardens
	Total		\$2,750	

6. Rates and Totals

Hourly Skilled Maintenance - The 2024 hourly garden maintenance rate for Coloring Colorado is \$60 per hour.

18 hours per week for 33 weeks = 594 hours x \$60/hr = \$35,640

Travel - 1 hour per day travel x 3 visits per week x 33 weeks = 99 hours x \$60/hr = \$5,940

Summary	
Garden maintenance	\$35,640
Travel	\$5,940
Hard good materials	\$450
Green good materials	\$2,750
Total	\$44,780

² Will use four hanging baskets from the annual contract to fill the cart

³ Figure based on 2023 order. Many plants were lost over 2022-2023 wet, cold winter



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/02/2024

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 have ADDITIONAL INSURED provisions or 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 Liberty Mutual Insurance PO Box 188065 Fairfield OH 45018		CONTACT NAME: PHONE (A/C, No, Ext): 800-962-7132 E-MAIL ADDRESS: BusinessService@LibertyMutual.com FAX (A/C, No): 800-845-3666	
INSURED Coloring Colorado 545 Eldorado Ave Nederland CO 80466-9534		INSURER(S) AFFORDING COVERAGE INSURER A: General Insurance Company of America INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 24732	

COVERAGES **CERTIFICATE NUMBER:** 0209179061 **REVISION NUMBER:** 2016-03

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Businessowners GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	BWG63052385	04/08/2023	04/08/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Contractors Errors And Omissions Coverage			BWG63052385	04/08/2023	04/08/2024	Aggregate Limit \$100,000 Deductible \$1,000

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

CERTIFICATE HOLDER City of Black Hawk Colorado Po Box #68 Black Hawk CO 80422	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Curtis Luken
---	---

SECOND ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES

THIS SECOND ADDENDUM TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Second Addendum") is made and entered into this ____ day of _____, 20____, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Frontier Fire Protection, LLC (hereinafter referred to as the "Contractor").

RECITALS

- A. On January 12, 2022, the City and Contractor entered into an Agreement for Professional Services (the "Agreement").
- B. On January 25, 2023, the City and Contractor executed a First Addendum to extend the Agreement by one year (the "First Addendum").
- C. The parties desire to extend the Agreement with this Second Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City the additional work as needed in the manner provided in this Second Addendum.

- A. The contract term for the Agreement is hereby extended by this Second Addendum for one additional year, from January 1, 2024 through December 31, 2024.
- B. Contractor shall complete the scope of services as described in **Exhibit A**, attached hereto and incorporated herein by this reference. Compensation shall not exceed Twenty-nine thousand nine hundred ninety-seven dollars (\$29,997.00) for the work described in **Exhibit A**.
- C. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

FRONTIER FIRE PROTECTION, LLC

By: Travis Paul

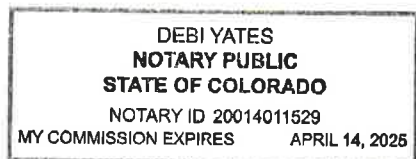
Its: Service Operations Manager

STATE OF COLORADO)
COUNTY OF Denver) ss.
)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this
3 day of November, 2023, by
Travis Paul as the Service Operations Mgr of
Frontier Fire Protection.

My commission expires: 4/14/2025

(SEAL)



Debi Yates
Notary Public

EXHIBIT A

SCOPE OF WORK 2024 FIRE ALARM AND SPRINKLER SYSTEM INSPECTIONS and 2024 FIRE EXTINGUISHER INSPECTIONS

<u>COUNCIL CHAMBERS, 211 CHURCH STREET</u>			
	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$250.00	\$250.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$280.00	\$280.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$350.00	\$350.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	3	\$14.00	\$42.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
COUNCIL CHAMBERS TOTAL =			\$1,762.00

<u>BLACK HAWK COMMONS, 7320 BLACK HAWK BLVD.</u>			
	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$235.00	\$235.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$280.00	\$280.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	8	\$14.00	\$112.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
BLACK HAWK COMMONS TOTAL =			\$1,792.00

<u>POST OFFICE, 7340 BLACK HAWK BLVD.</u>			
	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$235.00	\$235.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$280.00	\$280.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	2	\$14.00	\$28.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
POST OFFICE TOTAL =			\$1,708.00

FIRE STATION, 7457 BLACK HAWK BLVD.

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$330.00	\$330.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$545.00	\$545.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	8	\$14.00	\$112.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
FIRE STATION TOTAL =			\$1,002.00

DORY HILL WATER TREATMENT PLANT, 1040 DORY HILL ROAD

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$275.00	\$275.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$525.00	\$525.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE PUMP INSPECTION	1	\$925.00	\$925.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	18	\$14.00	\$252.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
DORY HILL WATER TREATMENT PLANT TOTAL =			\$3,142.00

CROOK'S PALACE, 200 GREGORY STREET

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$225.00	\$225.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$275.00	\$275.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
KITCHEN HOOD INSPECTION -- ANNUAL	1	\$395.00	\$395.00
KITCHEN HOOD INSPECTION -- SEMI-ANNUAL	1	\$325.00	\$325.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	5	\$14.00	\$70.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
CROOK'S PALACE TOTAL =			\$2,455.00

GREGORY STREET COMMERCIAL BUILDING, 221 GREGORY STREET

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$465.00	\$465.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$675.00	\$675.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$575.00	\$575.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$390.00	\$1,170.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	6	\$14.00	\$84.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
GREGORY STREET COMMERCIAL BUILDING TOTAL =			\$2,984.00

ST. CHARLES CARRIAGE HOUSE, 270 GREGORY STREET

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$250.00	\$250.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$275.00	\$275.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$850.00	\$850.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	9	\$14.00	\$126.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
ST. CHARLES CARRIAGE HOUSE TOTAL =			\$2,341.00

HIDDEN VALLEY WATER TREATMENT PLANT, 2189 IDAHO SPRINGS EAST

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$275.00	\$275.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$575.00	\$575.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$350.00	\$350.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE PUMP INSPECTION	1	\$925.00	\$925.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	8	\$14.00	\$112.00
FIRE EXTINGUISHERS AT H.V. PUMP STATIONS	2	\$14.00	\$28.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
HIDDEN VALLEY WATER TREATMENT PLANT TOTAL =			\$3,105.00

R.A. CLARK EMERGENCY OPERATIONS CENTER, 911 MINERS ROAD

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$225.00	\$225.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$275.00	\$275.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	2	\$14.00	\$28.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
R.A. CLARK EMERGENCY OPERATIONS CENTER TOTAL =			\$1,693.00

PUBLIC WORKS ADMINISTRATION BUILDING, 987 MINERS ROAD

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$225.00	\$225.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$275.00	\$275.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE PUMP INSPECTION	1	\$925.00	\$925.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	15	\$14.00	\$210.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
PUBLIC WORKS ADMINISTRATION BUILDING TOTAL =			\$2,800.00

PUBLIC WORKS FLEET, 993 MINERS ROAD

	QUANTITY	PRICE	TOTAL
FIRE ALARM INSPECTION -- SEMI-ANNUAL	1	\$225.00	\$225.00
FIRE ALARM INSPECTION -- ANNUAL	1	\$275.00	\$275.00
WET FIRE SPRINKLER INSPECTION -- ANNUAL	1	\$325.00	\$325.00
WET FIRE SPRINKLER INSPECTION -- QUARTERLY	3	\$275.00	\$825.00
FIRE PUMP INSPECTION	1	\$925.00	\$925.00
FIRE EXTINGUISHER INSPECTIONS -- ANNUAL	8	\$14.00	\$112.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
PUBLIC WORKS FLEET TOTAL =			\$2,702.00

ADDITIONAL FIRE EXTINGUISHER ANNUAL INSPECTIONS, MISC. ADDRESSES			
	QUANTITY	PRICE	TOTAL
POLICE STATION, 221 CHURCH STREET	6	\$14.00	\$84.00
CITY HALL, 201 SELAK STREET	2	\$14.00	\$28.00
McAFEE HOUSE, 317 GREGORY STREET	2	\$14.00	\$28.00
WOODBURY HOUSE, 327 GREGORY STREET	2	\$14.00	\$28.00
NORTON HOUSE, 357 GREGORY STREET	2	\$14.00	\$28.00
FIRE TRUCK DISPLAY BLDG., 367 GREGORY ST.	1	\$14.00	\$14.00
BRADLEY HOUSE, 416 GREGORY STREET	2	\$14.00	\$28.00
ATKINSON HOUSE, 420 GREGORY STREET	1	\$14.00	\$14.00
GRAHAM HOUSE, 430 GREGORY STREET	1	\$14.00	\$14.00
ROUGH HOUSE, 436 GREGORY STREET	1	\$14.00	\$14.00
KELLY BUILDING, 440 GREGORY STREET	2	\$14.00	\$28.00
BALLARD HOUSE, 450 GREGORY STREET	1	\$14.00	\$14.00
WHITTICK HOUSE, 456 GREGORY STREET	2	\$14.00	\$28.00
STEVENSON HOUSE, 460 GREGORY STREET	1	\$14.00	\$14.00
BARN, 470 GREGORY STREET	1	\$14.00	\$14.00
BIRCH-MARTIN HOUSE, 496 GREGORY STREET	2	\$14.00	\$28.00
MINERS MESA RADIO TOWER, MINERS MESA	2	\$14.00	\$28.00
N. CLEAR CREEK PUMP HOUSE, 900 HWY 119	1	\$14.00	\$14.00
BOBTAIL PUMP HOUSE, 225 BOBTAIL STREET	1	\$14.00	\$14.00
DORY HILL STREETS SHOP, 1020 DORY HILL ROAD	1	\$14.00	\$14.00
DORY HILL PUMP HOUSE, 1347 DORY HILL ROAD	1	\$14.00	\$14.00
SILVER GULCH RADIO TOWER, AVE. OF ALLSTARS	2	\$14.00	\$28.00
SILVER GULCH WTR TANK, 350 AVE. OF ALLSTARS	1	\$14.00	\$14.00
HORN STREET PUMP HOUSE, 250 HORN STREET	1	\$14.00	\$14.00
FIRE EXTINGUISHER LABOR RATE	10	\$195.00	\$1,950.00
COMPLIANCE ENGINE FEE	1	\$15.00	\$15.00
ADDITIONAL FIRE EXTINGUISHER ANNUAL INSPECTIONS TOTAL =			\$2,511.00

2024 FIRE ALARM, SPRINKLER, and EXTINGUISHER INSPECTIONS GRAND TOTAL =	\$29,997.00
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CERTIFICATE OF LIABILITY INSURANCE

6/1/2024

DATE (MM/DD/YYYY)

5/25/2023

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 have **ADDITIONAL INSURED** provisions or 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 Lockton Insurance Brokers, LLC CA License #0F15767 777 S. Figueroa Street, 52nd fl. Los Angeles CA 90017 213-689-0065	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1463592 Frontier Fire Protection, LLC Frontier Fire Holdco, LLC Hv Holdco, Inc., HV Midco LLC, and HV Acqco, Inc. 9430 East 40th Ave. Denver CO 80238	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Federal Insurance Company		20281
	INSURER B : Berkley Assurance Company		39462
	INSURER C : Nautilus Insurance Company		17370
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES FROFI01 **CERTIFICATE NUMBER:** 16104581 **REVISION NUMBER:** XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$5,000 Deductible GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	GLP204049210	6/1/2023	6/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	54310187	6/1/2023	6/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
C	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	N	N	FFX204049310	6/1/2023	6/1/2024	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y N/A	54310188	6/1/2023	6/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Pollution Liab. Professional Liab. Cyber	N	N	PCAB-5022302-0623	6/1/2023	6/1/2024	\$2,000,000 \$3,000,000 \$2,000,000

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

Certificate Holder(s) are Additional Insured(s) as per the attached endorsement or policy language. Insurance provided to Additional Insured(s) is primary and non-contributory as per the attached endorsements or policy language. Waiver of subrogation applies as per the attached endorsements or policy language.

CERTIFICATE HOLDER**CANCELLATION** See Attachments

16104581
City of Blackhawk
PO Box 68
Black Hawk CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Black Hawk, hereinafter referred to as "City" and Sun Valley Contractors whose address is 5475 Hwy 86, Suite #3, Elizabeth, CO 80107 hereinafter referred to as "Contractor" as follows:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR.** Contractor shall perform the following: instruction and/or services during the days and times, and at the location, as more particularly described in Attachment "A", which is attached hereto and incorporated herein and made a part hereof by this reference.
2. **TERM.** The term of this Agreement shall commence on the 24 day of January, 2024 and shall terminate on the 23 day of January, 2025 unless earlier terminated pursuant to Section 10 herein.
3. **COMPENSATION.** In consideration of the performance of the instruction and/or services provided herein, Contractor shall receive compensation as provided through the rate schedule listed in Attachment "A".
4. **METHOD OF PAYMENT.** The compensation provided in Section 3 shall be paid by the City to Contractor upon filing of an invoice specifying the services provided.
5. **EQUIPMENT, MATERIALS AND SUPPLIES.** Unless otherwise agreed by the City, Contractor shall acquire, provide, maintain and repair at Contractor's sole cost and expense such equipment, materials, supplies, etc., as necessary for the proper conduct of the aforesaid instruction and/or services.
6. **COMPLIANCES.** In the conduct of the instruction and/or services contemplated hereunder, Contractor shall comply with all applicable laws, rules and regulations, and the directives or instructions issued by the City or its designated representatives.
7. **INDEPENDENT CONTRACTOR.** Contractor agrees that he/she is an independent contractor and that accordingly neither he she nor his employees are covered by the City's workers' compensation policy, or any other worker's compensation policy.
8. **HOLD HARMLESS.** Contractor, to the fullest extent permitted by law, shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all loss, damage, injuries, claims, or causes of action, or any liability of any kind whatsoever resulting from, arising out of or in connection with the instruction and/or services provided by Contractor pursuant to this agreement.
9. **TERM AND RENEWAL.**
 - A. The term of this agreement shall be through and until January 23, 2024.
 - B. The parties have the mutual option to renew this agreement on the same terms and conditions for unlimited one-year terms.

10. **TERMINATION.** The City shall have the right to terminate this Agreement upon three (3) days' notice, if Contractor fails to comply with the terms and conditions set forth in this Agreement.

11. **ASSIGNMENT.** Contractor shall not assign or otherwise transfer this Agreement or any rights or obligations therein, without first receiving prior written consent of the City.

12. **INSURANCE.** Contractor understands and agrees that Contractor shall have no right of coverage under any and all existing or future City comprehensive or personal injury liability policies, and in that regard, Contractor agrees to provide insurance coverage on behalf of the Contractor, that will sufficiently protect Contractor, or his agents, servants and employees, in connection with the services which are to be provided by Contractor pursuant to this Agreement.

13. **CONTRACT INTERPRETATION**

- A. No amendment or modification of this agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Agreement.
- B. This is a completely integrated Agreement and contains the entire Agreement of the parties, and any prior written or oral agreement which are different from the terms, conditions and provisions of this Agreement shall be of no effect and shall not be binding upon either party.
- C. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors; provided that neither party may assign its rights hereunder without the previous written consent of the other party which shall not be unreasonably withheld.
- D. Notice required or permitted to be given hereunder (including any notice of change of address) shall be considered delivered when hand-delivered or when mailed, by United States mail, first-class postage paid, as follows:

City of Black Hawk
Public Works
987 Miners Road
PO Box 68
Black Hawk, CO 80422

Contractor:
Sun Valley Contractors
5475 Hwy 86, Suite #3
Elizabeth, CO 80107

All notices so given shall be considered effective when delivered by hand-delivery, or in writing, as stated above.

- E. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original hereof and all of which together shall constitute a single agreement.
- F. This Agreement is made and delivered in the State of Colorado, and shall be construed and enforced in accordance with the laws thereof.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates written opposite their respective signatures.

CITY OF BLACK HAWK, COLORADO

Stephen N. Cole, City Manager

ATTEST:

Melissa A. Greiner, CMC
City Clerk

CONTRACTOR

By:

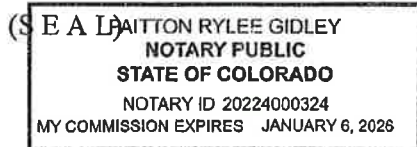
STATE OF COLORADO)

COUNTY OF Eibert)

) ss.

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 27th day of December 2023, 2024, by MIKE EZCH.

My commission expires: 01/06/2026



Notary Public



ELECTRICAL SERVICE RATE SHEET

RESOURCE	RATE	OVERTIME
<i>Foreman Electrician with truck/tools</i>	<i>\$105.00/Hr.</i>	<i>\$157.50/Hr.</i>
<i>Journeyman Electrician</i>	<i>\$90.00/Hr.</i>	<i>\$135.00/Hr.</i>
<i>Apprentice Electrician 3rd/4th year</i>	<i>\$75.00/Hr.</i>	<i>\$112.50/Hr.</i>
<i>Apprentice Electrician 1st/2nd year</i>	<i>\$65.00/Hr.</i>	<i>\$97.50/Hr.</i>
<i>Project Management/ Supervisory Time</i>	<i>\$95.00/Hr.</i>	<i>95.00/Hr.</i>
<i>Project Coordination/Permitting</i>	<i>60.00/Hr</i>	
<i>Design/Cost Estimation</i>	<i>\$105.00/Hr.</i>	<i>105.00/Hr.</i>
<i>Excavation Includes Operator and Equipment</i>	<i>\$135.00/Hr</i>	<i>202.50/Hr.</i>
<i>Shop-Fabrication Time/ Deliveries/Pickup</i>	<i>\$60.00/Hr.</i>	<i>\$90.00/Hr.</i>

Specialized/Aerial equipment is not included in standard rates, and will be billed at market rental rate plus 10%

Materials purchased by SVE will be billed at cost plus 10%

***Subcontractor Fees will be billed at cost plus 10%**

Service calls will be billed 2 Hr. minimum. Afterhours/emergency calls will be billed at overtime rates

FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (the "First Addendum") is made and entered into this _____ day of _____, 2024, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and **Lumin8 Transportation Technologies** (hereinafter referred to as "Contractor").

RECITALS:

A. On October 25, 2023 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. The parties desire to further extend the Agreement with this First Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this First Addendum.

1. The contract term for the Agreement is hereby extended by this First Addendum for one additional year, from January 1, 2024, through and including December 31, 2024.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as **Exhibit A**, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement, and this First Addendum constitute all of the agreements between the City and the Contractor.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney

Lumin8 Transportation Technologies

By: _____
Garret Maurer
Print Name

VP of Operations 1/4/2024
Title Date

ATTEST:

By: _____
Barbara Wright
Barbara Wright
Print Name
Admin. Asst. 1/4/24
Title Date

JM

Exhibit A

Lumin8 T&M rates - 2024 calendar year

Labor Rates

Electrician	\$	86.00
Equipment Operator	\$	65.00
Foreman	\$	85.00
Groundsman	\$	55.00
Admin/Secretarial	\$	59.00
Signal Tech I	\$	65.00
Signal Tech II	\$	71.00
Signal Tech III	\$	75.00
Superintendent	\$	88.00
Traffic Signal Installer	\$	85.00
Fiber Tech	\$	75.00

Equipment Rates

Arrow Board	\$	15.00
Augur Truck	\$	51.00
Backhoe	\$	33.00
Boom truck	\$	64.50
Bucket Truck	\$	42.00
Compressor	\$	14.00
Dump Truck	\$	75.75
Fiber Trailer	\$	24.00
Fiber Van	\$	33.00
Impact Truck	\$	85.00
Skid Loder	\$	37.50
Light Plant	\$	22.00
Loops Van	\$	57.00
Maintenance Truck	\$	33.00
Pole dolly	\$	24.00
Pothole rig	\$	30.00
Pressure Digger	\$	75.75
Pick-up/Crew truck	\$	32.00
Tractor/trailer	\$	85.00
Trackhoe	\$	59.00
Rock Wheel	\$	24.50
Vac Truck	\$	425.00
Wire trailer	\$	10.50

Materials rate

Cost + 15%

PM



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/1/2024

11/28/2023

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 have **ADDITIONAL INSURED** provisions or 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 Lockton Companies 8110 E Union Avenue Suite 100 Denver CO 80237 (303) 414-6000	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1486517 Lumin8 Transportation Technologies, LLC 5920 Lamar St. Arvada, CO 80003	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Zurich American Insurance Company		16535
	INSURER B: American Guarantee and Liab. Ins. Co.		26247
	INSURER C: Admiral Insurance Company		24856
	INSURER D: Allied World Specialty Insurance Company		16624
	INSURER E:		
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:** 17241093**REVISION NUMBER:** XXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	N	GLO 3116890-01	12/1/2023	12/1/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	BAP 3116888-01	12/1/2023	12/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ XXXXXXX BODILY INJURY (Per accident) \$ XXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXX \$ XXXXXXX
B D	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTIONS	N	N	SXS 3294653-01 03126203	12/1/2023 12/1/2023	12/1/2024 12/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC 3116889-01	12/1/2023	12/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional/Pollution Liability	N	N	EO000051999-04	12/1/2023	12/1/2024	\$5M Each Claim \$5M Aggregate

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

City of Black Hawk is included as Additional Insured as respects General Liability if required by written contract. General Liability is Primary and Non-Contributory.

CERTIFICATE HOLDER**CANCELLATION** See Attachments**17241093**City of Black Hawk
Attn: City Clerk
P.O. Box 68
Black Hawk, CO 80422

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.) This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 12/1/2023 Policy No. WC 3116889-01 Endorsement No.
Insured Lumin8 Transportation Technologies, LLC Premium \$
Insurance Company Zurich American Insurance Company Countersigned
by _____

Waiver Of Subrogation (Blanket) Endorsement **ZURICH**

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l Prem	Return Prem
GLO 3116890-01	12/1/2023	12/1/2024	12/1/2023	09079000		

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition:**

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

Additional Insured — Automatic — Owners, Lessees Or Contractors



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO 3116890-01

Effective 12/1/2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II — Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:
 - a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
 - b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent

that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

(1) Your ongoing operations, with respect to Paragraph 1.a. above; or

(2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

(a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or

b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a) Your ongoing operations, with respect to Paragraph 2.a. above; or
- (b) "Your work" and included in the "products-completed operations hazard", with respect to Paragraph 2.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 2., insurance afforded to such additional insured:

- (i) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

3. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 3., insurance afforded to such additional insured:

- (a) Only applies to the extent permitted by law;
- (b) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (C) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

4. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 4., insurance afforded to such additional insured:

(1) Only applies to the extent permitted by law;

(2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;

(3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section A. of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV — Commercial General Liability Conditions:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the Other Insurance Condition of Section IV — Commercial General Liability Conditions:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition under Section IV — Commercial General Liability Conditions:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement

showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that

F. Solely with respect to the insurance afforded to an additional insured under Paragraph A.3. or Paragraph A.4. of this

endorsement, the following is added to Section III - Limits Of Insurance:

Additional Insured — Automatic — Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section A. of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Coverage Extension Endorsement

ZURICH

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. BAP 3116888-01

Effective Date: 12/1/2023

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the Who Is An Insured Provision in Section II — Covered Autos Liability Coverage:

The following are also "insureds":

- a. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- b. Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- c. Anyone else who furnishes an "auto" referenced in Paragraphs A.1.a. and A.1.b. in this endorsement.
- d. Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the Other Insurance Condition in the Business Auto Coverage Form and the Other Insurance — Primary and Excess Insurance Provisions Condition in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment — Supplementary Payments

Paragraphs a.(2) and a.(4) of the Coverage Extensions Provision in Section II — Covered Autos Liability Coverage are replaced by the following:

- (2) Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the Racing Exclusion in Section II — Covered Autos Liability Coverage:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph 2. in B. Exclusions of Section III — Physical Damage Coverage of the Business Auto Coverage Form and Paragraph 2.b. in B. Exclusions of Section IV — Physical Damage Coverage of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the Coverage Provision of the Physical Damage Coverage Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the Physical Damage Coverage Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph A.2. of the Physical Damage Coverage Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" that is a "private passenger type", light truck or medium truck is disabled. However, the labor must be performed at the place of disablement.

As used in this provision, "private passenger type" means a private passenger or station wagon type "auto" and includes an "auto" of the pickup or van type if not used for business purposes.

G. Extended Glass Coverage

The following is added to Paragraph A.3.a. of the Physical Damage Coverage Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage — Increased Loss of Use Expenses

The Coverage Extension for Loss Of Use Expenses in the Physical Damage Coverage Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered

- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the Coverage Provision of the Physical Damage Coverage Section:

Personal Effects Coverage

a. We will pay up to \$750 for "loss" to personal effects which are:

- (1) Personal property owned by an "insured"; and
- (2) In or on a covered "auto".

b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:

- (1) The reasonable cost to replace; or
- (2) The actual cash value.

c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:

- (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
- (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
- (3) Paintings, statuary and other works of art.
- (4) Contraband or property in the course of illegal transportation or trade.
- (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. Any

coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph B.4.a. of Section III — Physical Damage Coverage in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of Section IV — Physical Damage Coverage in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph 1.a. Comprehensive Coverage under the Coverage Provision of the Physical Damage Coverage Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The Physical Damage Coverage Deductible Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph B.3.a. of Section III — Physical Damage Coverage in the Business Auto Coverage Form and the Exclusion in Paragraph B.4.a. of Section IV — Physical Damage Coverage in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the Deductible Provision of the Physical Damage Coverage Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Temporary Substitute Autos - Physical Damage

1. The following is added to Section I — Covered Autos:

Temporary Substitute Autos - Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph A. Coverage Provision of the Physical Damage Coverage Section:

Temporary Substitute Autos - Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

N. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph a. of the Duties In The Event Of Accident, Claim, Suit Or Loss Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

O. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the Transfer Of Rights Of Recovery Against Others To Us Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

P. Employee Hired Autos - Physical Damage

Paragraph b. of the Other Insurance Condition in the Business Auto Coverage Form and Paragraph f. of the Other Insurance — Primary and Excess Insurance Provisions Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

Q. Unintentional Failure to Disclose Hazards

The following is added to the Concealment, Misrepresentation Or Fraud Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

R. Hired Auto — World Wide Coverage

Paragraph 7.b.(5) of the Policy Period, Coverage Territory Condition is replaced by the following:

- (5) Anywhere else in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

S. Bodily Injury Redefined

The definition of "bodily injury" in the Definitions Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

T. Expected Or Intended Injury

The Expected Or Intended Injury Exclusion in Paragraph B. Exclusions under Section II — Covered Auto Liability Coverage is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

U. Physical Damage — Additional Temporary Transportation Expense Coverage

Paragraph A.4.a. of Section III — Physical Damage Coverage is replaced by the following: 4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending,

V. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto The following is added to Paragraph A. Coverage of the Physical Damage Coverage Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

W. Return of Stolen Automobile

The following is added to the Coverage Extension Provision of the Physical Damage Coverage Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.



BLACK HAWK

City of Black Hawk, Colorado

**Agreement for Professional Services
2024 On-Call Civil and Structural
Engineering Services**

between

**Drexel, Barrell & Co.
101 Sahwatch Street, Suite 100
Colorado Springs, CO 80903
(719) 260-0887**

and

**City of Black Hawk
987 Miners Road
P.O. Box 68
Black Hawk, CO 80422
(303) 582-1324**

January 2024

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the **CITY OF BLACK HAWK**, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and Drexel, Barrell and Co. (hereinafter referred to as "Contractor").

RECITALS:

- A. The City requires miscellaneous professional civil and structural engineering services (the "Project").
- B. Contractor has held itself out to the City as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City professional engineering services for the Project.

I. SCOPE OF SERVICES

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

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

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

III. OWNERSHIP OF WORK PRODUCT

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

IV. COMPENSATION

- A. Compensation shall not exceed **Thirty thousand dollars (\$30,000.00)** for the work described in **Exhibit A**. Payment shall be made in accordance with the schedule of charges in **Exhibit B**. Invoices shall be itemized and include hourly breakdown for all personnel and other charges.
- B. Contractor may submit monthly or periodic statements requesting payment. Such requests shall be based upon the amount and value of the work and services performed by Contractor under this Agreement except as otherwise supplemented or accompanied by such supporting data as may be required by the City.
 - 1. Payment shall be made for services rendered upon completion and final acceptance of the Project and shall be due and owing within thirty (30) days of Contractor's submittal of their invoice. If the City objects to any invoices submitted by the Contractor, the City will so advise Contractor in writing, giving the reason within fourteen (14) days of receipt of such invoice.
 - 2. If the City fails to make payments due Contractor within thirty (30) days after receipt and acceptance of Contractor's bill, Contractor may, after giving seven (7) days' written notice to the City, suspend services under this Agreement until Contractor's outstanding bills have been paid in full.
- C. The City has the right to ask for clarification on any Contractor invoice after receipt of the invoice by the City.
- D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest.
- E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Contractor's certification that services required herein by Contractor have been fully completed in accordance with this Agreement.

V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by **December 31, 2024.**

VI. PROFESSIONAL RESPONSIBILITY

- A. Contractor hereby represents that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.
- B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other

practicing professional firms in the same or similar type of work in the applicable community.

- C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services which fall below the standard of professional practice.
- D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for technical adequacy of the work. Neither the City's review, approval, nor acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Agreement, and Contractor shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.
- E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VII. COMPLIANCE WITH LAW

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

VIII. INDEMNIFICATION

- A. **INDEMNIFICATION – GENERAL:** The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate, or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that any third party claims, demands, suits, actions, or proceedings of any kind are not the result of professional negligence, the Contractor, to the fullest extent permitted by law, shall defend, indemnify, and hold harmless the City, its Council members, officials, officers, directors, agents, and employees from any and all such claims, demands, suits, actions, or proceedings of any kind or nature whatsoever, including worker's compensation claims, resulting or arising from the services rendered by Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement, but only to the extent and for an amount represented by the degree or percentage of negligence or fault attributed to Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable. The Contractor need not defend, indemnify, or hold harmless the City, its Council members, its officials, officers, directors, agents, and employees from damages resulting from the negligence of the City, its Council members, its officials, officers, directors, agents, and employees.
- B. **INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE:** The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees

from and against damages, liability, losses, costs and expenses, including reasonable attorney fees resulting or arising from third-party professional liability claims, demands, suits, actions, or proceedings of any kind or nature whatsoever, but only to the extent and for an amount represented by the degree or percentage of professional negligence or fault attributed to Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable under this Agreement. The Contractor is not obligated under this subparagraph VIII.B. to defend, indemnify, or hold harmless from the negligence of the City, its Council members, its officials, officers, directors, agents, and employees.

- C. **INDEMNIFICATION – COSTS:** Notwithstanding anything to the contrary within this Agreement, the extent of Contractor’s obligation to defend, indemnify, and hold harmless the City, its Council members, its officials, officers, directors, agents, and employees shall be determined only after Contractor’s liability or fault has been determined by adjudication or mutual agreement by and between the City and Contractor.

IX. INSURANCE

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

1. **Worker’s Compensation Insurance** to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of six hundred thousand dollars (\$600,000) each incident, one million dollars (\$1,000,000) disease—policy limit, and one million dollars (\$1,000,000) disease—each employee. Evidence of qualified self-insured status may be substituted for the worker’s compensation requirements under this paragraph.
2. **Commercial General Liability Insurance** with minimum combined single limits of six hundred thousand dollars (\$600,000) each occurrence and one million five hundred thousand dollars (\$1,500,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual products, and completed operations. This policy shall contain a severability of interests provision.
3. **Professional Liability Insurance** with minimum limits of six hundred thousand dollars (\$600,000) each claim and one million five hundred thousand dollars (\$1,500,000) general aggregate.

4. **The policy required by Paragraph 2 above shall be endorsed to include the City and the City's officers, employees, and consultants as additional insureds.** The policy required in Paragraphs 1 and 2 above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by Paragraph 1 above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.
5. The certificate of insurance provided for the City shall be completed by Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: **City Clerk**
6. Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.
7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
8. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-114 et seq., 13 Colo. Rev. Stat., as from time to time amended, or otherwise available to the City, its officers, its employees, or agents.

X. NON-ASSIGNABILITY

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

XI. TERMINATION

This Agreement shall terminate upon the City's providing Contractor with thirty (30) days advance written notice. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Contractor for all work previously authorized and completed, in whole or in part, prior to the date of termination. If, however, Contractor has materially breached this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XII. VENUE

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

XIII. INDEPENDENT CONTRACTOR

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

XIV. NO WAIVER

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

XV. NOTICE

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

The City:

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

The Contractor:

Drexel, Barrell & Co.
101 Sahwatch Street, Suite 100
Colorado Springs, Colorado 80903
Attn: Tim McConnell

XVI. ENTIRE AGREEMENT

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

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

DREXEL, BARRELL & CO.

By: _____

Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this _____ day of _____, 20_____, by _____ as the _____ of _____.

My commission expires: _____

(S E A L)

Notary Public

EXHIBIT A

SCOPE OF SERVICES

2024 On-Call Civil and Structural Engineering Services

Services and responsibilities may include, but not necessarily be limited to, the following:

Development review. Contractor may be requested to review and comment on proposed development plans and technical reports that are received by the City. Contractor shall ensure proposed developments conform to applicable engineering standards and specifications.

General civil engineering design. The City may request the Contractor to complete various civil engineering designs and prepare engineering plans and reports, including grading plans, utility plans and profiles, stormwater management plans, roadway plans, and related detail sheets.

Drainage design. The City may request the Contractor to perform various hydrologic and hydraulic calculations and prepare reports, plans, and specifications to design storm sewer systems, open channel conveyance systems, detention and water quality facilities, and other assorted drainage improvements.

Drainage analysis. The City may request the Contractor to analyze existing drainage systems to determine condition and capacity.

Floodplain analysis. Contractor shall be prepared and qualified to perform full-service floodplain analysis, including preparation of CLOMR and LOMR documents.

General structural engineering design. The City may request the Contractor to complete structural calculations and designs, including foundation construction and remediation, historic structure restoration, bridge repair, and retaining wall construction and repair.

Structural analysis. The City may request the Contractor to analyze existing structures to determine structural condition and stability.

Opinions of probable construction costs. Contractor shall prepare and/or review civil and structural construction costs, as requested.

Meeting attendance. The City may require the Contractor to provide competent civil and structural engineering personnel at one-time or regular meetings during construction projects.

Contractor shall retain qualified personnel, including licensed Professional Engineers, to perform the above Scope of Services.



EXHIBIT B

1376 Miners Drive, Suite 107 • Lafayette, CO 80026 • 303.442.4338 • 303.442.4373 fax
101 Sahwatch Street, Suite 100 • Colorado Springs, CO 80903 • 719-260-0887

DREXEL, BARRELL & CO. ***FEE SCHEDULE*** Effective January 1, 2024

I. PERSONNEL:

<u>CATEGORY</u>	<u>HOURLY RATE</u>	<u>CATEGORY</u>	<u>HOURLY RATE</u>
General:		Surveying:	
Managing Principal	\$200	Office Surveyor / Analyst	\$130-150
Principal	\$190	Field Surveyor*	\$125-135
Associate	\$180-200		
Engineering:		Administration:	
Project Engineer / Manager	\$140-170	Controller	\$130
Design Engineer	\$115-135	Administrative	\$80
CAD:		Construction Inspection:	
Technician	\$110-120	Construction Inspector	\$115-135
Miscellaneous:		*1-person crew: \$65/hr charge for ea. extra crew member	
Expert Witness Duties	\$320		

- II. **SUB-CONSULTANTS:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell adds a 10% markup to invoices from sub-consultants to cover administrative and project management expenses.
- III. **MILEAGE:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell charges for all project related mileage at the rate of \$0.75 / mile.
- IV. **TRAVEL TIME:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell charges for travel time to and from the project site.
- V. **REPROGRAPHICS:** Reprographics provided by outside printing companies will be charged at Drexel Barrell's cost plus 10%.
- VI. **FIELD SUPPLIES:** Unless otherwise stated in the Professional Services Agreement, standard survey supplies (stakes, pin caps, etc.) are included in the negotiated fee. Drexel Barrell charges an additional \$100.00 per monument and \$200.00 for monument boxes when the project requires.
- VII. **DELIVERY SERVICES:** Drexel Barrell will add a 10% mark-up to all messenger and overnight delivery service fees.
- VIII. **OUT-OF-TOWN EXPENSES:** On projects requiring overnight lodging, Drexel Barrell charges a per diem rate for meals, lodging, and related expenses. The per diem rate will be Drexel Barrell's costs plus 10%.
- IX. **RATE REVISIONS:** Drexel Barrell adjusts this Fee Schedule annually on January 1. Projects extending beyond December 31 of each year shall be subject to the new Fee Schedule.

RESOLUTION 4-2024
A RESOLUTION
APPROVING THE
ACQUISITION OF
CERTAIN REAL
PROPERTY KNOWN AS
PORTIONS OF THE FAY
LODE MS 13338 (.03
ACRES), THE MARKS
LODE MS 13338 (.08
ACRES), AND THE DALE
LODE MS 13338 (.13
ACRES)

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 4-2024

TITLE: A RESOLUTION APPROVING THE ACQUISITION OF CERTAIN REAL PROPERTY KNOWN AS PORTIONS OF THE FAY LODE MS 13338 (.03 ACRES), THE MARKS LODE MS 13338 (.08 ACRES), AND THE DALE LODE MS 13338 (.13 ACRES)

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

Section 1. The City Council hereby approves the acquisition of the Fay Lode MS 13338 (.03 acres), the Marks Lode MS 13338 (.08 acres), and the Dale Lode MS 13338 (.13 acres) (collectively, the “Property”) for the total amount of \$4,485.00, plus closing costs, and authorizes the Mayor and/or the City Manager to execute the necessary documents to accomplish the acquisition of the Property from the following individuals as their interests may appear: Jeffery L. Claycomb, Gene A. Claycomb, Julianne G. Claycomb-McCrary, Patrick E. Claycomb, and the Clarence E. Henke Estate. The various Contracts to Buy and Sell Real Estate are attached hereto as **Exhibit A**, and incorporated herein by this reference.

RESOLVED AND PASSED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Authorization for the City Manager to purchase property owned by Jeffery L. Claycomb, Gene A. Claycomb, Julianne G. Claycomb-McCrary, Patrick E. Claycomb, and the Clarence E. Henke Estate in the amount of \$4,485.00 plus any applicable closing costs.

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

MOTION TO APPROVE *Resolution 4-2024, a Resolution approving the acquisition of certain real property known as portions of the Fay Lode MS 13338 (0.3 acres), the Marks Lode MS 13338 (0.8 acres), and the Dale Lode MS 13338 (.13 acres).*

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The City desires to acquire portions of the Fay Lode MS 13338 (.03 acres), Marks Lode MS 13338 (.08 acres), and the Dale Lode MS 13338 (.13 acres) for \$4,285.00 from Jeffery L. Claycomb, Gene A. Claycomb, Julianne G. Claycomb-McCrary, Patrick E. Claycomb and the Clarence E. Henke Estate in the amount of \$4,485.00 plus any applicable closing costs. The property is needed to improve Lake Gulch Road, specifically the roundabout on Lake Gulch Road connecting Lake Gulch Road and Miners Road.

AGENDA DATE: January 10, 2024

DEPARTMENT DIRECTOR APPROVAL: [] Yes [X] No

STAFF PERSON RESPONSIBLE: Stephen Cole, City Manager

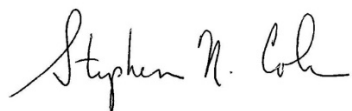
DOCUMENTS ATTACHED: Contracts to buy Real Estate

RECORD: [] Yes [X] No

CoBH CERTIFICATE OF INSURANCE REQUIRED [] Yes [X] No

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

SUBMITTED BY:



Stephen N. Cole, City Manager

CONTRACT TO BUY AND SELL REAL ESTATE

Jeffrey L. Claycomb as there interest may apply, hereinafter called "Owner", whose address is 10705 N Holmes Street, Kansas City, MO 64155, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND AND NO/100'S DOLLARS (\$2,000.00)**, *divided amongst all parties*, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING

(a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on **November 3, 2023** (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder, but specifically excluding any and all mineral interests or mineral rights therein, and any water rights.

2. PRORATIONS

Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE

Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE

Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)

WITNESS my hand and seal this 9 day of NOVEMBER, 2023.

OWNER: **JEFFREY L. CLAYCOMB**

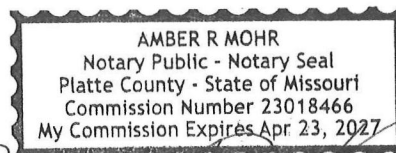
Jeffrey L. Claycomb

STATE OF Missouri)
COUNTY OF Platte) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 9 day of November, 2023, by Jeffrey L. Claycomb.

WITNESS my hand and official seal:

My commission expires: 04/23/2027



Amber R Mohr
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: _____
David D. Spellman, Mayor

ATTEST:

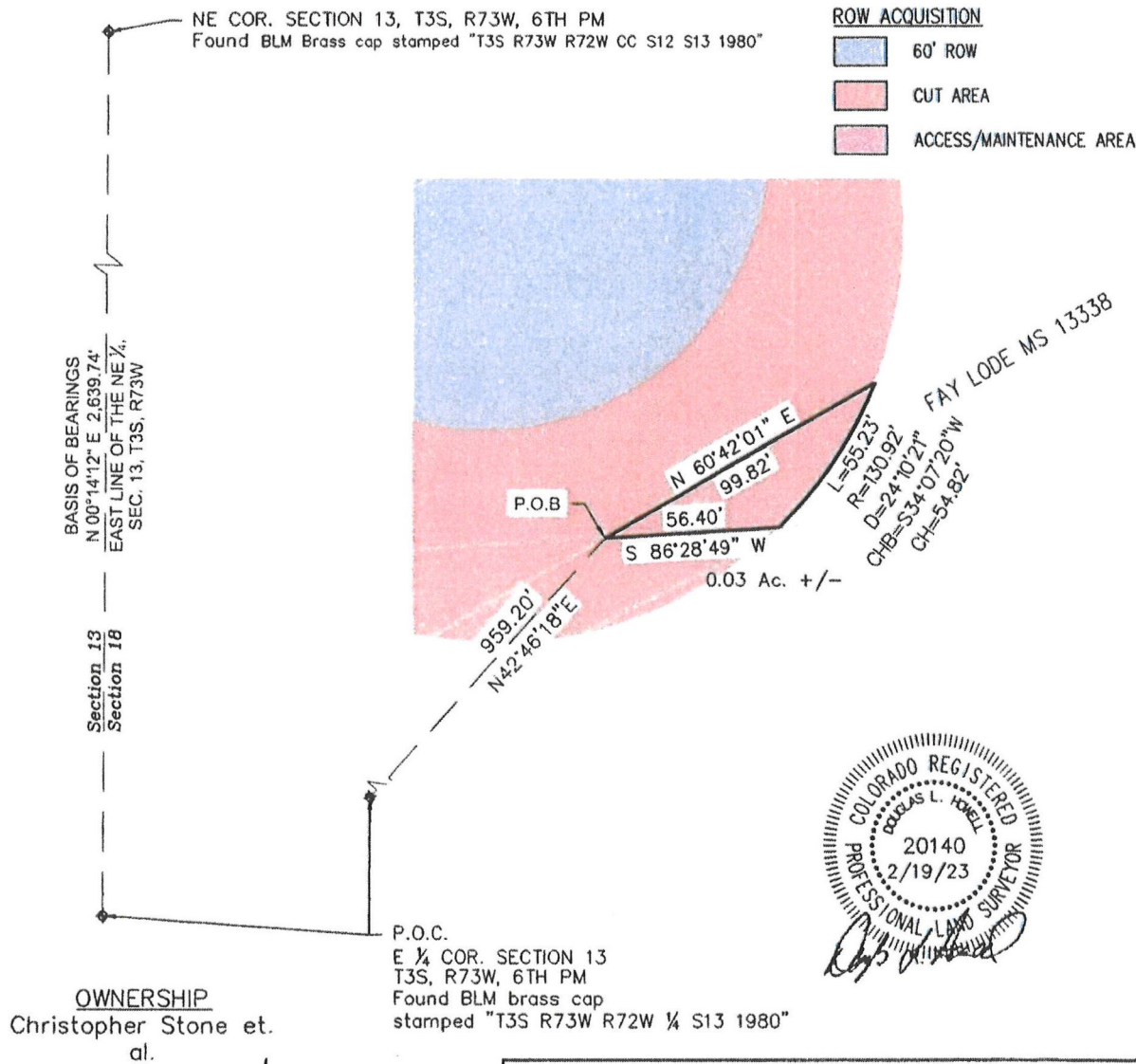
Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/19/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

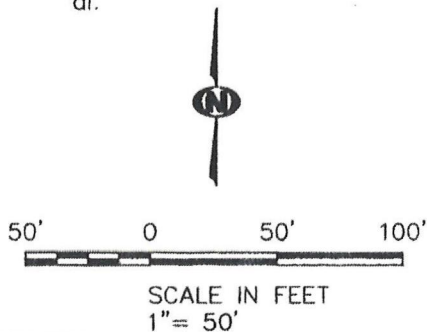


EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N $00^{\circ}14'12''$ E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N $42^{\circ}46'18''$ E a distance of 959.20 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North $60^{\circ}42'01''$ East a distance of 99.82 feet to a point of non-tangent curvature;

Thence 55.23 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of $24^{\circ}10'21''$, and whose chord bears South $34^{\circ}07'20''$ West, a distance of 54.82 feet to the point of intersection with line 4-3 of the Marks Lode, US Mineral Survey No. 13338;

Thence South $86^{\circ}28'49''$ West along said line 4-3 a distance of 56.40 feet to the Point of Beginning, containing 0.03 acres, more or less.



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.
Lakewood, Colorado

720-273-9940

DATE:	2/15/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

Found BLM Brass cap stamped "T3S R73W R72W CC S12 S13 1980"

ROW ACQUISITION

 60' ROW

 CUT AREA

 ACCESS/MAINTENANCE AREA

BASIS OF BEARINGS
N 00°14'12" E 2,639.74'
EAST LINE OF THE NE ¼,
SEC. 13, T3S, R73W

Section 13
Section 18

P.O.B

N 86°28'48" E

169.25'

0.08 Ac. \pm

$L=184.03'$

 $R = 130.92'$

$D=80^{\circ}32'34''$

CHB=S86°28'48"W

CH=169.25'

N 37°41'39" E

881.08'

P.O.C.

E ¼ COR. SECTION 13

T3S, R73W, 6TH PM

Found BLM brass cap

stamped "T3S R73W R72W ¼ S13 1980"

OWNERSHIP
Christopher Stone
et. al.



50' 0 50' 100'

SCALE IN FEET
1" = 50'

PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE: 2/21/2023

DRAWN BY:
DEA

SCALE:
shown

SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00°14'12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 37° 41' 39" E a distance of 881.08 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 86° 28' 48" East along said line 4-3 a distance of 169.25 feet to the point of intersection with line 3-2 of the Fay Lode, US Mineral Survey No. 13338 and a point of non-tangent curvature;

Thence 184.03 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 80° 32' 34", and whose chord bears South 86° 28' 48" West, a distance of 169.25 feet to the Point of Beginning, containing 0.08 acres, more or less.



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	1/13/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

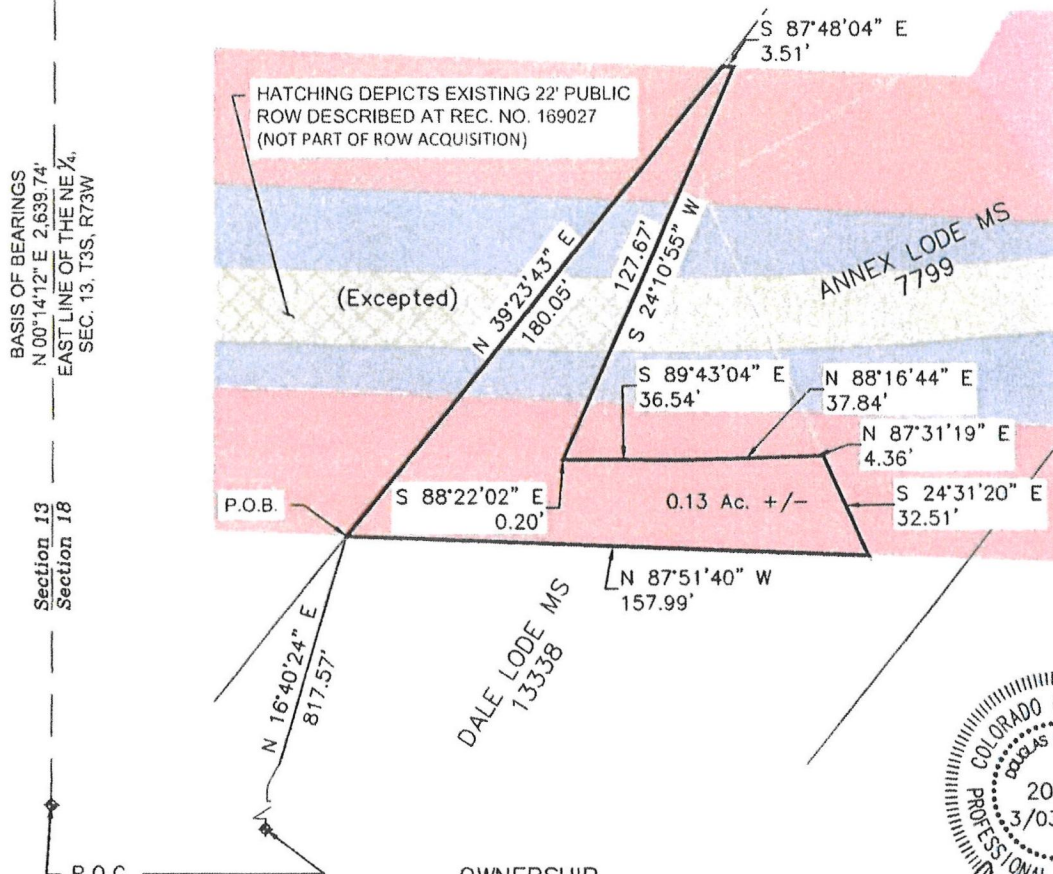
EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

NE COR. SECTION 13, T3S, R73W, 6TH PM
Found BLM Brass cap stamped "T3S R73W R72W CC S12 S13 1980"

ROW ACQUISITION

- 60' ROW
- CUT AREA
- ACCESS/MAINTENANCE AREA



BASIS OF BEARINGS
N 00°14'12" E 2,639.74'
EAST LINE OF THE NE 1/4,
SEC. 13, T3S, R73W

Section 13
Section 18

P.O.C.
E 1/4 COR. SECTION 13
T3S, R73W, 6TH PM
Found BLM brass cap
stamped "T3S R73W
R72W 1/4 S13 1980"



50' 0 50' 100'

SCALE IN FEET
1" = 50'

OWNERSHIP
Christopher Stone,
et. al.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODGE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	3/03/2023
DRAWN BY:	dlh
SCALE:	shown
SHEET NO.	1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N $00^{\circ}14'12''$ E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N $16^{\circ}40'24''$ E a distance of 817.57 feet to a point on line 3-4 of the Dale Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North $39^{\circ}23'43''$ East along said line 3-4 a distance of 180.05 feet;
Thence South $87^{\circ}48'04''$ East a distance of 3.51 feet to the point of intersection with line 1-2 of the Notaway Extension Lode, US Mineral Survey No. 9722;
Thence South $24^{\circ}10'55''$ West along said line 1-2 a distance of 127.67 feet to a point 30 feet southerly of the Lake Gulch Road Right-of-Way and also along Reception No. 171138;
Thence along said Reception No. 171138 the following 4 courses:
1. South $88^{\circ}22'02''$ East a distance of 0.20 feet;
2. South $89^{\circ}43'04''$ East a distance of 36.54 feet;
3. North $88^{\circ}16'44''$ East a distance of 37.84 feet;
4. North $87^{\circ}31'19''$ East a distance of 4.36 feet to the point of intersection with line 2-3 of the Annex Lode, US Mineral Survey No. 7799;
Thence South $24^{\circ}31'20''$ East along said line 2-3 a distance of 32.51 feet;
Thence North $87^{\circ}51'40''$ West a distance of 157.99 feet to the Point of Beginning, containing 0.15 acres, more or less.

Except the existing Public ROW, Lake Gulch Road as recorded at Reception No. 169027, said road contains 0.02 acres within the parcel, leaving a net parcel area of 0.13 acres, more or less.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

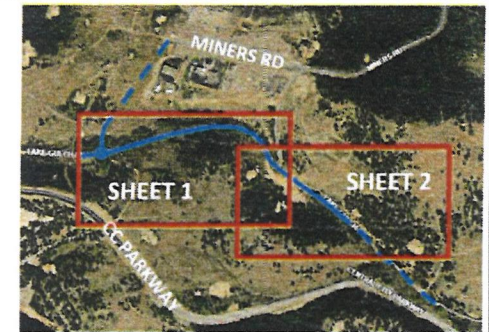
H's Consultants, Inc.

12041 W. Louisiana Ave.
Lakewood, Colorado

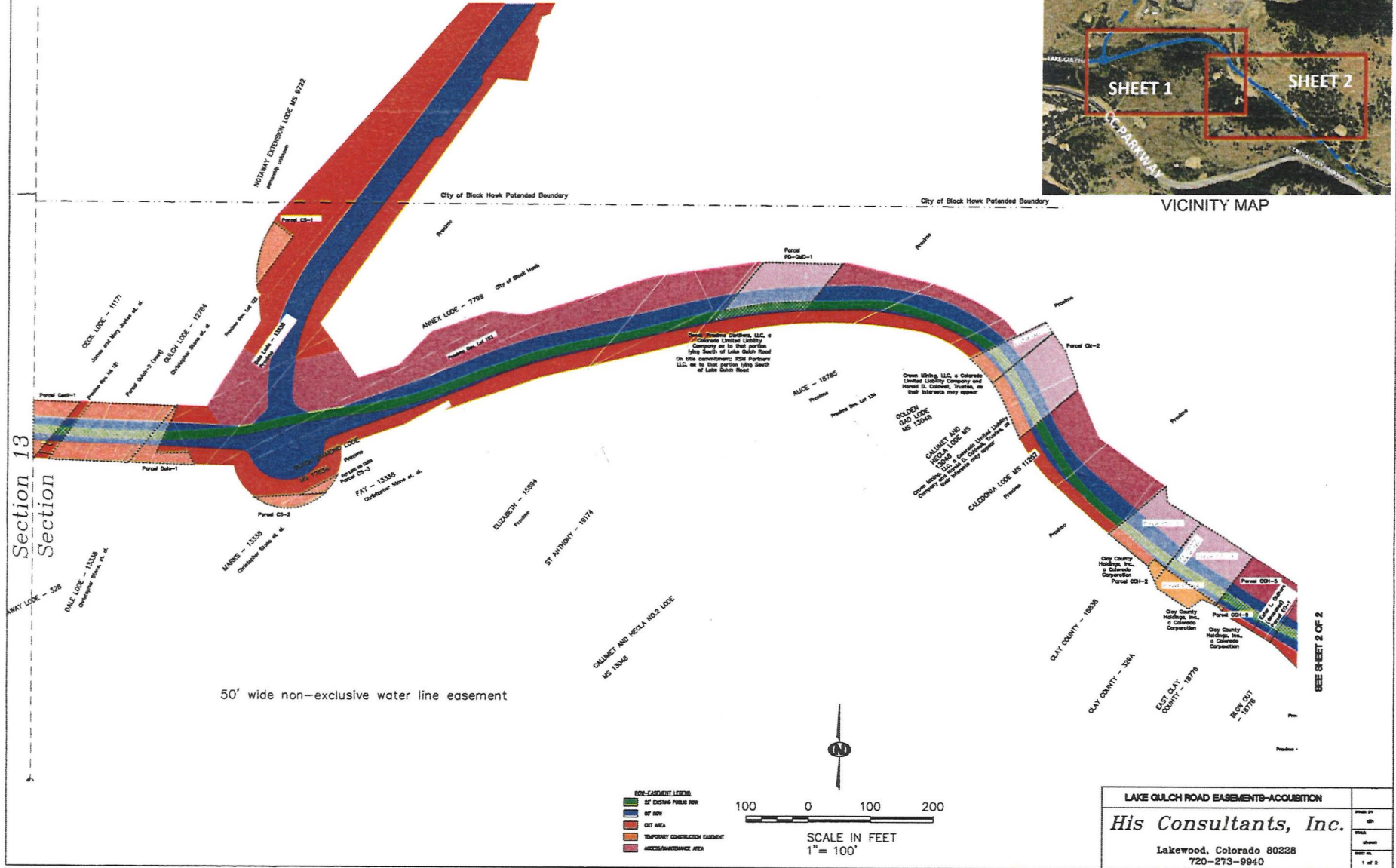
720-273-9940

DATE:	3/02/2023
DRAWN BY:	dih
SCALE:	shown
SHEET NO.	2 of 2

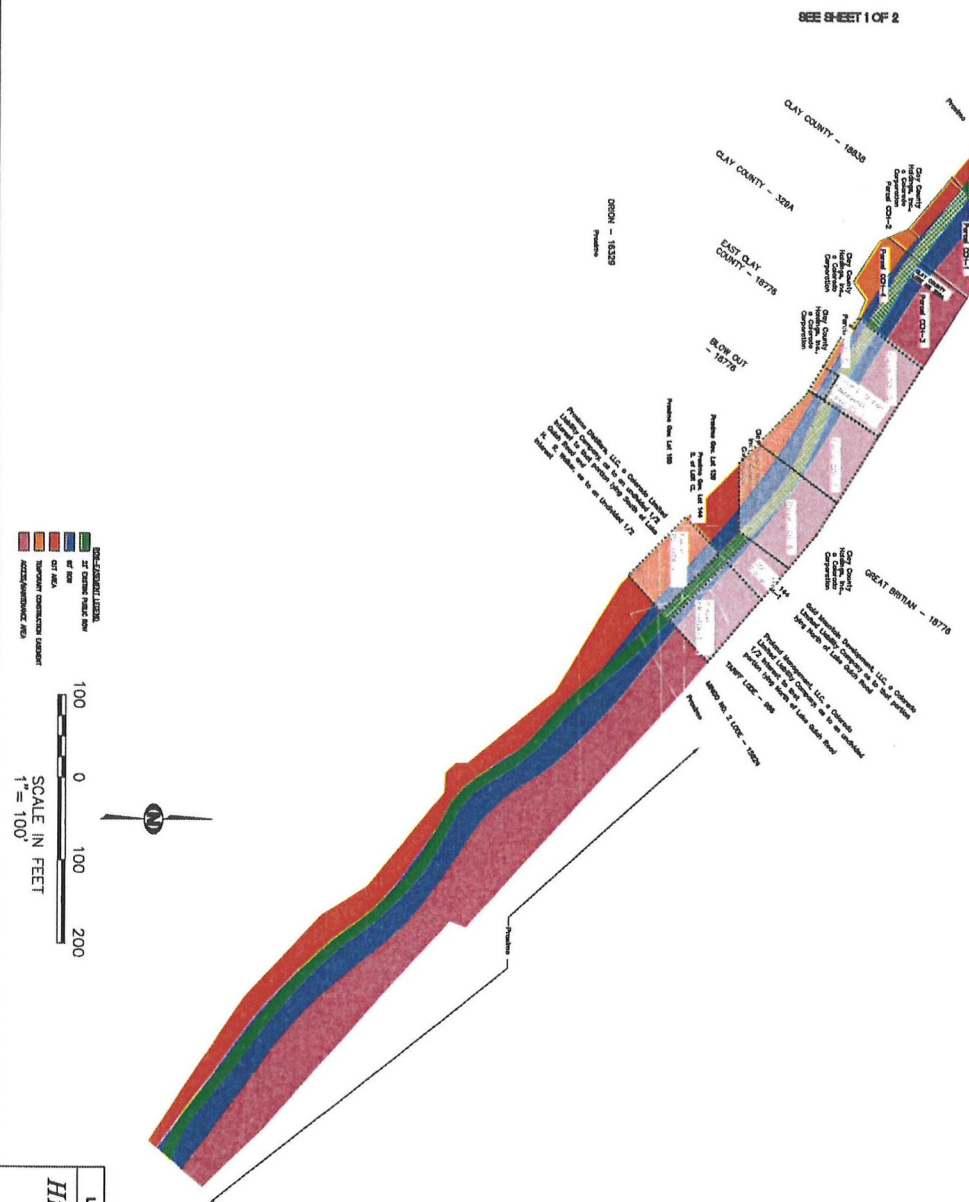
LAKE GULCH ROAD EASEMENT and ACQUISITION EXHIBIT Sheet 1 of 2



VICINITY MAP



LAKE GULCH ROAD EASEMENT and ACQUISITION EXHIBIT Sheet 2 of 2



LAKE GULCH ROAD EASEMENTS-ACQUISITION

His Consultants, Inc.

Lakewood, Colorado 80228

720-673-9940

CONTRACT TO BUY AND SELL REAL ESTATE

Gene A. Claycomb as there interest may apply, hereinafter called "Owner", whose address is 1203 S. 2nd Terrace, Savannah MO 64485, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND AND NO/100'S DOLLARS (\$2,000.00)**, *divided amongst all parties*, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING

(a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on **November 3, 2023** (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder, but specifically excluding any and all mineral interests or mineral rights therein, and any water rights.

2. PRORATIONS

Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE

Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE

Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

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(Balance of page left intentionally blank)

WITNESS my hand and seal this 3rd day of November, 2023.

OWNER: GENE A. CLAYCOMB

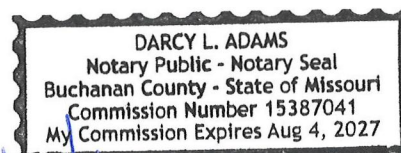
Gene A. Claycomb

STATE OF Missouri)
COUNTY OF Buchanan) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 3rd day of November, 2023, by Gene A. Claycomb.

WITNESS my hand and official seal: August 4, 2027 DLA

My commission expires: August 4, 2027



Darcy Adams
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: _____
David D. Spellman, Mayor

ATTEST:

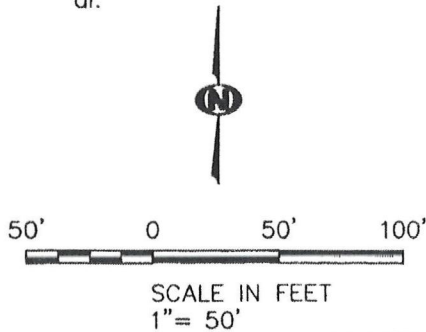
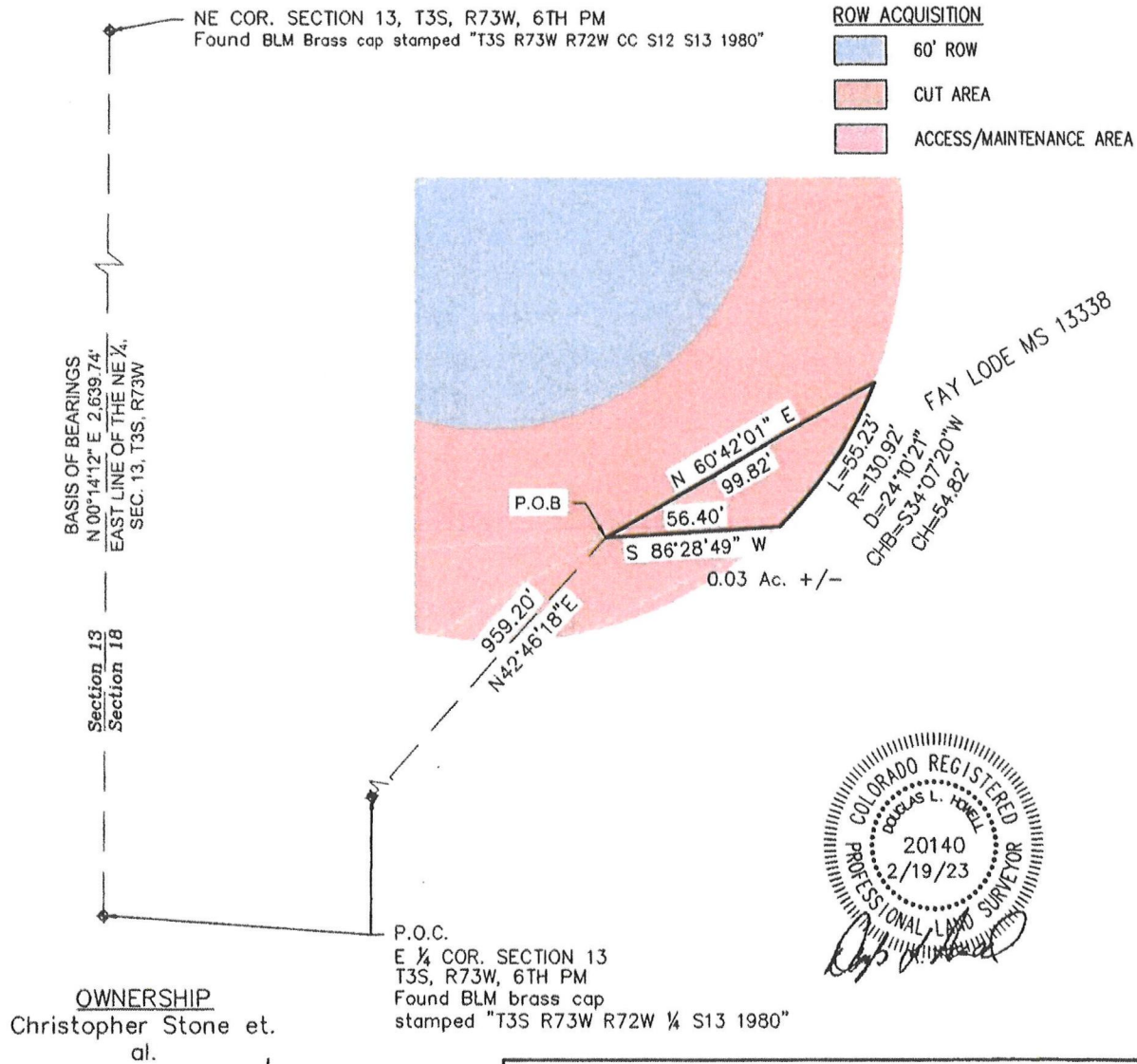
Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/19/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:
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Thence North 60° 42' 01" East a distance of 99.82 feet to a point of non-tangent curvature;

Thence 55.23 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 24° 10' 21", and whose chord bears South 34° 07' 20" West, a distance of 54.82 feet to the point of intersection with line 4-3 of the Marks Lode, US Mineral Survey No. 13338;

Thence South 86° 28' 49" West along said line 4-3 a distance of 56.40 feet to the Point of Beginning, containing 0.03 acres, more or less.



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

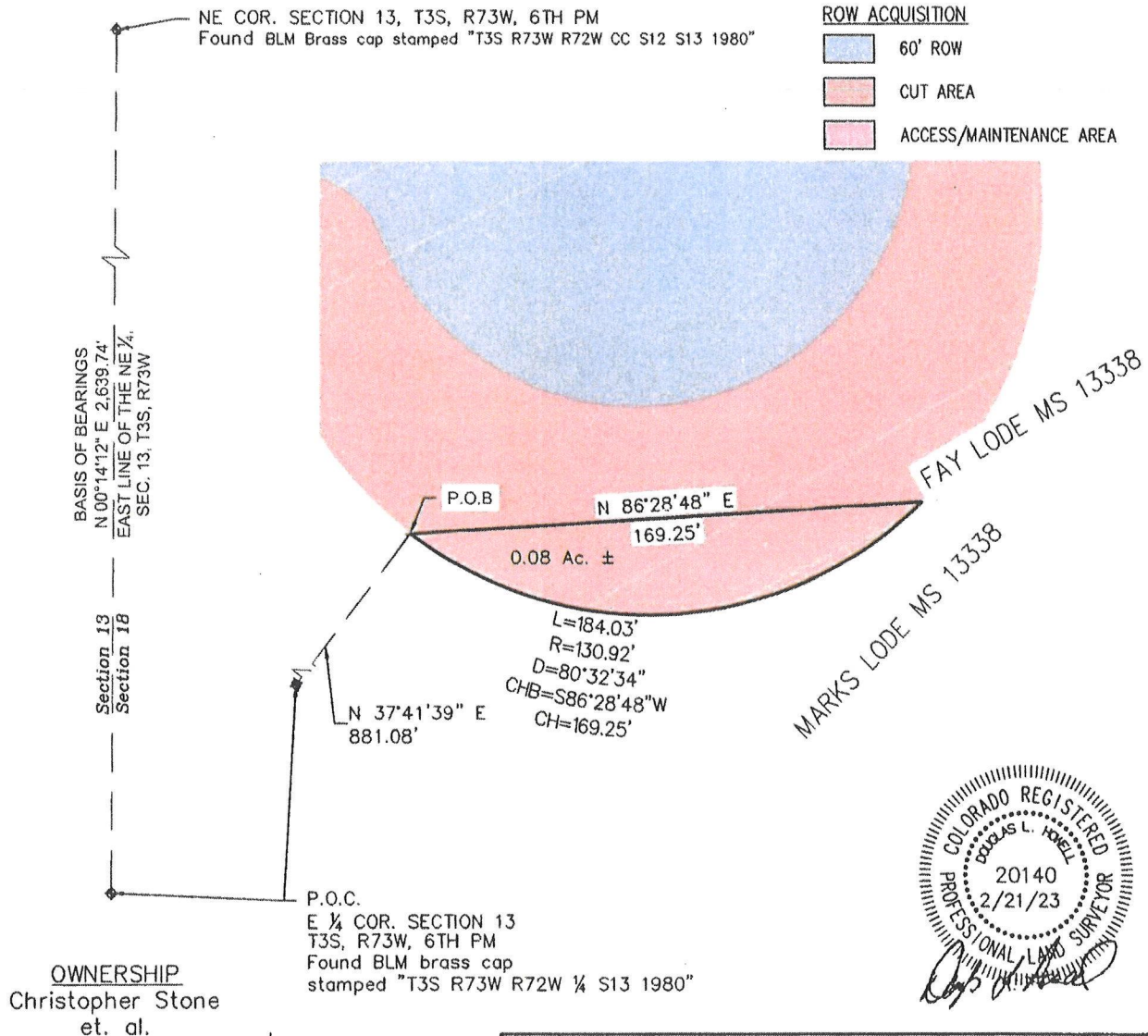
12041 W. Louisiana Ave.
Lakewood, Colorado

720-273-9940

DATE:	2/15/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/21/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00°14'12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 37° 41' 39" E a distance of 881.08 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 86° 28' 48" East along said line 4-3 a distance of 169.25 feet to the point of intersection with line 3-2 of the Fay Lode, US Mineral Survey No. 13338 and a point of non-tangent curvature;

Thence 184.03 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 80° 32' 34", and whose chord bears South 86° 28' 48" West, a distance of 169.25 feet to the Point of Beginning, containing 0.08 acres, more or less.



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	1/13/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

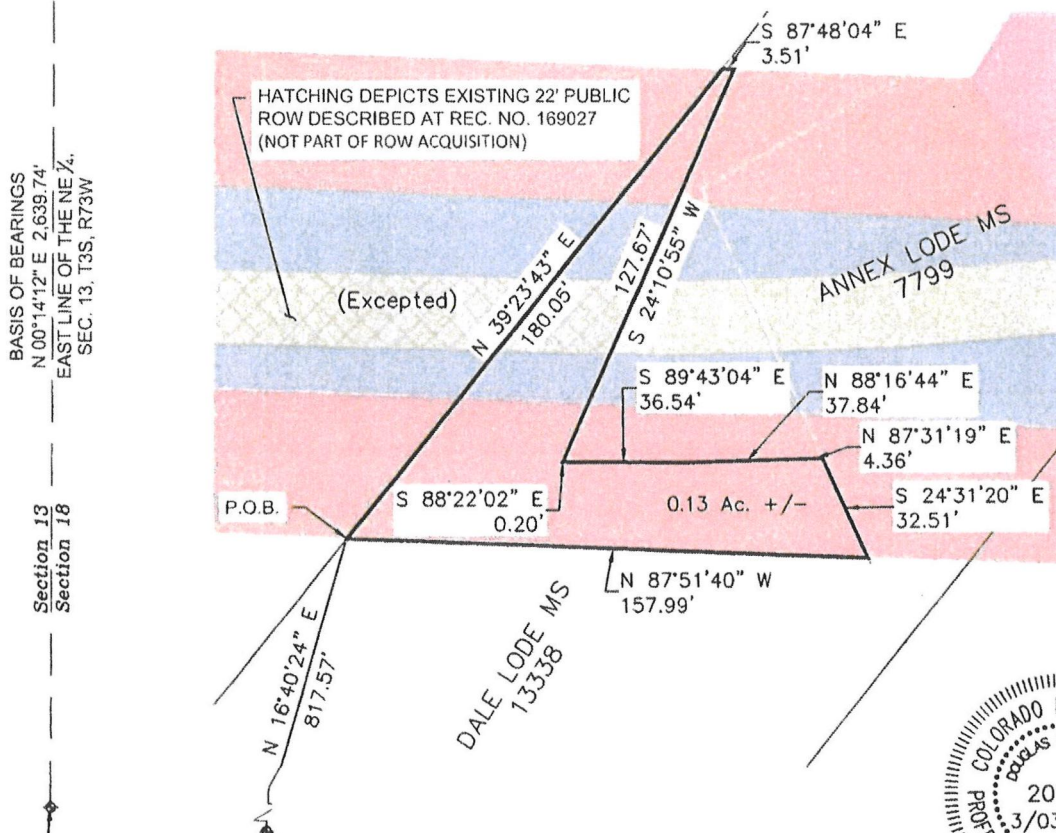
EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

NE COR. SECTION 13, T3S, R73W, 6TH PM
Found BLM Brass cap stamped "T3S R73W R72W CC S12 S13 1980"

ROW ACQUISITION

- 60' ROW
- CUT AREA
- ACCESS/MAINTENANCE AREA



OWNERSHIP
Christopher Stone,
et. al.

PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
3/03/2023
DRAWN BY:
dlh
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N $00^{\circ}14'12''$ E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N $16^{\circ}40'24''$ E a distance of 817.57 feet to a point on line 3-4 of the Dale Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North $39^{\circ}23'43''$ East along said line 3-4 a distance of 180.05 feet;
Thence South $87^{\circ}48'04''$ East a distance of 3.51 feet to the point of intersection with line 1-2 of the Notaway Extension Lode, US Mineral Survey No. 9722;
Thence South $24^{\circ}10'55''$ West along said line 1-2 a distance of 127.67 feet to a point 30 feet southerly of the Lake Gulch Road Right-of-Way and also along Reception No. 171138;
Thence along said Reception No. 171138 the following 4 courses:
1. South $88^{\circ}22'02''$ East a distance of 0.20 feet;
2. South $89^{\circ}43'04''$ East a distance of 36.54 feet;
3. North $88^{\circ}16'44''$ East a distance of 37.84 feet;
4. North $87^{\circ}31'19''$ East a distance of 4.36 feet to the point of intersection with line 2-3 of the Annex Lode, US Mineral Survey No. 7799;
Thence South $24^{\circ}31'20''$ East along said line 2-3 a distance of 32.51 feet;
Thence North $87^{\circ}51'40''$ West a distance of 157.99 feet to the Point of Beginning, containing 0.15 acres, more or less.

Except the existing Public ROW, Lake Gulch Road as recorded at Reception No. 169027, said road contains 0.02 acres within the parcel, leaving a net parcel area of 0.13 acres, more or less.



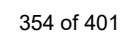
PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.

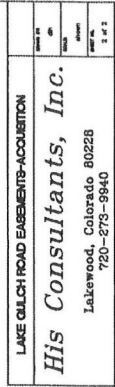
12041 W. Louisiana Ave.
Lakewood, Colorado

720-273-9940

DATE:	3/02/2023
DRAWN BY:	dih
SCALE:	shown
SHEET NO.	2 of 2



SEE SHEET 1 OF 2



CONTRACT TO BUY AND SELL REAL ESTATE

Julianne G. Claycomb-McCrary as there interest may apply, hereinafter called "Owner", whose address is 11760 SW Kerns Road, Stewartsville MO 64490, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND AND NO/100'S DOLLARS (\$2,000.00)**, *divided amongst all parties*, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING

(a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on **November 3, 2023** (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder, but specifically excluding any and all mineral interests or mineral rights therein, and any water rights.

2. PRORATIONS

Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE

Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE

Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)

WITNESS my hand and seal this 4th day of October, 2023.

OWNER: JULIANNE G. CLAYCOMB-McCRARY

Julianne G. Claycomb-McCrory

STATE OF _____)
COUNTY OF Buchanan) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 4th day of October, 2023, by Julianne G. Claycomb-McCrory.

WITNESS my hand and official seal:

My commission expires: October 29, 2023

ABBY LYNN SCHROEDER
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
ANDREW COUNTY
MY COMMISSION EXPIRES: OCT. 29, 2023
COMMISSION # 19930869

Abby Schroeder
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: _____
David D. Spellman, Mayor

ATTEST:

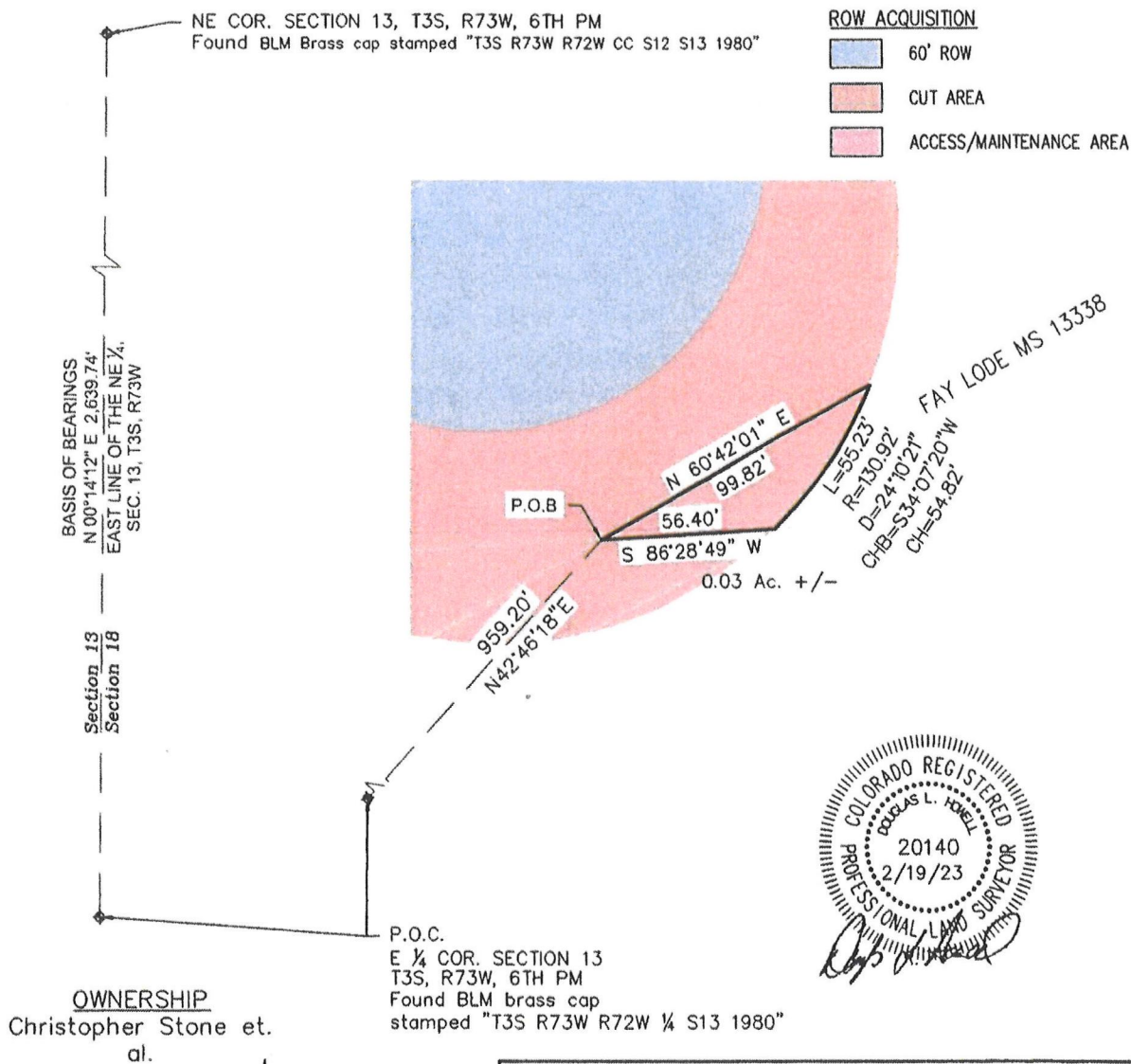
Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODGE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/19/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

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Thence North 60° 42' 01" East a distance of 99.82 feet to a point of non-tangent curvature;

Thence 55.23 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 24° 10' 21", and whose chord bears South 34° 07' 20" West, a distance of 54.82 feet to the point of intersection with line 4-3 of the Marks Lode, US Mineral Survey No. 13338;

Thence South 86° 28' 49" West along said line 4-3 a distance of 56.40 feet to the Point of Beginning, containing 0.03 acres, more or less.



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.

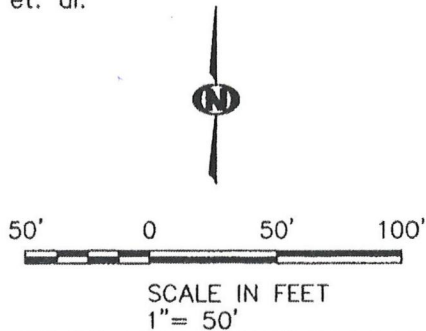
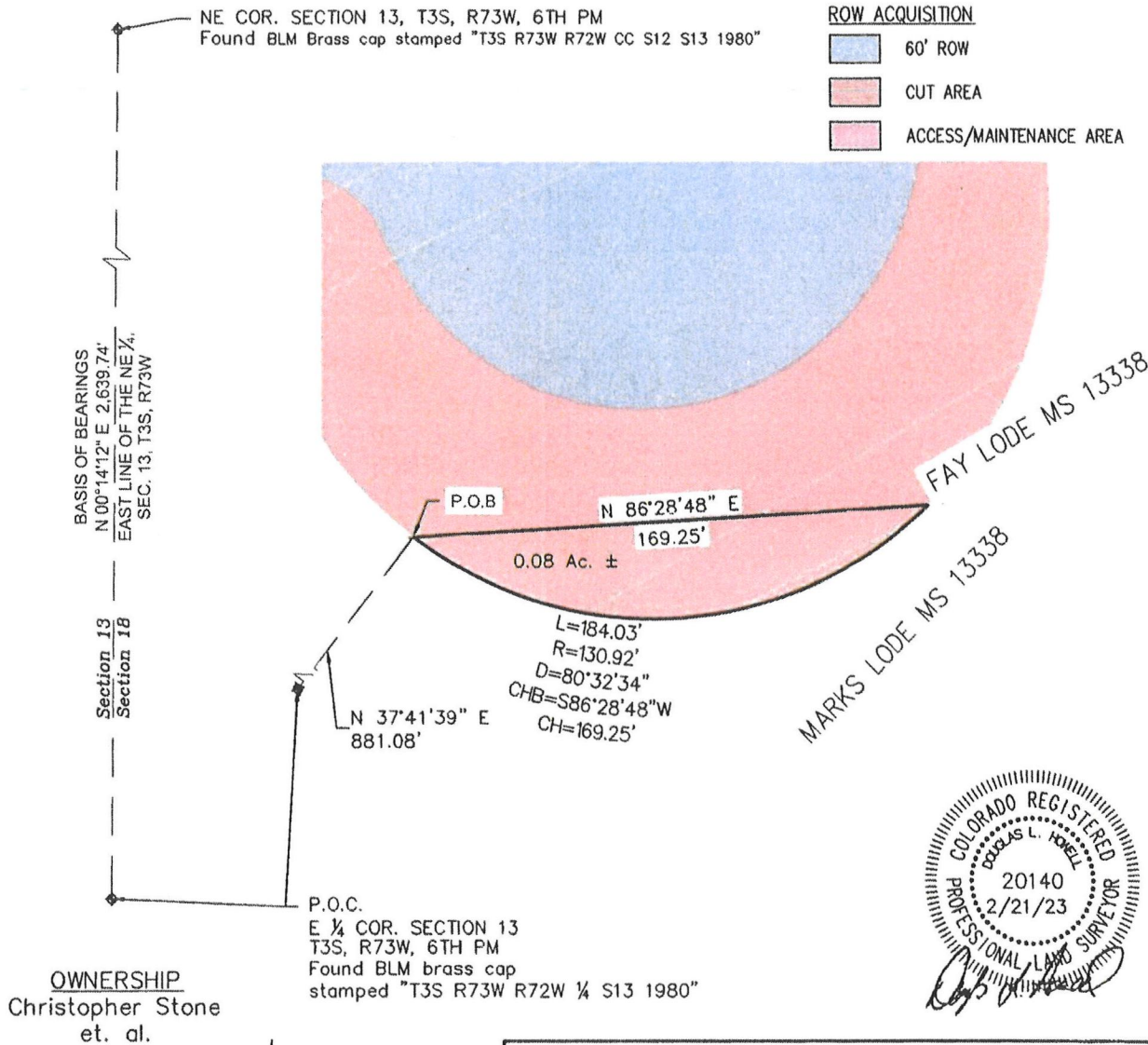
Lakewood, Colorado

720-273-9940

DATE:	2/15/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.
12041 W. Louisiana Ave.
Lakewood, Colorado
720-273-9940

DATE:
2/21/2023
DRAWN BY:
DEA
SCALE:
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SHEET NO.
1 of 2

EXHIBIT "A"

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COUNTY OF GILPIN, STATE OF COLORADO

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MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	1/13/2023
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SCALE:	shown
SHEET NO.	2 of 2

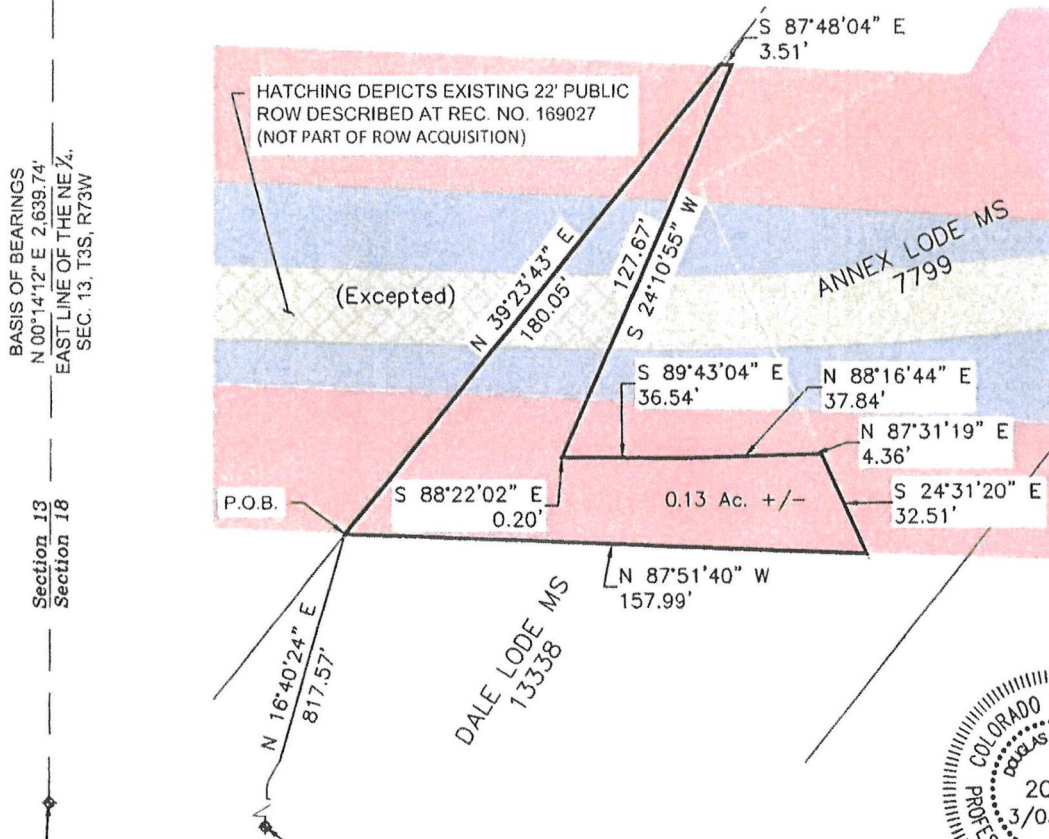
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OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

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Found BLM Brass cap stamped "T3S R73W R72W CC S12 S13 1980"

ROW ACQUISITION

- 60' ROW
- CUT AREA
- ACCESS/MAINTENANCE AREA



OWNERSHIP
Christopher Stone,
et. al.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODGE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
3/03/2023
DRAWN BY:
dlh
SCALE:
shown
SHEET NO.
1 of 2

50' 0 50' 100'

SCALE IN FEET
1" = 50'

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

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PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

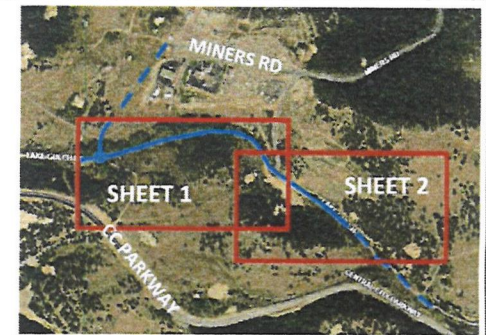
Hi's Consultants, Inc.

12041 W. Louisiana Ave.
Lakewood, Colorado

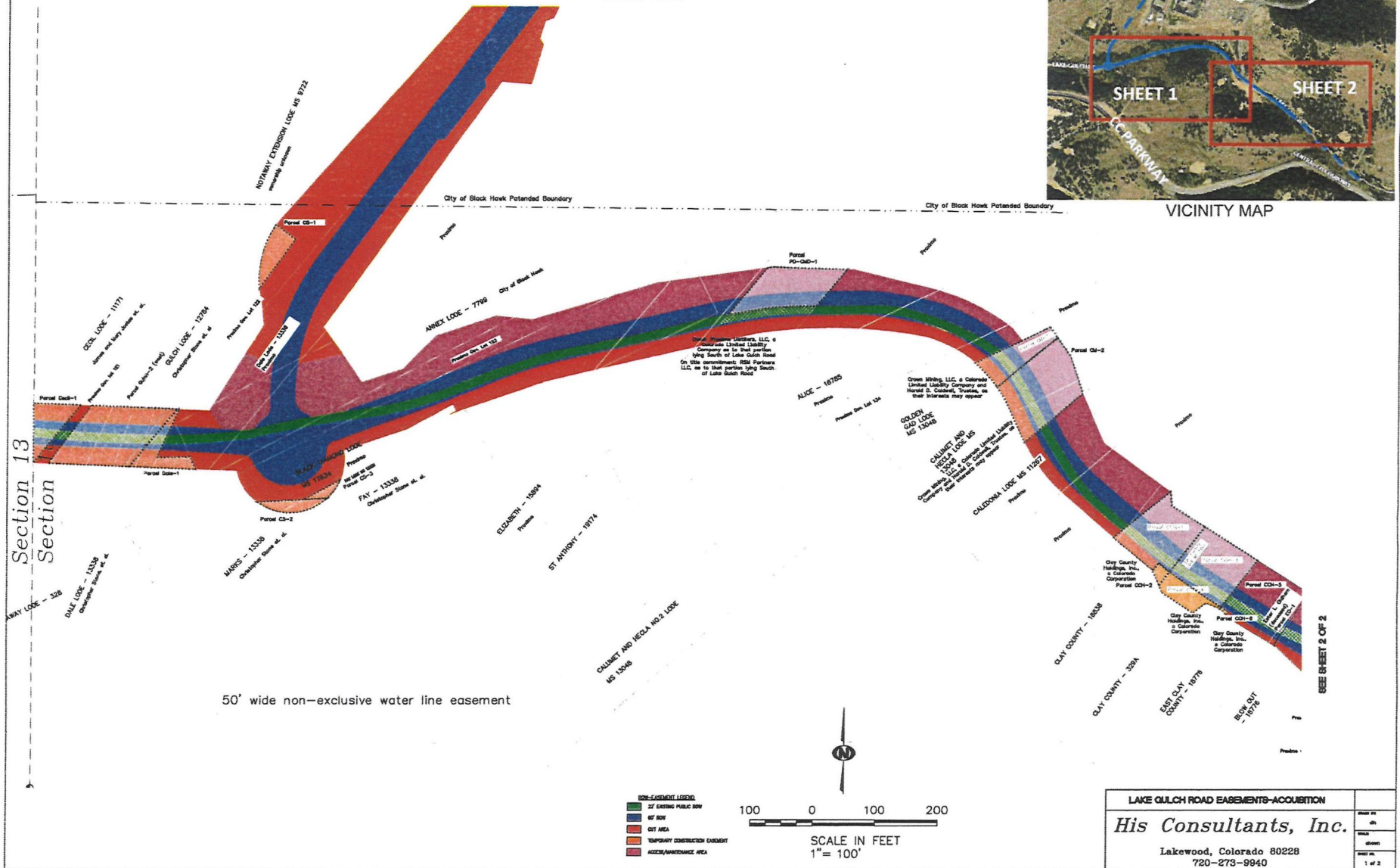
720-273-9940

DATE:	3/02/2023
DRAWN BY:	dih
SCALE:	shown
SHEET NO.	2 of 2

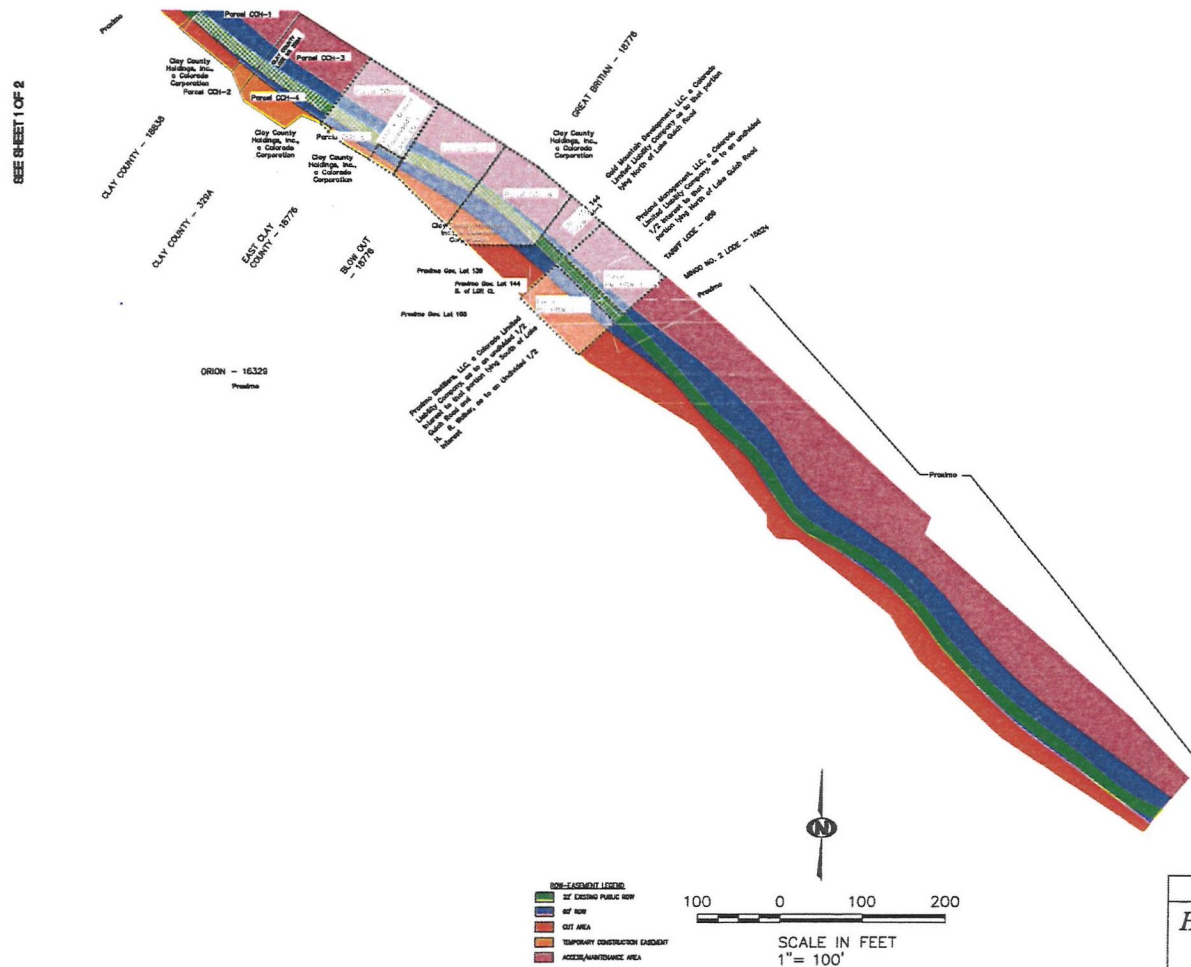
LAKE GULCH ROAD
EASEMENT and ACQUISITION EXHIBIT
Sheet 1 of 2



VICINITY MAP



LAKE GULCH ROAD
EASEMENT and ACQUISITION EXHIBIT
Sheet 2 of 2



CONTRACT TO BUY AND SELL REAL ESTATE

Patrick E. Claycomb as there interest may apply, hereinafter called "Owner", whose address is 8510 E. 29th St N. Apt. 1312 Wichita, KS 67226, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND AND NO/100'S DOLLARS (\$2,000.00)**, *divided amongst all parties*, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

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Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)

WITNESS my hand and seal this 2 day of October, 2023.

OWNER: PATRICK E. CLAYCOMB

Patrick E. Claycomb

STATE OF)
COUNTY OF Buchanan) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 2 day of October, 2023, by Patrick E. Claycomb.

WITNESS my hand and official seal:

My commission expires: October 29, 2023

ABBY LYNN SCHROEDER
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
ANDREW COUNTY
MY COMMISSION EXPIRES: OCT. 29, 2023
COMMISSION # 19930869

Abby Lynn Schroeder
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: _____
David D. Spellman, Mayor

ATTEST:

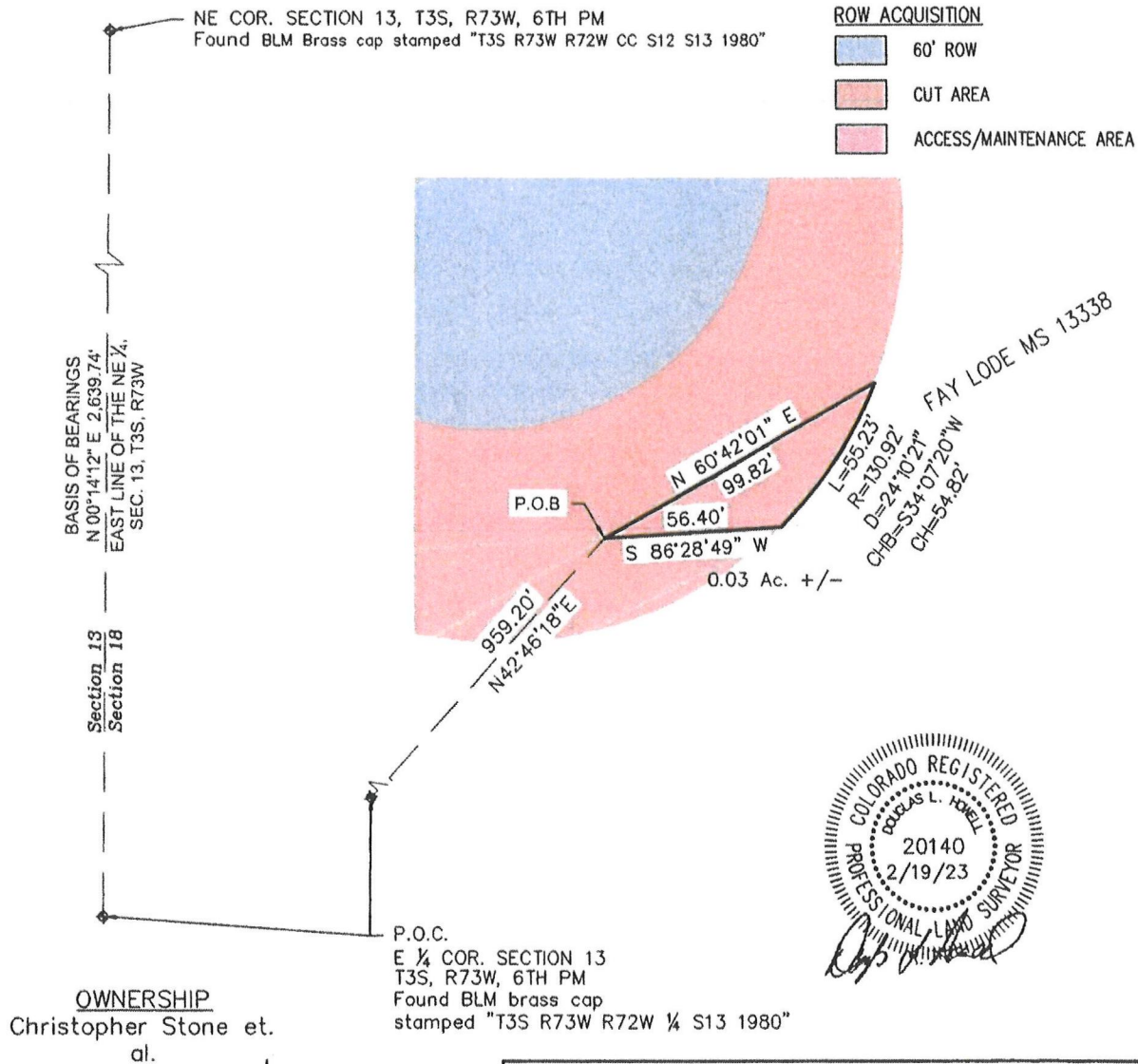
Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODGE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/19/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:
Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00° 14' 12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 42° 46' 18" E a distance of 959.20 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 60° 42' 01" East a distance of 99.82 feet to a point of non-tangent curvature;

Thence 55.23 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 24° 10' 21", and whose chord bears South 34° 07' 20" West, a distance of 54.82 feet to the point of intersection with line 4-3 of the Marks Lode, US Mineral Survey No. 13338;

Thence South 86° 28' 49" West along said line 4-3 a distance of 56.40 feet to the Point of Beginning, containing 0.03 acres, more or less.



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

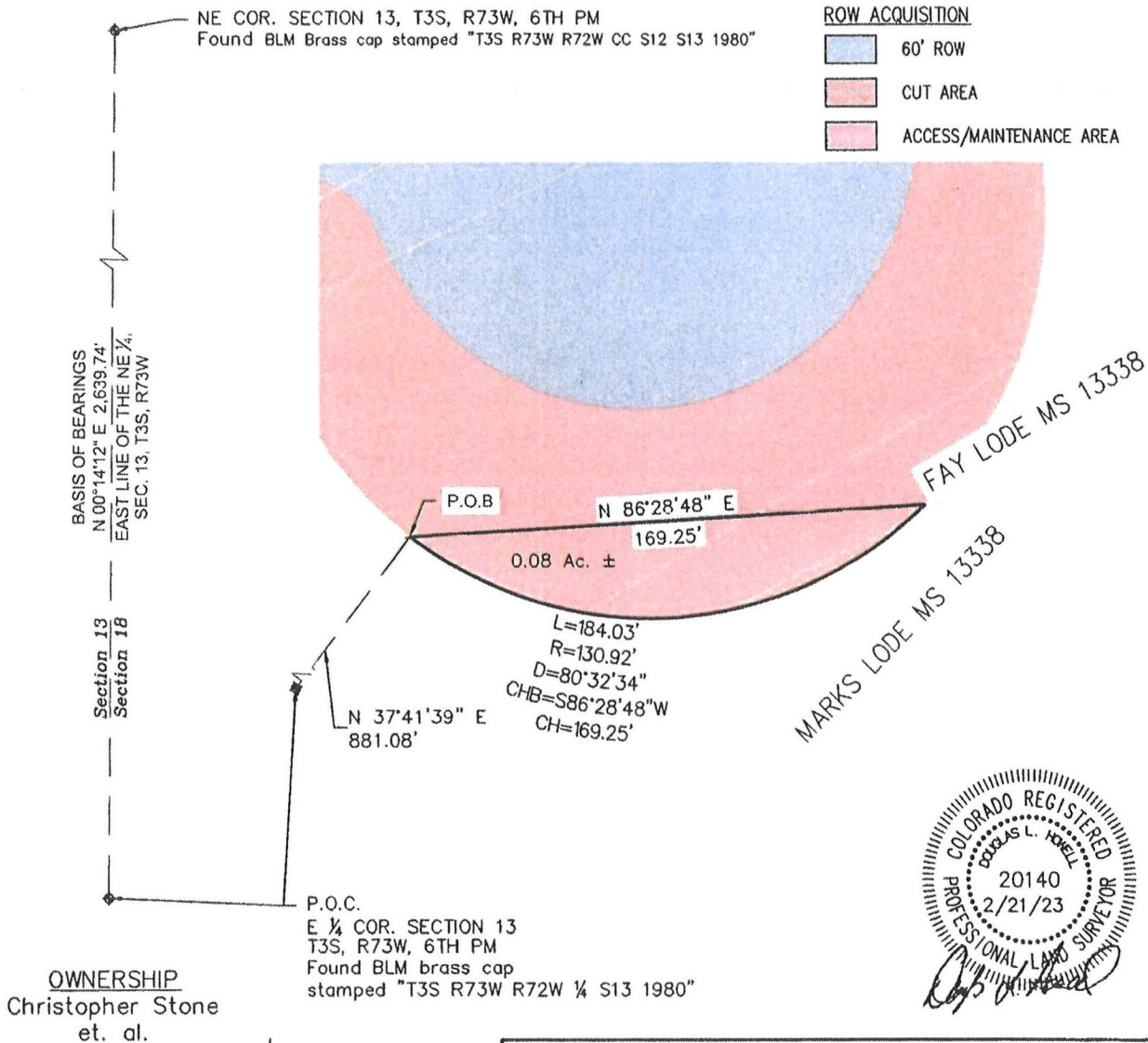
12041 W. Louisiana Ave.
Lakewood, Colorado

720-273-9940

DATE:	2/15/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/21/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00°14'12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 37° 41' 39" E a distance of 881.08 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 86° 28' 48" East along said line 4-3 a distance of 169.25 feet to the point of intersection with line 3-2 of the Fay Lode, US Mineral Survey No. 13338 and a point of non-tangent curvature;

Thence 184.03 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 80° 32' 34", and whose chord bears South 86° 28' 48" West, a distance of 169.25 feet to the Point of Beginning, containing 0.08 acres, more or less.



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	1/13/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

ROW ACQUISITION

 60' ROW

 CUT AREA

 ACCESS/MAINTENANCE AREA

BASIS OF BEARINGS
N 00°14'12" E 2,639.74'
EAST LINE OF THE NE ¼,
SEC. 13, T3S, R73W

Section 13
Section 18

P.O.C. _____
E ¼ COR. SECTION 13
T3S, R73W, 6TH PM
Found BLM brass cap
stamped "T3S R73W
R72W ¼ S13 1980"

OWNERSHIP
Christopher Stone,
et. al.

PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODGE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:

3/03/2023

DRAWN BY:

dlh

SCALE:

shown

SHEET NO.

1 of 2

50' 0 50' 100'

SCALE IN FEET
1" = 50'

376 of 401

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N $00^{\circ}14'12''$ E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N $16^{\circ}40'24''$ E a distance of 817.57 feet to a point on line 3-4 of the Dale Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North $39^{\circ}23'43''$ East along said line 3-4 a distance of 180.05 feet;
Thence South $87^{\circ}48'04''$ East a distance of 3.51 feet to the point of intersection with line 1-2 of the Notaway Extension Lode, US Mineral Survey No. 9722;
Thence South $24^{\circ}10'55''$ West along said line 1-2 a distance of 127.67 feet to a point 30 feet southerly of the Lake Gulch Road Right-of-Way and also along Reception No. 171138;
Thence along said Reception No. 171138 the following 4 courses:
1. South $88^{\circ}22'02''$ East a distance of 0.20 feet;
2. South $89^{\circ}43'04''$ East a distance of 36.54 feet;
3. North $88^{\circ}16'44''$ East a distance of 37.84 feet;
4. North $87^{\circ}31'19''$ East a distance of 4.36 feet to the point of intersection with line 2-3 of the Annex Lode, US Mineral Survey No. 7799;
Thence South $24^{\circ}31'20''$ East along said line 2-3 a distance of 32.51 feet;
Thence North $87^{\circ}51'40''$ West a distance of 157.99 feet to the Point of Beginning, containing 0.15 acres, more or less.

Except the existing Public ROW, Lake Gulch Road as recorded at Reception No. 169027, said road contains 0.02 acres within the parcel, leaving a net parcel area of 0.13 acres, more or less.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

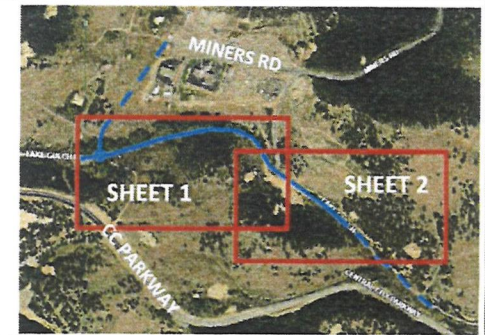
12041 W. Louisiana Ave.

Lakewood, Colorado

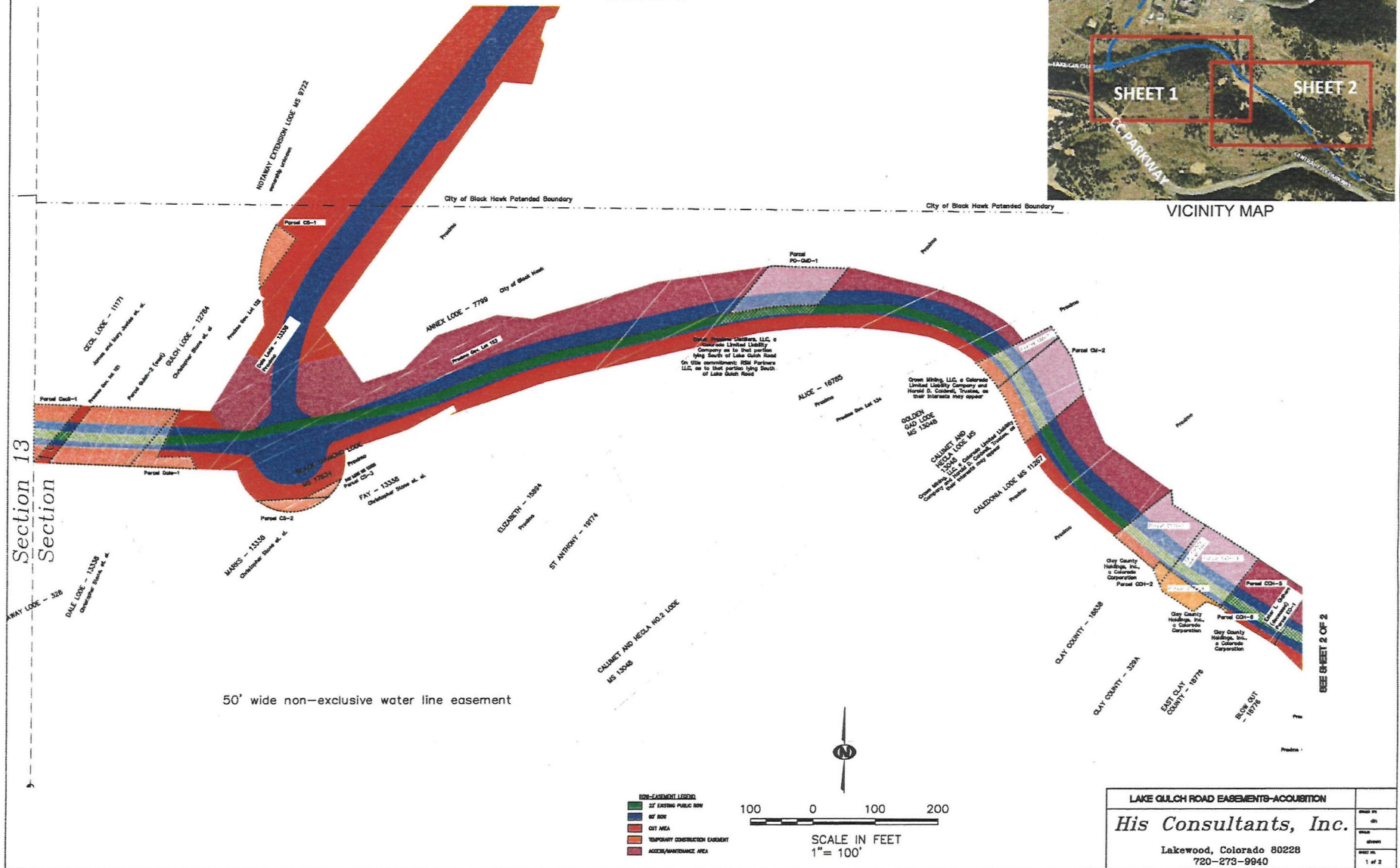
720-273-9940

DATE:	3/02/2023
DRAWN BY:	dlh
SCALE:	shown
SHEET NO.	2 of 2

LAKE GULCH ROAD
EASEMENT and ACQUISITION EXHIBIT
Sheet 1 of 2



VICINITY MAP



<input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court <u>Jefferson</u> County, Colorado Court Address: 100 Jefferson County Parkway, Golden, CO 80401	<div style="text-align: center;">▲ COURT USE ONLY ▲</div> <hr/> Case Number: <div style="font-size: 1.5em; font-weight: bold;">23PR289</div> <hr/> Division 11 Courtroom 140
In the Matter of the Estate of: <u>Roberta J. Henke</u> <u>Roberta Jean Henke</u> <u>Roberta D. Henke</u> <u>Roberta Henke</u> Deceased	
LETTERS <input checked="" type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION	

Gwendolyn C. Henke (name) was appointed or qualified by this court or its registrar on May 30, 2023 (date) as:

- ☒ Personal Representative; or
☐ Successor Personal Representative.

The decedent died on May 20, 2023 (date).


These Letters are proof of the Personal Representative's authority to act pursuant to § 15-12-701, et. seq., C.R.S.

- ☒ The Personal Representative's authority is unrestricted; or
☐ The Personal Representative's authority is restricted as follows:

LETTERS EXPIRE: 05/30/2026

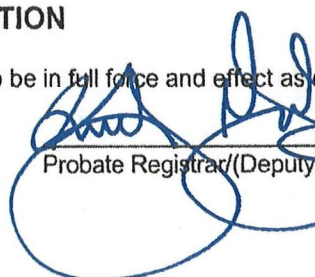
Date: 05/30/2023


 Probate Registrar/(Deputy) Clerk of Court



CERTIFICATION

Certified to be a true copy of the original in my custody and to be in full force and effect as of MAY 30 2023 (date).


 Probate Registrar/(Deputy) Clerk of Court



CLOSURE OF ESTATE NOTICE:
 The Personal Representative (PR) may close an estate by following applicable procedures in JDF 957, 958, or 959. Otherwise, after three years of no action in the Court file, the Court will close the estate without statutory protection for the PR.

<input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court <u>Jefferson</u> County, Colorado Court Address: <u>1550 Jefferson County Parkway, Golden, CO 80401</u>	DATE FILED: February 21, 2023 1:42 PM <div style="text-align: center;">▲ COURT USE ONLY ▲</div> Case Number: <u>2019 PR 60</u> Division <u>11</u> Courtroom
In the Matter of the Estate of: <div style="font-size: 1.5em; font-family: cursive;">Clarence E. Henke</div>	
Deceased	LETTERS <input checked="" type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION

Gwendolyn C. Henke (name) was appointed or qualified by this court or its registrar on Feb. 1, 2019
 _____ (date) as:

- ☒ Personal Representative; or
☐ Successor Personal Representative.

The decedent died on January 5, 2019 (date).

These Letters are proof of the Personal Representative's authority to act pursuant to § 15-12-701, et. seq., C.R.S.

- ☒ The Personal Representative's authority is unrestricted; or
☐ The Personal Representative's authority is restricted as follows:

ESTATE RE-OPENED: MAR. 1, 2022; LETTERS EXPIRE: Feb 21, 2024.

Date: Feb 21, 2023


 Probate Registrar/(Deputy) Clerk of Court



CERTIFICATION

Certified to be a true copy of the original in my custody and to be in full force and effect as of
Feb 21, 2023 (date).


 Probate Registrar/(Deputy) Clerk of Court



CLOSURE OF ESTATE NOTICE:
 The Personal Representative (PR) may close an estate by following applicable procedures in JDF 957, 958, or 959. Otherwise, after three years of no action in the Court file, the Court will close the estate without statutory protection for the PR.

CONTRACT TO BUY AND SELL REAL ESTATE

As there interest may apply, hereinafter called "Owner", The Henke Family Limited Partnership LLLP whose address is 1884 Foothills Drive S, Golden, CO 80401 , in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND FOUR HUNDRED EIGHTY FIVE AND NO/100'S DOLLARS (\$2,485.00)**, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING

(a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on **November 30, 2023** (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder, but specifically excluding any and all mineral interests or mineral rights therein, and any water rights.

2. PRORATIONS

Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE

Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE

Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this

Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

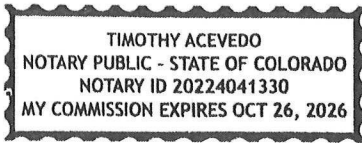
When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)

WITNESS my hand and seal this 31 day of October, 2023.



OWNER: **GWENDOLYN C. HENKE, PERSONAL REPRESENTATIVE OF THE ESTATE OF CLARENCE E. HENKE, DECEASED**

Gwendolyn C. Henke, PREP

STATE OF COLORADO)
COUNTY OF Jefferson) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 31 day of October, 2023, by Gwendolyn C. Henke for The Henke Family Limited Partnership LLLP.

WITNESS my hand and official seal:

My commission expires: 10.26.2026

[Signature]
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

CONTRACT TO BUY AND SELL REAL ESTATE

As there interest may apply, hereinafter called "Owner", The Estate of Clarence E. Henke whose address is 1884 Foothills Drive S, Golden, CO 80401 , in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to **CITY OF BLACK HAWK**, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See **Exhibits A** attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of **TWO THOUSAND FOUR HUNDRED EIGHTY FIVE AND NO/100'S DOLLARS (\$2,485.00)**, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING

(a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on **November 30, 2023** (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder, but specifically excluding any and all mineral interests or mineral rights therein, and any water rights.

2. PRORATIONS

Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE

Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE

Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.

5. LEGAL AUTHORITY OF OWNER

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. REPRESENTATIONS AND WARRANTIES

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. SURVIVAL OF REPRESENTATIONS AND COVENANTS

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. TITLE

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. DEFAULT

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

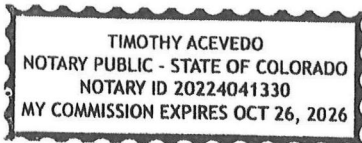
When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)

WITNESS my hand and seal this 31 day of October, 2023.



OWNER: GWENDOLYN C. HENKE, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
CLARENCE E. HENKE, DECEASED

Gwendolyn C. Henke, PREP

STATE OF COLORADO)
COUNTY OF Jefferson) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me
this 31 day of October, 2023, by Gwendolyn C. Henke for The Estate of
Clarence E. Henke.

WITNESS my hand and official seal:

My commission expires: 10.26.2026

[Signature]
Notary Public

CITY OF BLACK HAWK, COLORADO

BY: David D. Spellman, Mayor

ATTEST:

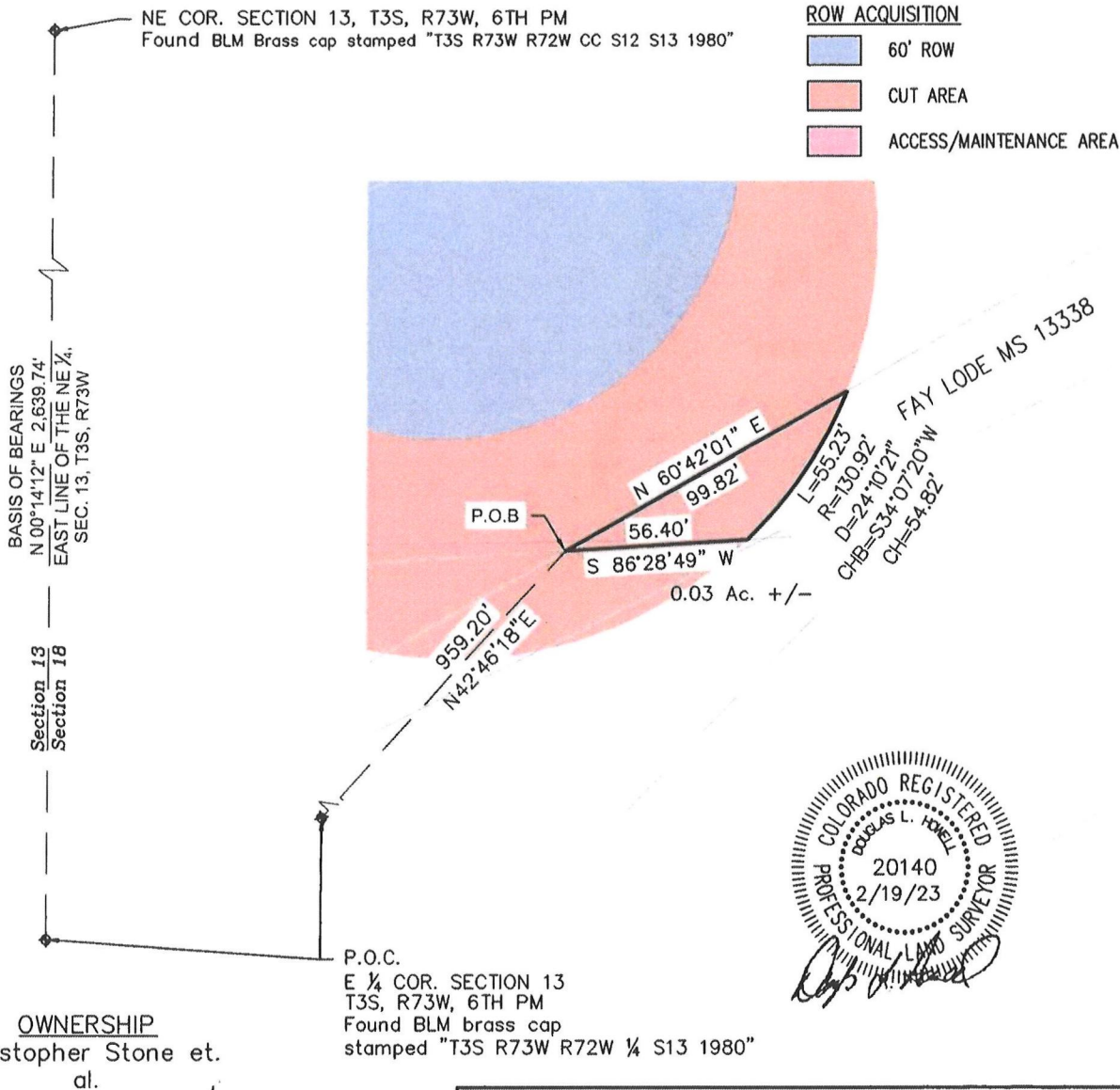
Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

Hi's Consultants, Inc.
12041 W. Louisiana Ave.
Lakewood, Colorado
720-273-9940

DATE:
2/19/2023
DRAWN BY:
DEA
SCALE:
shown
SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:
Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00° 14' 12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 42° 46' 18" E a distance of 959.20 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 60° 42' 01" East a distance of 99.82 feet to a point of non-tangent curvature;

Thence 55.23 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 24° 10' 21", and whose chord bears South 34° 07' 20" West, a distance of 54.82 feet to the point of intersection with line 4-3 of the Marks Lode, US Mineral Survey No. 13338;

Thence South 86° 28' 49" West along said line 4-3 a distance of 56.40 feet to the Point of Beginning, containing 0.03 acres, more or less.



PARCEL DESCRIPTION CS-3
MINERS ROAD R.O.W. WITHIN THE FAY LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

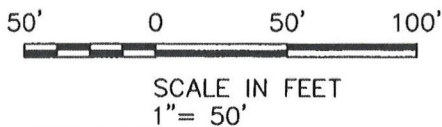
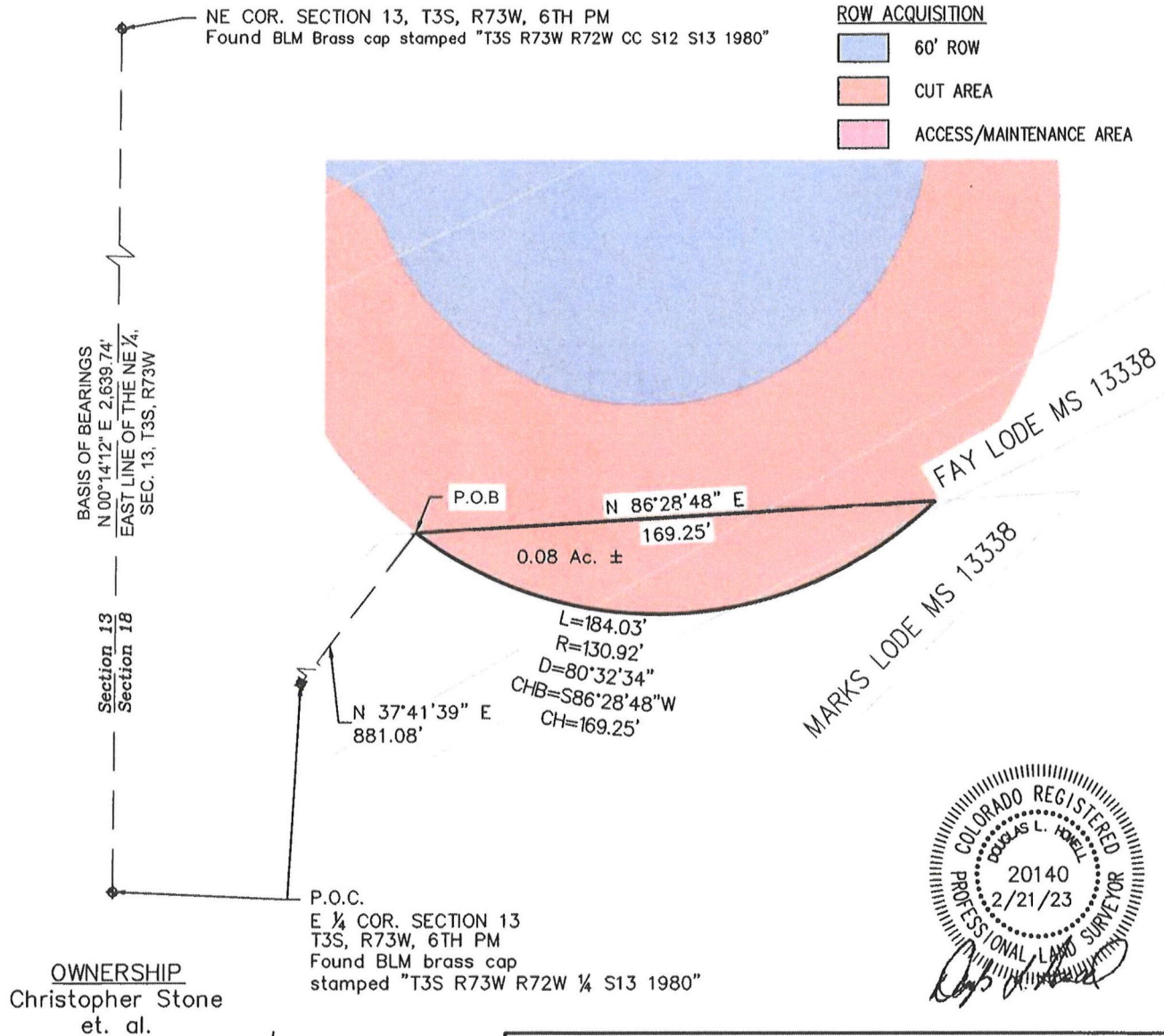
Lakewood, Colorado

720-273-9940

DATE:	2/15/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

H's Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:
2/21/2023

DRAWN BY:
DEA

SCALE:
shown

SHEET NO.
1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:
Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N 00° 14' 12" E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N 37° 41' 39" E a distance of 881.08 feet to a point on line 4-3 of the Marks Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North 86° 28' 48" East along said line 4-3 a distance of 169.25 feet to the point of intersection with line 3-2 of the Fay Lode, US Mineral Survey No. 13338 and a point of non-tangent curvature;

Thence 184.03 feet along the arc of a curve to the right, with a radius of 130.92 feet, a central angle of 80° 32' 34", and whose chord bears South 86° 28' 48" West, a distance of 169.25 feet to the Point of Beginning, containing 0.08 acres, more or less.



PARCEL DESCRIPTION CS-2
MINERS ROAD R.O.W. WITHIN THE MARKS LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	1/13/2023
DRAWN BY:	DEA
SCALE:	shown
SHEET NO.	2 of 2

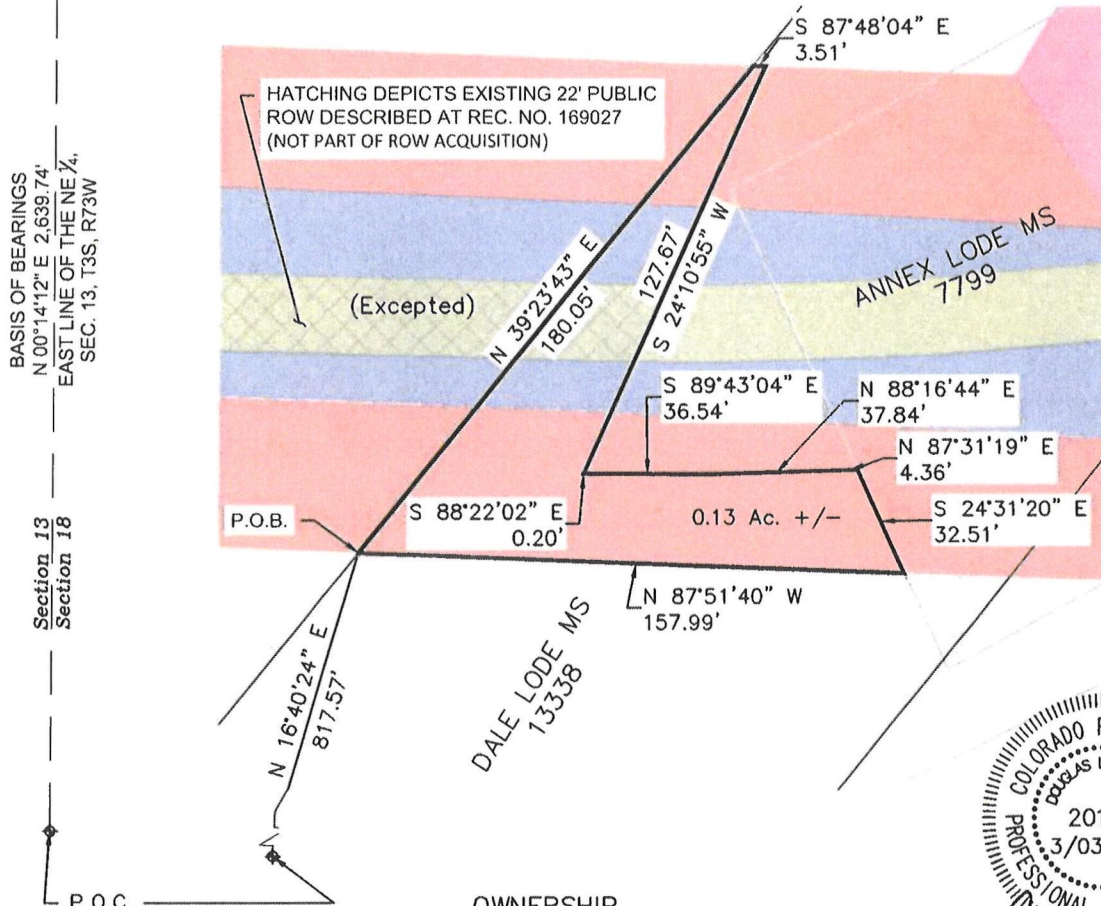
EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

NE COR. SECTION 13, T3S, R73W, 6TH PM
Found BLM Brass cap stamped "T3S R73W R72W CC S12 S13 1980"

ROW ACQUISITION

- 60' ROW
- CUT AREA
- ACCESS/MAINTENANCE AREA



BASIS OF BEARINGS
N 00°14'12" E 2,639.74'
EAST LINE OF THE NE 1/4,
SEC. 13, T3S, R73W

Section 13
Section 18

P.O.C.
E 1/4 COR. SECTION 13
T3S, R73W, 6TH PM
Found BLM brass cap
stamped "T3S R73W
R72W 1/4 S13 1980"



50' 0 50' 100'
SCALE IN FEET
1" = 50'

OWNERSHIP
Christopher Stone,
et. al.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

12041 W. Louisiana Ave.

Lakewood, Colorado

720-273-9940

DATE:	3/03/2023
DRAWN BY:	dlh
SCALE:	shown
SHEET NO.	1 of 2

EXHIBIT "A"

LOCATED IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 72 WEST
OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF GILPIN, STATE OF COLORADO

PARCEL DESCRIPTION

A parcel of land for the purpose of Road Right-of-Way located in Section 18, Township 3 South, Range 72 West of the 6th Principal Meridian, County of Gilpin, State of Colorado, being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of Section 13, T3S, R73W, being a US BLM standard brass cap, stamped "T3S R73W R72W $\frac{1}{4}$ S13 1980" from whence the northeast corner of said Section 13, being a US BLM standard brass cap, stamped "T3S R73W R72W CC S12 S13 1980", bears N $00^{\circ}14'12''$ E, a distance of 2,639.74 feet, said line forming the Basis of Bearing for this description; thence N $16^{\circ}40'24''$ E a distance of 817.57 feet to a point on line 3-4 of the Dale Lode, US Mineral Survey No. 13338, being the Point of Beginning.

Thence North $39^{\circ}23'43''$ East along said line 3-4 a distance of 180.05 feet;

Thence South $87^{\circ}48'04''$ East a distance of 3.51 feet to the point of intersection with line 1-2 of the Notaway Extension Lode, US Mineral Survey No. 9722;

Thence South $24^{\circ}10'55''$ West along said line 1-2 a distance of 127.67 feet to a point 30 feet southerly of the Lake Gulch Road Right-of-Way and also along Reception No. 171138;

Thence along said Reception No. 171138 the following 4 courses:

1. South $88^{\circ}22'02''$ East a distance of 0.20 feet;
2. South $89^{\circ}43'04''$ East a distance of 36.54 feet;
3. North $88^{\circ}16'44''$ East a distance of 37.84 feet;
4. North $87^{\circ}31'19''$ East a distance of 4.36 feet to the point of intersection with line 2-3 of the Annex Lode, US Mineral Survey No. 7799;

Thence South $24^{\circ}31'20''$ East along said line 2-3 a distance of 32.51 feet;

Thence North $87^{\circ}51'40''$ West a distance of 157.99 feet to the Point of Beginning, containing 0.15 acres, more or less.

Except the existing Public ROW, Lake Gulch Road as recorded at Reception No. 169027, said road contains 0.02 acres within the parcel, leaving a net parcel area of 0.13 acres, more or less.



PARCEL DESCRIPTION DALE-1
LAKE GULCH ROAD R.O.W. WITHIN THE DALE LODE
GILPIN COUNTY, COLORADO

His Consultants, Inc.

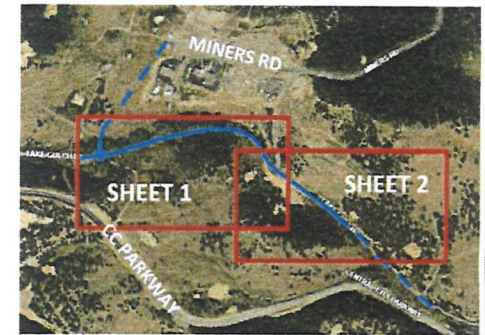
12041 W. Louisiana Ave.

Lakewood, Colorado

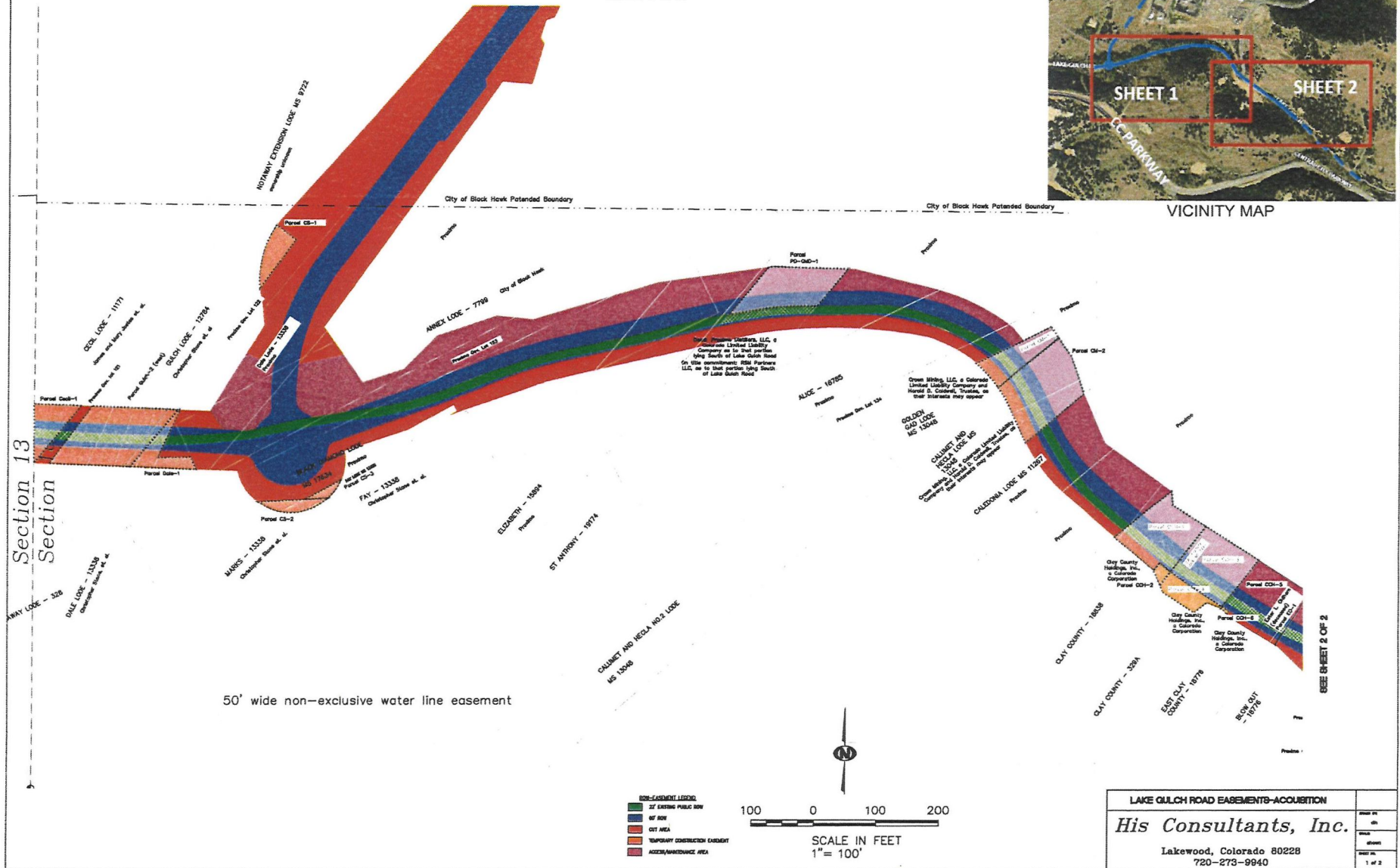
720-273-9940

DATE:	3/02/2023
DRAWN BY:	djh
SCALE:	shown
SHEET NO.	2 of 2

LAKE GULCH ROAD
EASEMENT and ACQUISITION EXHIBIT
Sheet 1 of 2



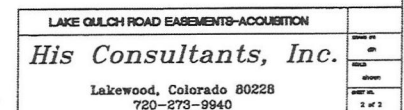
VICINITY MAP



SEE SHEET 2 OF 2

LAKE GULCH ROAD EASEMENTS-ACQUISITION	
<i>His Consultants, Inc.</i>	
Lakewood, Colorado 80228	
720-273-9940	
Sheet No.	1 of 2

SEE SHEET 1 OF 2



RESOLUTION 5-2024
A RESOLUTION
AMENDING THE
COMPENSATION FOR
THE MEMBERS OF THE
HISTORIC
PRESERVATION
COMMISSION

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

Resolution No. 5-2024

**TITLE: A RESOLUTION AMENDING THE COMPENSATION FOR THE
MEMBERS OF THE HISTORIC PRESERVATION COMMISSION**

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

Section 1. The City Council hereby determines to pay the members of the Historic
Preservation Commission as follows:

- A. Regular Members: \$100.00 per meeting, and \$100.00 per training attended;
- B. Alternate Members: \$50.00 per meeting attended unless the alternate sits as a
voting member in a regular member's absence, in which case the alternate receives
\$100.00 per meeting at which he or she sits as a voting member, and \$100.00 per
training attended.

RESOLVED AND PASSED this 10th day of January, 2024.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: A Resolution amending the compensation for the members of the Historic Preservation Commission.

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

MOTION TO APPROVE RESOLUTION 5-2024 is a Resolution amending the compensation for the members of the Historic Preservation Commission.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

On April 22, 2009, the Board of Aldermen adopted Ordinance 2009-13, which created the Historic Preservation Commission (HPC) and enabled the City to become a Certified Local Government (CLG) pursuant to 16 USC §470a(c). For the City to maintain its CLG status, a significant commitment is involved in being a member of the HPC and attending meetings and training.

Because of the significant commitment, the City desired to compensate members of the HPC for attending meetings and training. On August 26, 2009, the City Council adopted Resolution No. 21-2009 that determined to pay the members of the HPC as follows:

- A. Regular Members: \$50.00 per meeting and \$50.00 per training attended;
- B. Alternate Members: \$25.00 per meeting attended unless the alternate sits as a voting member in a regular member's absence, in which case the alternate receives \$50.00 per meeting at which he or she sits as a voting member, and \$50.00 per training attended.

City staff is now requesting that the City Council consider after fourteen (14) years amending the compensation for the members of the HPC as follows:

- A. Regular Members: \$100.00 per meeting and 100.00 per training attended;
- B. Alternate Members: \$50.00 per meeting attended unless the alternate sits as a voting member in a regular member's absence, in which case the alternate receives \$100.00 per meeting at which he or she sits as a voting member, and \$100.00 per training attended.

To maintain its CLG status, the HPC is required to have one (1) meeting per quarter. The adopted meeting schedule for HPC reflects meetings scheduled for the first and third Tuesday of each month if required.

AGENDA DATE: January 10, 2024

WORKSHOP DATE: N/A

FUNDING SOURCE: 203-0000-5025867
Committee Meetings/Training

DEPARTMENT DIRECTOR APPROVAL:

☒ Yes ☐ No

STAFF PERSON RESPONSIBLE:

Cynthia Linker, CP&D Director

DOCUMENTS ATTACHED:

Resolution 5-2024

RECORD:

☐ Yes ☒ No

UPDATE GIS MAP:

☐ Yes ☒ No

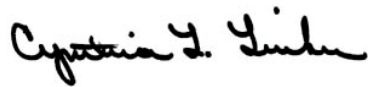
CoBH CERTIFICATE OF INSURANCE REQUIRED

☐ Yes ☒ No

CITY ATTORNEY REVIEW:

☒ Yes ☐ N/A

SUBMITTED BY:



Cynthia L. Linker, CP&D Director

REVIEWED BY:



Stephen N. Cole, City Manager