



REGULAR MEETING AGENDA

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

September 13, 2023
3:00 p.m.

RINGING OF THE BELL:

1. CALL TO ORDER:
2. ROLL CALL & PLEDGE OF ALLEGIANCE:
3. AGENDA CHANGES:
4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)
5. PUBLIC COMMENT: *Please limit comments to 5 minutes*
6. APPROVAL OF MINUTES: August 9, 2023
7. PUBLIC HEARINGS:

None

8. ACTION ITEMS:

- A. Resolution 70-2023, A Resolution Ratifying the Agreement for Professional Services for Holiday Decorations with Alpine Artisan Studios in the Amount Not to Exceed \$199,445.00
- B. Resolution 71-2023, A Resolution Ratifying the Agreement for the Paving of Various City-Owned Properties with Classic Asphalt Solutions, LLC in the Amount Not to Exceed \$97,980.00
- C. Resolution 72-2023, A Resolution Approving the Commercial Lease with Gypsy Soul Quilt Boutique for the Property Located at 221 Gregory Street, Unit C, Black Hawk, Colorado
- D. Resolution 73-2023, A Resolution Approving the Service Agreement Between the City of Black Hawk and Great Plains Communications for Internet Access to City Properties
- E. Resolution 74-2023, A Resolution Reappointing Two (2) Regular Members to the City of Black Hawk Historic Preservation Commission
- F. Resolution 75-2023, 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

9. CITY MANAGER REPORT:

10. CITY ATTORNEY REPORT:

11. 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).

12. ADJOURNMENT:

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

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
City Council**

August 9, 2023

MEETING MINUTES

Ana Cohen from White Construction rang the bell to open the meeting.

1. **CALL TO ORDER:** Mayor Spellman called the regular meeting of the City Council to order on Wednesday, August 9, 2023 at 3:00 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 Commander Cooper, Fire Chief Woolley, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Maintenance Services Manager Jackson, City Engineer Reed, 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. **AGENDA CHANGES:** Deputy City Clerk Martin confirmed there were no agenda changes.

4. **CONFLICTS OF INTEREST:** City Attorney Hoffmann asked Council to declare any Conflicts of Interest on any issue appearing on the agenda this afternoon other than those previous disclosures and conflicts that have already been disclosed and are on file with the City Clerk and Secretary of State. 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.

5. **PUBLIC COMMENT:** Deputy City Clerk Martin confirmed no one had signed up to speak.

6. APPROVAL OF
MINUTES:

July 26, 2023

**MOTION TO
APPROVE**

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

MOTION PASSED

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

7. PUBLIC HEARINGS:

A. CB30, An Ordinance Approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification Between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment

Mayor Spellman read the title and opened the public hearing.

Water Resource Engineer Dallam introduced this item to reimburse review costs from CDPHE to review proposed raw water system improvements, including an infiltration gallery, plant expansion, and a new reservoir complex. He said the City is pursuing a permit from the Corp of Engineers that CDPHE is required to review.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB30, an Ordinance approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment open and invited anyone wanting to address the Board either “for” or “against” the proposed 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 CB30, an Ordinance approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment.

MOTION PASSED

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

B. CB31, An Ordinance Approving the Augmentation Station Lease Agreement Between the City of Black Hawk and the City of Northglenn

Mayor Spellman read the title and opened the public hearing.

Water Resource Engineer Dallam said the City of Black Hawk had a 10-year agreement with the City of Northglenn augmenting for them at the Church Ditch Augmentation Station. That agreement has expired, and this one will continue our relationship with Northglenn and a \$500 payment per year for administration services.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearings on CB31, an Ordinance approving the Augmentation Station Lease Agreement between the City of Black Hawk and the City of Northglenn open and invited anyone wanting to address the Board either “for” or “against” the proposed 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 CB31, an Ordinance approving the Augmentation Station Lease Agreement between the City of Black Hawk and the City of Northglenn.

MOTION PASSED

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

C. CB32, An Ordinance Approving the Property Exchange Agreement Between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC

Mayor Spellman read the title and opened the public hearing.

City Manager Cole explained that when Proximo purchased properties from RSM in 2020, the title search determined that Maverick Gaming owned portions of three of their mining claims. The City facilitated this exchange by conveying .08 acres of City property located at 7315 Black Hawk Boulevard to Maverick to help complete their property, and in turn, Maverick would convey their interest in those three mining claims to Proximo. This exchange will also help the City with future Lake Gulch Road improvements.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearings on CB32, an Ordinance approving the Property Exchange Agreement between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC open and invited anyone wanting to address the Board either “for” or “against” the proposed 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 Bennett to approve CB32, an Ordinance approving the Property Exchange Agreement between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC.

MOTION PASSED

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

8. ACTION ITEMS:

- A. Resolution 62-2023, A Resolution Approving a Temporary Construction Easement Between the City of Black Hawk and the Greiner Family Trust Associated with Improvements to the Property Located at 187 Clear Creek Street
- B. Resolution 63-2023, A Resolution Approving a Temporary Construction Easement Between the City of Black Hawk and the Fellowship Benevolent Corporation Associated with Improvements to the Property Located at 187 Clear Creek Street
- C. Resolution 64-2023, A Resolution Approving a License Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation Associated with Improvements to the Property Located at 187 Clear Creek Street

Mayor Spellman read the titles.

Community Planning & Development Director Linker and White Construction representatives Ryan Meredith and Anna Cohen presented these items. Ms. Linker said they were finally finished with the 187 Clear Creek Street design. She explained that 187 Clear Creek sits directly on their property line, so the first resolution is a temporary construction easement with the Greiner Family Trust for access through their property to 187 Clear Creek. There will be destruction to their yard, which will be replaced when the project is finished.

Resolution 63, she said, is a temporary construction easement with the Fellowship Benevolent Corporation to allow the City onto their property to make the improvements, and Resolution 64 is a perpetual license agreement with the Fellowship Benevolent Corporation to acknowledge the portion of their property that encroaches into the Clear Creek Street right-of-way.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolutions 62-2023, a Resolution approving a Temporary Construction Easement between the City of Black Hawk and the Greiner Family Trust associated with improvements to the property located at 187 Clear Creek Street, Resolution 63-2023, a Resolution approving a Temporary Construction Easement between the City of Black Hawk and the Fellowship Benevolent Corporation associated with

improvements to the property located at 187 Clear Creek Street, and Resolutions 64-2023, a Resolution approving a License Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation associated with improvements to the property located at 187 Clear Creek Street.

MOTION PASSED

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

- D. Resolution 65-2023, A Resolution Approving the Historic Preservation Easement Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation in an Amount Not to Exceed \$948,581.00 for the Property Located at 187 Clear Creek Street**
- E. Resolution 66-2023, A Resolution Approving the Rehabilitation Grant Program Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation in an Amount Not to Exceed \$616,749.00 for the Property Located at 187 Clear Creek Street**
- F. Resolution 67-2023, A Resolution Approving Amendment No. 1 to the Construction Manager/General Contractor Agreement Between the City of Black Hawk and White Construction Group for the Residential Rehabilitation Program Project at 187 Clear Creek Street in an Amount Not to Exceed \$1,565,330.00**

Mayor Spellman read the titles.

Community Planning & Development Director Linker and White Construction representatives Ryan Meredith and Ana Cohen introduced these items. Ms. Linker started with Resolution 67 to explain how they arrived at the Historic Preservation Easement. This amendment, she explained, is for the Guaranteed Maximum Price (GMP) for the construction phase of 187 Clear Creek and the preconstruction design phase only for 121 Marchant. The GMP for 187 Clear Creek includes the exterior preservation easement and the interior rehabilitation grant totaling \$1,565,330.00 for 870SF, which equates to approximately \$1783.00 per SF; the easement piece is \$948,581.00 and the rehabilitation piece is \$616,749.00.

She said she went back to previous projects, and the exterior amount is comparable to what was done in the past. The interior amount of \$616,749.00 includes \$5,354.00 paid directly by the Fellowship as an allowance for upgrades. She said this project has tripled in cost, as rehabilitation projects have typically been around \$2,000.00, but materials and costs of labor have skyrocketed, which will have a bearing on future projects, especially since the homeowner pays tax on the tax, which may be too much to cover in the future. So, in summary, if you take the GMP and add in the original design costs of \$13,719.81, which

includes the change order for the dry utilities, that brings the total of this project up to \$1,579,049.81.

She asked if Council approves Amendment No. 1 that they amend the language regarding the landscaping for 185 Clear Creek to mirror the language in the Temporary Construction Easement, which states the property owner has the option to decline the installation of sod and request the contractor reimburse them directly for all costs associated with the purchase and installation of sod.

Ms. Linker noted the original agreement with White Construction showed both 187 Clear Creek and 121 Marchant beginning together, but this Amendment No. 1 amends the scope of work to show that 121 Marchant is ready to go into their design phase only, with the design to be completed by the end of the year.

The change order for the dry utilities, she explained, was for White Construction to subcontract with Kimley Horn to allow them to work with Xcel Energy, as they have a good working relationship with Xcel. White has found Xcel to be very difficult to work with.

She confirmed the completion date for this project is August 20, 2024.

Resolution 65 is this project's Historic Preservation Easement piece for \$948,581.00, and Resolution 66 is the Rehabilitation Grant Program piece for \$616,749.00, of which \$5,354.00 is paid by the Fellowship Benevolent Corporation.

Alderman Midcap had a few questions on cost and what White Construction thought was the massive increase in prices nowadays, as new construction seems less expensive than rehabilitating historic houses. Mr. Meredith replied that with the onset of COVID-19, there have been shortages in the labor field, longer lead times for material procurement, rush delivery premium charges, and a premium to come up the mountain to Black Hawk. Mayor Spellman noted that this rehabilitation is from the ground up, from the foundation to the roof, with all new utilities, and that this house will be good for another 150 years.

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Moates to approve Resolutions 65-2023, a Resolution approving the Historic Preservation Easement Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation in an amount not to exceed \$948,581.00 for the property located at 187 Clear Creek Street, Resolutions 66-2023, a Resolution approving the Rehabilitation Grant Program Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation in an amount not to exceed \$616,749.00 for the property located at 187 Clear Creek Street, and Resolutions 67-2023, a

Resolution approving Amendment No. 1 to the Construction Manager/General Contractor agreement between the City of Black Hawk and White Construction Group for the Residential Rehabilitation Program Project at 187 Clear Creek Street in an amount not to exceed \$1,565,330.00, with the addition of adding the language about the sod reimbursement, if requested, for 185 Clear Creek..

MOTION PASSED

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

G. Resolution 68-2023, A Resolution Approving the First Addendum to Professional Services Agreement with PEH Architects, Inc. for the Design and Architectural Construction Services Associated with the Restoration and Rehabilitation of 121 Marchant Street in an Amount Not to Exceed \$135,193.00

Mayor Spellman read the title.

Community Planning & Development Director Linker started the conversation by saying that PEH has not changed its prices in years. She said this addendum extends their original agreement by one year, and she has also requested three additional site visits, knowing that 121 Marchant also sits on its property line, and as we enter the construction phase, we may need those extra visits; if they aren't used, then the City won't be charged.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolutions 68-2023, a Resolution approving the First Addendum to Professional Services Agreement with PEH Architects, Inc. for the design and architectural construction services associated with the restoration and rehabilitation of 121 Marchant Street in an amount not to exceed \$135,193.00.

MOTION PASSED

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

H. Resolution 69-2023, A Resolution Approving the City of Black Hawk Fee Schedule, as Amended

Mayor Spellman read the title.

Community Planning & Development Director Linker introduced this housekeeping item to match current conveyance fees.

Deputy City Clerk Martin stated the Change of Liquor Manager fee changed from \$75 to \$30 at the state level, so we'd like to clean that up in our fee schedule as well.

MOTION TO

APPROVE

Alderman Torres **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolutions 69-2023, a Resolution approving the City of Black Hawk Fee Schedule, as amended.

MOTION PASSED

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

Mayor Spellman noted for the record that if Central City continues to pursue its off-highway vehicle licensing plan, the City of Black Hawk will make it clear that our portion of Lake Gulch Road will not be open to off-highway vehicles, and if someone finds themselves on Black Hawk roads that they will be ticketed immediately. He emphasized that the City will not entertain the plan nor embrace it.

9. CITY MANAGER REPORT:

City Manager Cole had a few items to discuss. The first was Christmas decorations that Public Works has been working on. A Request for Council Action was handed out to Council that described the project. There is a timing issue with ordering, so he would like Council's approval to spend \$199,445.00 to get everything ordered and then bring it back on September 13 to ratify the decision. A motion was made by Alderman Bennett, seconded by Alderman Torres, to approve the purchase of the Christmas decorations. Mayor Spellman added that Corey from City Hall is creating two new Christmas themed stand-ins to add to our inventory of decorations.

The second item was to discuss the School of Mines bike race special event application. They are proposing to hold races at Hidden Treasure on October 7-8, and the question is, does Council mind closing the lot and trails for that weekend? There was consensus to close it all for safety as long as they provided ample notice. It was noted this won't happen each time and that the City can be selective in who they close it for. The City has had a relationship with the School of Mines in the past.

Next, as it is late in the season to pave and staff has had trouble getting bids, it was asked that if staff finds a contractor that can move forward before winter to pave JKQ, City Hall, and a portion of Cooper Streets parking lots, to allow staff to move forward by a phone poll with Council and then ratify it at their next Council meeting, all were in agreement.

Lastly, he said there were no items for the August 23rd meeting, so that it would be cancelled.

10. CITY ATTORNEY REPORT:

City Attorney Hoffmann had nothing to report.

11. EXECUTIVE

SESSION: City Attorney Hoffmann recommended item number 5 only for Executive Session regarding instructing negotiators in regards to City-owned property.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:43 p.m. to hold a conference with the City’s Attorney to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).

MOTION PASSED

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

**MOTION TO
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the Executive Session at 4:00 p.m.

MOTION PASSED

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

12. ADJOURNMENT: Mayor Spellman declared the Regular Meeting of the City Council adjourned at 4:00 p.m.

Melissa A. Greiner, CMC
City Clerk

David D. Spellman
Mayor

RESOLUTION 70-2023
A RESOLUTION
RATIFYING THE
AGREEMENT FOR
PROFESSIONAL
SERVICES FOR HOLIDAY
DECORATIONS WITH
ALPINE ARTISAN
STUDIOS IN THE AMOUNT
NOT TO EXCEED
\$199,445.00

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

Resolution No. 70-2023

TITLE: A RESOLUTION RATIFYING THE AGREEMENT FOR PROFESSIONAL SERVICES FOR HOLIDAY DECORATIONS WITH ALPINE ARTISAN STUDIOS IN THE AMOUNT NOT TO EXCEED \$199,445.00.

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

Section 1. The City Council hereby ratifies the Agreement for Professional Services for the holiday decoration manufacture, refurbishment, installation, and maintenance with Alpine Artisan Studios in the amount not to exceed \$199,445.00.

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Christmas Decorations for the 2023-2024 Season -ratification of approval received at 8/9/23 council meeting.

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

MOTION TO APPROVE Resolution 70-2023, a Resolution ratifying the agreement for Professional Services for Holiday Decorations with Alpine Artisan Studios in the amount not to exceed \$199,445.00.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: This agreement will provide funding for the acquisition of new products, replacement of some worn out products, & installation in 2023, maintenance in 2023 & 2024, and removal & refurbishment/cleaning in 2024 including inventory and condition report for the 2023-2024 Season. The work will include installing the same program as last year as well as specifically provide for the acquisition of new garlands & sprays for the Plaza.

In addition, all the new trees on the plaza will be lighted and the catenary lights will have decorations that install over them. Additional sprays and wreaths will also be provided for a couple of the walls on the Plaza. Lighted bows will be installed on every pole in the residential area and the Plaza and the remaining bows will be spaced along Main Street.

AGENDA DATE: September 13, 2023

WORKSHOP DATE: Same

FUNDING SOURCE: 010-1101-411-5827 Holiday Decorations

DEPARTMENT DIRECTOR APPROVAL: [x]Yes []No

STAFF PERSON RESPONSIBLE: Tom Isbester/Gary Pauls

DOCUMENTS ATTACHED: Agreement

RECORD: []Yes [x]No

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

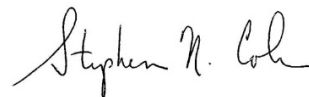
CITY ATTORNEY REVIEW: []Yes []N/A

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 13th day of September, 2023, by and between the **CITY OF BLACK HAWK**, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and **Alpine Artisan Studios** hereinafter referred to as "Contractor").

RECITALS:

A. The City requires professional services for **the ongoing manufacture, refurbishment, installation, maintenance and removal of the annual City Christmas Decorations** (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, **the ongoing manufacture, refurbishment, installation, maintenance and removal of the annual City Christmas Decorations** 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 **One Hundred Ninety-Nine Thousand Four Hundred Forty-Five Dollars** for the work described in **Exhibit A**. Payment shall be made in accordance with the schedule of charges in **Exhibit A-1**. Invoices will be itemized and include hourly breakdown for all personnel and other charges.

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

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

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

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

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

V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by **August 1, 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, defend, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated under this subparagraph VIII.B. to indemnify the City for the negligent acts of the City, its Council members, or any of its officials, officers, directors, agents and employees.

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

IX. INSURANCE

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

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

1. **Worker's Compensation Insurance** to cover obligations imposed by applicable law for any employee engaged in the performance of the work under the Agreement, and Employers Liability Insurance with minimum limits of six hundred thousand (\$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:

Alpine Artisan Studios
1170 W. 120th Ave
Westminster, CO 80234

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

David D. Spellman, Mayor

Melissa A. Greiner, CMC
City Clerk

Corey Y. Hoffmann, City Attorney

By:

Its:

)

) ss.

)

My commission expires: 11-24-2025

Notary Public



EXHIBIT A

2023-2024 Christmas Decorations Program Scope

2023 install (all product from last year)	\$74,668
2023 new product:	
• lights for new trees on Plaza+addnl lights for rest of City due to growth	\$15,813
• Café lights (covers for string lights plaza)	\$6,227
• Plaza fence garland -large span	\$10,830
• Plaza fence garland-small span	\$10,112
• Grand stair décor	\$5,600
• Monument walls small	\$7,005
• Monument wall large	\$6,505
• Wayfinding signs	\$3,362
2024 remove and condition report	\$32,444
2024 refurb and clean	\$26,879
Total	\$199,445

EXHIBIT A-1

NOTES	PAYMENT SCHEDULE		2023				2024				2025				2026			
Tree Lighting to Begin Early October Décor Installation November ALL On Day After Thanksgiving Décor & Tree Lighting Removed After Stock Show or By Mid February Maintenance Twice Per Week from Go Live to Take Down	Removal & Rentals	FEB	prior contract	\$	30,902.21	\$	33,524.62	\$	37,180.24									
	Refurbishment	JUL	prior contract	\$	26,879.38	\$	27,710.70	\$	28,567.73									
	New Product Deposit	AUG	\$	83,165.98	\$	39,174.20	\$	9,637.59	\$	-								
	Services Supplies & Rentals	OCT	\$	17,510.94	\$	19,302.51	\$	20,207.02	\$	-								
	New Product Balance	NOV	\$	83,165.98	\$	39,174.20	\$	9,637.59	\$	-								
	Installation + New Product Services	NOV	\$	52,532.81	\$	57,907.54	\$	60,621.06	\$	-								
	By Year	\$	236,375.69	\$	213,340.03	\$	161,338.58	\$	65,747.97									
	By Season	\$	294,157.28	\$	216,793.76	\$	165,851.24	\$	-									



PAYMENT SCHEDULE





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/28/2023

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 Taggart & Associates, Inc. 1680 38th St. Suite 110 Boulder CO 80301	CONTACT NAME: Wade Kinnison	FAX (A/C, No): 303-442-8822	
	PHONE (A/C, No, Ext): 3034421484	E-MAIL ADDRESS: certificates@taggartinsurance.com	
INSURED Alpine Artisan Studios, LLC 1170 W. 120th Ave. Westminster CO 80234	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Technology Insurance Company, Inc		42376
	INSURER B: The Hanover Insurance Company		22292
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 1385622830

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
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 type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		ZZ4J39588100	5/1/2023	5/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 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 checked="" 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			AW4J39589000	5/1/2023	5/1/2024	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"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			UH4J39588200	5/1/2023	5/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	TWC4234503	4/7/2023	4/7/2024	<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)

City of Black Hawk and its officers and employees are included as additional insured on the General Liability with respect to ongoing and completed operations of the named insured for the certificate holder as required by written contract. General Liability coverage is Primary/Non-Contributory. All policy terms, conditions and exclusions apply.;

CERTIFICATE HOLDER

CANCELLATION

City of Black Hawk
Public Works Director
987 Miners Mesa Road
PO Box 68
Black Hawk CO 80422
USA

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

Wade Kinnison

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RESOLUTION 71-2023
A RESOLUTION
RATIFYING THE
AGREEMENT FOR THE
PAVING OF VARIOUS-
CITY-OWNED
PROPERTIES WITH
CLASSIC ASPHALT
SOLUTIONS, LLC IN THE
AMOUNT NOT TO
EXCEED \$97,980.00

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

Resolution No. 71-2023

**TITLE: A RESOLUTION RATIFYING THE AGREEMENT FOR THE PAVING OF
VARIOUS-CITY-OWNED PROPERTIES WITH CLASSIC ASPHALT
SOLUTIONS, LLC IN THE AMOUNT NOT TO EXCEED \$97,980.00.**

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

Section 1. The City Council hereby ratifies the Agreement for the Paving of the
Crook’s Palace Parking Lot, Cooper Street, and the City Hall Parking Lot with Classic Asphalt
Solutions, LLC in the amount not to exceed \$97,980.00, and authorizes the Mayor to execute the
same on behalf of the City.

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Paving Crooks, Cooper Street and City Hall-ratification of phone poll

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

MOTION TO APPROVE Resolution 71-2023, a Resolution ratifying the agreement for the paving of various City-owned properties with **Classic Asphalt Solutions, LLC** in the amount not to exceed \$97,980.00.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: This agreement will provide for milling and repaving the parking lots at Crooks and City Hall. It will also include the millings removal and prep work and paving of Cooper Street. Work will include striping the lots when paving is completed.

Work is temperature sensitive so we are hoping to get this work done before the weather changes.

Bids were solicited from three contractors:

Classic Asphalt Solutions, LLC	\$97,980
White Construction Group	\$158,532
Metro Pavers	No bid due to being too busy

AGENDA DATE: September 13, 2023

WORKSHOP DATE: Same

FUNDING SOURCE: 305-3101-431-7546 Street Overlay

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ No

STAFF PERSON RESPONSIBLE: Steve Jackson/Tom Isbester

DOCUMENTS ATTACHED: Agreement

RECORD: ☐ Yes ☒ No

CoBH CERTIFICATE OF INSURANCE REQUIRED ☒ Yes ☐ No

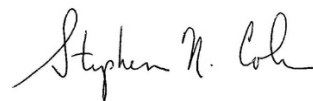
CITY ATTORNEY REVIEW: ☐ Yes ☐ N/A

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 13th day of September, 2023, by and between the **CITY OF BLACK HAWK**, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and **Classic Asphalt Solutions, LLC** hereinafter referred to as "Contractor").

RECITALS:

A. The City requires professional services for **the milling, preparation, paving and striping of the Crooks Parking lot, City Hall Parking lot and Cooper Street.** (the Project").

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

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City, **the milling, preparation, paving and striping of the Crooks Parking lot, City Hall Parking lot and Cooper Street** 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 **Ninety-Seven Thousand Nine Hundred Eighty Dollars (\$97,980.00)** for the work described in the proposals. Payment shall be made in accordance with the schedule of charges on the proposals. Invoices will be itemized and include hourly breakdown for all personnel and other charges.

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

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

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

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

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

V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by **November 1, 2023**.

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

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

IX. INSURANCE

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

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

1. **Worker's Compensation Insurance** to cover obligations imposed by applicable law for any employee engaged in the performance of the work under the Agreement, and Employers Liability Insurance with minimum limits of six hundred thousand (\$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:

Classic Asphalt Solutions, LLC
500 Wellington Mine Road
P.O. Box 697
Central City, CO 80427

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, CMC
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

Classic Asphalt Solutions, LLC

By: David Bybee

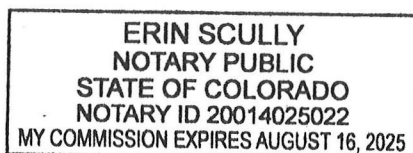
Its: [Signature] CEO/FOUNDER

STATE OF COLORADO)
COUNTY OF Gilpin) ss.
)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 5 day
of September, 2023, by
David Bybee as the CEO of
Classic Asphalt Solutions, LLC

My commission expires: 8/16/25

(S E A L)



[Signature]
Notary Public



500 Wellington Mine Road
P.O. Box 697
Central City, CO 80427
303-704-0502
crgil989@yahoo.com

ESTIMATE AND/OR CONTRACT

Name: CITY OF BLACK HAWK
Address: JKQ
City: BLACK HAWK
State: CO
Zip Code: 80422

Date: 8/31/23
Cell Phone: _____
Evening Phone: 303-582-2277
E-mail: _____
Approx. Start Date: 8-23-23

Engineer/Design: _____

Phone: _____

CLASSIC SERVICES LLC to furnish all material & labor.

COLD PLANE PARKING LOT 1 1/2"
TACK ENTIRE PARKING LOT
ADD APPROX 2" OF ASPHALT
TAPER LEVEL AS NEEDED
ROLL & COMPACT AS NEEDED
1/2 ASPHALT AGGREGATE

WORK WITH JKQ TO WORK AT NIGHT OR CLOSE FOR
ONE DAY TO PAVE

STRIPED PARKING LOT APPROX 26 SPACES
2 ADA
JKQ ONLY STENCIL

TAX EXEMPT

CLASSIC SERVICES LLC
500 Wellington Mine Road
Central City, CO 80427

I/We the OWNER agree to pay upon completion the sum of

48835.00

By: _____
(Authorized Agent)

(Purchaser)

(Purchaser)

Date: _____

(See reverse for terms and conditions)



500 Wellington Mine Road
P.O. Box 697
Central City, CO 80427
303-704-0502
crgi1989@yahoo.com

ESTIMATE AND/OR CONTRACT

Name: CITY OF BLACKHAWK
Address: CITY OF BLACKHAWK
City: BLACK HAWK
State: CO
Zip Code: 80422

Date: 8-3-23
Cell Phone: _____
Evening Phone: 3-582-2277
E-mail: _____
Approx. Start Date: 8/23/23

Engineer/Design: _____

Phone: _____

CLASSIC SERVICES LLC to furnish all material & labor.

COLD PLANE PARKING LOT 1 1/2"
TACKS ENTIRE PARKING LOT
ADD APPROX 2" OF ASPHALT
TAPER - LEVEL AS NEEDED
Roll - COMPACT AS NEEDED
1/2 ASPHALT AGGREGATE

STRIPE PARKING LOT 1 ADI
8 PARKING SPOTS
11 BALLOONS

TAX EXEMPT

CLASSIC SERVICES LLC
500 Wellington Mine Road
Central City, CO 80427

I/We the OWNER agree to pay upon completion the sum of

23367.00

By: _____
(Authorized Agent)

(Purchaser)

(Purchaser)

Date: _____

(See reverse for terms and conditions)



500 Wellington Mine Road
P.O. Box 697
Central City, CO 80427
303-704-0502
crgi1989@yahoo.com

ESTIMATE AND/OR CONTRACT

Name: CITY OF BLAICHAWIK Date: 8-2-23
Address: RED VOLLY Cell Phone: 3-582-2277
City: BLAICHAWIK Evening Phone: _____
State: CO E-mail: _____
Zip Code: 80422 Approx. Start Date: 8-23-23

Engineer/Design: _____

Phone: _____

CLASSIC SERVICES LLC to furnish all material & labor.

3' ASPHALT TO ROAD
TAPER: LEVEL AS NEEDED
ROLL & COMPACT AS NEEDED
1/2" GRADING: PREP INCLUDED
1/2 ASPHALT AGGREGATE

TEAR OUT OLD ASPHALT AS NEEDED: DISPOSE

STRIDE 5 SPACES
1 ADA

TAX EXEMPT

CLASSIC SERVICES LLC
500 Wellington Mine Road
Central City, CO 80427

I/We the OWNER agree to pay upon completion the sum of

25778

By: _____
(Authorized Agent)

(Purchaser)

(Purchaser)

Date: _____

(See reverse for terms and conditions)

RESOLUTION 72-2023
A RESOLUTION
APPROVING THE
COMMERCIAL LEASE
WITH GYPSY SOUL QUILT
BOUTIQUE FOR THE
PROPERTY LOCATED AT
221 GREGORY STREET,
UNIT C, BLACK HAWK,
COLORADO

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 72-2023

**TITLE: A RESOLUTION APPROVING THE COMMERCIAL LEASE WITH
GYPSY SOUL QUILT BOUTIQUE FOR THE PROPERTY LOCATED AT
221 GREGORY STREET, UNIT C, BLACK HAWK, COLORADO**

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 Commercial Lease with Gypsy Soul
Quilt Boutique, for the property located at 221 Gregory Street, Unit C, Black Hawk, Colorado,
attached as **Exhibit A**, and authorizes the Mayor to sign the Commercial Lease on behalf of the
City.

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Commercial Lease with Gypsy Soul Quilt Boutique for the Property Located at 221 Gregory Street, Unit C, Black Hawk, Colorado.

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

MOTION TO APPROVE: Resolution 72-2023, a Resolution approving the Commercial Lease with Gypsy Soul Quilt Boutique for the Property located at 221 Gregory Street, Unit C, Black Hawk, Colorado.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The attached Commercial Lease has a term of 36 months, expiring on September 30, 2026. The monthly rent of \$597.00 is based on \$0.50 per square foot. This lease contains a number of provisions, including a rent credit for anticipated disruption due to adjacent construction, an allowance for tenant improvements, and standards of operations, including expected minimum operating hours.

AGENDA DATE: September 13, 2023

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ No

STAFF PERSON RESPONSIBLE: Lance Hillis, Finance Director

DOCUMENTS ATTACHED: Commercial Lease

RECORD: ☐ Yes ☒ No

CITY ATTORNEY REVIEW: ☒ Yes ☐ N/A

SUBMITTED BY:

Lance Hillis

Lance Hillis, Finance Director

REVIEWED BY:

Stephen N. Cole

Stephen N. Cole, City Manager

Commercial Lease

This Lease is made between the City of Black Hawk, herein called the City, and Gypsy Soul Quilt Boutique, herein called Tenant. Tenant hereby offers to lease from City the premises situated in the City of Black Hawk, County of Gilpin, State of Colorado, and more particularly described as described as 221 Gregory Street, Unit C, Black Hawk, Colorado 80422, (Approx. 1,194 Rentable Square Feet) (the "Premises") upon the following TERMS and CONDITIONS:

1. Term; Renewal; Rent; Termination.

A. Term. City demises the above Premises for an initial term commencing on September 13, 2023, and expiring on September 30, 2026.

B. Renewal. Provided that Tenant is not in default of any terms or conditions of this Lease including, but not limited to the Standards of Operation set forth herein, Tenant and City agree to initiate renewal negotiations within the final sixty (60) days of the Lease, and such renewal option shall include the ability to renew for one (1) additional three (3) year term, which renewal option shall include the continuation of the Sales Tax Credit set forth in subsection E. of this Section 1 below.

C. Rent. Subject to the provisions of subsections D and E of this Section 2, Tenant shall pay rent to City in the amount of Five Hundred & Ninety-Seven dollars (\$597.00) per month for the first twelve months of this lease in advance on the first day of each month for that month's rental, during the term of this lease. Tenant shall upon execution of this Agreement pay an amount equal to the first month's rent, which shall constitute payment for the aforesaid first month's rent. The total amount of the first month's rent shall be Forty-Eight Dollars (\$48.00), which total amount takes into account the application of the disruption credit set forth in subsection D of this Section below. All rental payments shall be made to City, at the address of P.O. Box 68, Black Hawk, Colorado 80422, or such other location or in such other manner as may be mutually agreed upon by the Parties. Tenant shall also pay any possessory taxes which may be assessed against the Premises pursuant to Section 17 of this Lease. Commencing on the one-year anniversary of this lease and on each annual anniversary thereafter during the lease term, the rent shall be adjusted to include the most recent annual Denver-Aurora-Lakewood Consumer Price Index for All Urban Consumers.

D. Disruption Credit. The Tenant shall be entitled to a credit towards the monthly lease payment in an amount equal to Five Hundred and Forty-Nine Dollars (\$549.00). This credit is for the disruption and inconvenience anticipated along Gregory Street for the rehabilitation of 271 Gregory Street. The disruption credit will expire on December 31, 2024. Commencing on the one-year anniversary of this lease, the disruption credit shall increase by an amount equal to the Consumer Price Index adjustment pursuant to Section 1.C.

E. Sales Tax Credit. Upon expiration of the Disruption Credit, the Tenant shall be entitled to a credit towards the monthly lease payment in an amount equal to the average monthly City sales tax collected at the location for the previous twelve-month period ending December 31.

F. Damage Deposit. Tenant shall upon execution of this Lease provide a deposit in the amount of Five Hundred Dollars (\$500.00) as security against damage to the Premises, normal wear and tear excepted.

G. Termination. City and Tenant may terminate this Lease upon ninety (90) days written notice with cause or at any earlier time upon mutual agreement between both parties. Tenant may terminate this lease at any time without cause by providing City with one hundred twenty (120) days' advance written notice.

H. Holding Over. If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of the City, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, this Lease and such month-to-month tenancy shall be subject to every other term, covenant, and agreement contained herein. A hold over monthly rental payment of the most recent monthly rent plus the current annual Denver-Aurora-Lakewood Consumer Price Index for All Urban Consumers shall be paid by Tenant to the City in advance on the first (1st) day of each calendar month in which the hold over continues.

I. Build-Out Allowance. The Tenant is entitled to and the City shall pay Tenant improvements in the form of a Build-Out Allowance in an amount not to exceed Five Thousand Two Hundred and Twenty-Eight Dollars (\$5,228.00). Specific Tenant improvements and eligibility for the allowance will be approved by the City in advance. Additionally, improvements must be completed by November 30, 2024. Building Permits must be obtained and work must be performed by Licensed Contractors, when applicable. All improvements covered by this allowance are the property of the City and will remain on the premise at the conclusion of the lease.

2. Use.

A. Use as a Retail Store. Tenant shall use and occupy the Premises for a retail establishment and other associated permitted activities. Tenant further covenants and agrees that the use of the Premises shall be at all times in accordance with applicable zoning regulations of the City. Moreover, the Parties hereto acknowledge and agree that the Premises do not include any parking spaces for the exclusive use of the Tenant. Tenant shall not use the Premises for the purposes of storing, manufacturing or selling any explosives, flammables, or other inherently dangerous substance, chemical, thing, or device

B. Standards of Operation. It is the expectation of the City that the Tenant have the building open to walk-up foot traffic during set retail hours for the majority of the week, with the goal of having overlapping hours with the other tenants of Gregory Street where possible.

Peak Season: From May 1 – October 31, tenants on Gregory Street shall be open to the public at least six days per week (Wednesday – Monday). Furthermore, at a minimum, operating hours should be from 11:00 am to 7:00 pm.

Off Season: From November 1 – April 30, tenants on Gregory Street shall be open to the public at least five days per week (Thursday – Monday). Furthermore, at a minimum,

operating hours should be from 11:00 am to 5:00 pm. Provided however, such Standards of Operation shall be subject to a Good Faith Effort in the Off Season by Tenant to conform to the hours, but the Parties recognize that weather and staffing may be impacted by such weather and unavoidable disruptions.

Holidays: In addition, Tenant shall be open on state and federal holidays, regardless of the day of the week upon which the holiday is celebrated, unless Tenant receives prior approval from the City to remain closed on such a holiday.

C. In consideration for the Tenant's use described herein, the City agrees it will not lease space in the HARD District to businesses that have the same primary retail business as Tenant's business.

3. **Care and Maintenance of Premises.** Tenant acknowledges that the Premises are in good order and repair, unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the Premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations, and any other system or equipment upon the Premises and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the heating & cooling systems, water heater, roof, exterior walls, and structural foundations, which shall be maintained by City.

4. **Tenant Improvements and Alterations.**

A. Tenant Improvements. The Premises shall be delivered as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference.

B. Suitability. As of the date of the execution of this Lease, Tenant has inspected the physical condition of the Premises and has received the same in "as is" condition. THE CITY MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE CONDITION OR STATE OF THE PREMISES OR ITS FITNESS OR AVAILABILITY FOR ANY PARTICULAR USE, AND THE CITY SHALL NOT BE LIABLE TO TENANT FOR ANY LATENT OR PATENT DEFECT THEREON. Tenant may use said Premises for the uses specified in this Lease, so long as such uses conform with zoning and use restrictions of all authorities affecting the Premises, and Tenant will not do, or permit to be done, any action or thing which is contrary to any legal or insurable requirement, or which constitutes a public or private nuisance or waste.

C. Alterations. Tenant shall not, without first obtaining the written consent of City, which shall not be unreasonably withheld, make any alterations, additions, or improvements, in, to, or about the Premises. Tenant shall not suffer nor permit any mechanic's liens or public works claims to be filed against the Premises by reason of work, labor, service or materials supplied or claimed to have been supplied to Tenant as a result of an agreement with, or the assent of Tenant. Nothing in this Lease shall be construed as constituting the consent or request of City, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for any specific improvement,

alteration, or repair of or to the Premises or any part thereof. Nothing in this Lease shall be construed as giving Tenant any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's liens or public works claims against City's interest in the Premises. If any such mechanic's lien or public works claims shall at any time be filed against the Premises, Tenant shall cause the same to be discharged of record within thirty (30) days after the date Tenant has knowledge of such filing. If Tenant shall fail to discharge such mechanic's lien or public works claims within such period, then, in addition to any other right or remedy of City, City may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien. However, Tenant shall not be required to pay or discharge any such mechanic's lien or public works claims so long as Tenant shall in good faith proceed to contest the same by appropriate proceedings; provided, however, Tenant shall give notice in writing to City of its intention to contest the validity of such lien and/or claim.

5. **Ordinances and Statutes.** Tenant shall comply with all statutes, ordinances, and requirements of all municipal, state, and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Tenant.

6. **Assignment and Subletting.** Tenant shall not assign this lease or sublet any portion of the Premises without prior written consent of the City. Any such assignment or subletting without consent shall be void and, at the option of the City, may terminate this lease.

7. **Utilities.** The Tenant shall be responsible for gas, electric and water services. These utilities will remain in the name of the City and will be charged back to the Tenant on a monthly basis. Tenant shall also be responsible in its own name for telephone/cable/data/internet/satellite service, equipment, and repairs if such services are determined to be necessary by Tenant.

8. **Entry and Inspection.** Tenant shall permit City or City's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit City at any time within sixty (60) days prior to the expiration of this lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

9. **Possession.** If City is unable to deliver possession of the Premises at the commencement hereof, City shall not be liable for any damage caused thereby, nor shall this lease be void or voidable, but Tenant shall not be liable for any rent until possession is delivered.

10. **Indemnification.** Tenant agrees that City shall not be liable for any damage, either to person or persons or property or the loss of property sustained by Tenant or City or by any other person or persons due to the use of the Premises, due to the happening of any accident, or due to any act or neglect of Tenant, or any occupant of the Premises, or the use or misuse of any instrumentality or agency in or connected with the Premises, or occasioned by any nuisance made or suffered thereon. Tenant agrees to save City harmless thereon and therefrom, and to indemnify City on account thereof.

11. **Insurance.**

A. Tenant (for itself and on behalf of anyone claiming through or under it by way of subrogation or otherwise) hereby waives any rights it may have against City, City's servants, agents, and employees, on account of any loss or damage occasioned to Tenant, as the case may be, its respective property, the Premises or its contents, the common areas, parking lots, and sidewalks located adjacent to the Premises or to the other improvements of the Premises arising from any risk and to the extent covered by fire and extended coverage insurance, provided that such waiver does not invalidate such policies or prohibit recovery thereunder.

B. Tenant further covenants and agrees that from the date hereof Tenant will procure and maintain throughout the term, at its sole cost and expense, the following types of insurance in the amounts specified and, in the form, hereinafter provided:

i Comprehensive broad form general public liability insurance protecting the Premises and Tenant's use thereof against claims for personal injury and death occurring upon, in or about the Premises, such insurance to afford protection with limits as follows:

- (A) One Million Dollars (\$1,000,000) per Occurrence;
 - (B) Two Million Dollars (\$2,000,000) General Aggregate;
 - (C) One Million Dollars (\$1,000,000) Products/Completed Operations;
 - (D) Two Million Dollars (\$1,000,000) Products/Completed Operations Aggregate;
 - (E) One Million Dollars (\$1,000,000) Personal and Advertising Injury;
- and
- (F) One Million Dollars (\$1,000,000) Damage to Premises Rented to You.

ii. Workers' compensation insurance covering all persons employed for such work.

iii. During the course of any construction or repair of improvements on the Premises initiated by Tenant, Tenant shall provide "Builders Risk Insurance" or an Installation Floater

C. All policies or insurance provided for in this Section 11 shall be issued by solvent and responsible insurance companies licensed to do business in the State of Colorado with a general policy holder's rating of not less than "A" and a financial rating of "AAA", as rated in the most current available "Bests" Insurance Reports, and qualified to write such policies in the State of Colorado. Each policy shall be issued in the name of the Tenant, and their designees, and shall list the City as an Additional Insured. Said policies shall be for the mutual and joint benefit and protection of City and Tenant and such policy of insurance, or a certificate thereof, shall be delivered to each of City and any such other parties in interest prior to the commencement of the term and thereafter within thirty (30) days prior to the expiration of each policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. All such policies of insurance shall contain

provisions that (a) the company writing said policy will give to City and such other parties in interest at least thirty (30) days' notice in writing in advance of any cancellations or lapses, or the effective date of any reduction in the amounts of insurance; and (b) the insurer waives the right of subrogation against City and against City's agents and representatives. All such public liability, property damage, and other casualty policies shall be written as primary policies which do not contribute to and are not in excess of coverage which City may carry. All such public liability and property damage policies shall contain a provision that City and any such other parties in interest, although named as an insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its servants, agents, and employees by reason of the negligence of Tenant. Tenant's failure to provide and keep in force any of the insurance policies required hereunder shall be regarded as a material default hereunder, entitling City to exercise any or all of the remedies provided in this Lease in the event of Tenant's default.

D. The placement of any insurance by Tenant shall not be construed as any waiver or modification of City's rights under the Colorado Governmental Immunity Act.

12. **Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Tenant's use of the Premises, shall be taken by eminent domain, this lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Tenant. Tenant shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Tenant may file a claim for any taking of fixtures and improvements owned by Tenant, and for moving expenses.

13. **Destruction of Premises.** In the event of a partial destruction of the Premises during the term hereof, from any cause, City shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this lease, except that Tenant shall be entitled to a proportionate reduction of rent, beginning with the date of the partial destruction, while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Tenant on the Premises. If such repairs cannot be made within said sixty (60) days, City, at his option, may make the same within a reasonable time, this lease continuing in effect with the rent proportionately abated beginning with the date of the partial destruction, and in the event that City shall not elect to make such repairs which cannot be made within sixty (60) days, this lease may be terminated at the option of either party. In the event that the building in which the demised Premises may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, City may elect to terminate this lease whether the demised Premises be injured or not. A total destruction of the building in which the Premises may be situated shall terminate this lease.

14. **Guaranty of Lease.** The undersigned does hereby personally guarantee to City and to its successors or assigns the prompt payment of all amounts due from Tenant to City under this Lease. To guaranty such performance, Tenant shall provide upon approval of this Lease the amount of Two Thousand Five Hundred Dollars (\$2,500.00) as a personal guaranty. Such personal guaranty shall only be utilized by the City in the event Tenant terminates the Lease without the one hundred twenty (120) days' notice required by Section 2. subsection F of this Lease. So long as Tenant remains in compliance with the terms of the Lease as it relates to notice of termination,

said personal guaranty shall be returned to Tenant at the termination of the Lease, without any interest accruing thereon.

15. **Inspection of Records.** City shall have the right, upon reasonable notice to inspect the records of Tenant, including the financial records of Tenant so long as said inspection is reasonably related to a business or municipal purpose of the City pursuant to the terms of this Lease.

16. **City's Remedies on Default.** If Tenant defaults in the payment of rent, or any additional rent, or defaults in the performance of any of the other covenants or conditions hereof, City may give Tenant notice of such default and if Tenant does not cure any such default within thirty (30) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Tenant does not commence such curing within thirty (30) days and thereafter proceed with reasonable diligence, in good faith to cure such default), then City may terminate this lease on no less than fifteen (15) days' notice to Tenant. On the date specified in such notice the term of this lease shall terminate, and Tenant shall then quit and surrender the Premises to City, without extinguishing Tenant's liability. If this lease shall have been so terminated by City, City may at any time thereafter resume possession of the Premises by any lawful means and remove Tenant or other occupants and their effects. No failure to enforce any term shall be deemed a waiver.

17. **Taxes.**

A. Real Property Taxes. Tenant shall pay all real property taxes, general, and special assessments ("real property taxes"), levied and assessed against the Premises.

B. Tax Increase. In the event there is any increase during any year of the term of this lease in the City, County or State real estate taxes over and above the amount of such taxes assessed for the tax year during which the term of this lease commences, whether because of increased rate or valuation, Tenant shall pay to City upon presentation of paid tax bills an amount equal to one hundred percent (100 %) of the increase in taxes upon the land and building in which the leased Premises are situated. In the event that such taxes are assessed for a tax year extending beyond the term of the lease, the obligation of Tenant shall be proportionate to the portion of the lease term included in such year.

18. **Rules and Regulations.** Tenant agrees that at all times during the term of this Lease, it shall at its own cost and expense:

A. Keep the Premises, common areas, parking lots and sidewalks located adjacent to the Premises in good, neat, and clean condition.

B. Not park trucks or delivery vehicles outside the Premises so as to unreasonably interfere with the use of any driveways, walks, roadways, highways, streets, malls, or parking areas.

C. Keep the Premises clean and free from refuse, rubbish, and dirt at all times; and store all trash, rubbish, and garbage within the Premises in the areas set aside therefor.

D. Obtain and maintain in effect all permits and licenses necessary for the operation of Tenant's business as herein provided.

E. Keep the outside area immediately adjoining the Premises reasonably clean and free from snow, ice, dirt, and rubbish, and keep that area free from any obstruction or merchandise.

F. All contractors of Tenant shall fully comply with the Occupational Safety and Health Act of 1970 (Chapter XVII, Title XIX of the United States Code) (OSHA) of applicable state statute adopted pursuant to OSHA. It shall be Tenant's obligation to ensure that its contractors fully comply with the provisions and standards as contained in such Act.

G. Abide by all parking regulations along Gregory Street. This includes the Tenant and its agents. Specifically, the Tenant agrees not to park in Level 1 or Level 2 of the St. Charles Carriage House Parking Garage. It is the intention of the City to provide employee parking on Level 3 of the St. Charles Carriage House Parking Garage. However, the City retains the right to move employee parking to another location at its sole discretion.

19. **Attorney's Fees.** In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, the City shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.

20. **Waiver.** No failure of City to enforce any term hereof shall be deemed to be a waiver.

21. **Notices.** All notices, demands and requests required to be given by either party to the other shall be in writing. All notices, demands and requests shall either be hand-delivered or shall be sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the parties at the addresses set forth below, or at such other addresses as the parties may designate in writing delivered pursuant to the provisions hereof. Any notice when given as provided herein shall be deemed to have been delivered on the date personally served, or two (2) days subsequent to the date that said notice was deposited with the United States Postal Service.

To Lessor: City of Black Hawk
Attn: Lance Hillis, Finance Director
P.O. Box 68
Black Hawk, CO 80422

To Lessee: Gypsy Soul Quilt Boutique
Attn: Pam Foster
600 Longs Peak Ave #208
Longmont, CO 80501

22. **Assigns, Successors.** This lease is binding upon and inures to the benefit of the assigns and successors in interest to the parties.

23. **Subordination.** This lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

23. **Radon Gas Disclosure.** As required by law, the City makes the following disclosure: "Radon Gas" is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in the City of Black Hawk. Additional information regarding radon and radon testing may be obtained from the Gilpin County Health Department.

24. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following Exhibits, if any, have been made a part of this lease before the parties' execution hereof:

Signed this _____ day of _____, 2023.

CITY OF BLACK HAWK, COLORADO

By: _____
David. D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

GYPSY SOUL QUILT BOUTIQUE

By: _____
Pam Foster, Owner

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2023, by Pam Foster as Owner of Gypsy Soul Quilt Boutique.

My Commission expires:

[S E A L]

Notary Public

RESOLUTION 73-2023
A RESOLUTION
APPROVING THE
SERVICE AGREEMENT
BETWEEN THE CITY AND
GREAT PLAINS
COMMUNICATIONS FOR
INTERNET ACCESS TO
CITY PROPERTIES

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

Resolution No. 73-2023

**TITLE: A RESOLUTION APPROVING THE SERVICE AGREEMENT BETWEEN
 THE CITY OF BLACK HAWK AND GREAT PLAINS
 COMMUNICATIONS FOR INTERNET ACCESS TO CITY PROPERTIES**

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 Agreement between the City
of Black Hawk and Great Plains Communications for internet access to City properties attached
hereto as **Exhibit A**, and the Mayor is authorized to execute the same on behalf of the City.

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: A Service Agreement with Great Plains Communications to provide internet access for City facilities. .

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

MOTION TO APPROVE: Resolution 73-2023, A Resolution approving the Service Agreement between the City of Black Hawk and Great Plains Communications for Internet Access to City Properties.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The attached Service Agreement establishes the fees the City will pay for Internet access for City facilities for the next 36 months.

AGENDA DATE: September 13, 2023

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ No

STAFF PERSON RESPONSIBLE: Lance Hillis, Finance Director

DOCUMENTS ATTACHED: Commercial Lease

RECORD: ☐ Yes ☒ No

CITY ATTORNEY REVIEW: ☒ Yes ☐ N/A

SUBMITTED BY:

Lance Hillis

Lance Hillis, Finance Director

REVIEWED BY:

Stephen N. Cole

Stephen N. Cole, City Manager



Great Plains Communications
 1600 Great Plains Centre
 P.O. Box 500
 Blair, NE 68008
 Phone: 1.888.343.8014

SERVICE ORDER

ORDER INFORMATION	
Customer	CITY OF BLACK HAWK
Doing Business As	
Solution Name	Q-19340-City of Black Hawk-dia upgrade + new pt 2 pt
Service Term	36 months

ORDER DETAILS				
Location: 201 Selak St, Black Hawk, CO 80422			Description: City Hall - Internet	
Service	Description	Unit Price	Qty	Total Price
Direct Internet Access – 1 Gbps	Dedicated Internet Access (DIA) is a premium symmetrical internet service that is fully redundant across GPC IP core.	\$1,800.00	1	\$1,800.00

ORDER DETAILS				
Location: 401 Gregory St, Black Hawk, CO 80422			Description: Fitness Center - Internet	
Service	Description	Unit Price	Qty	Total Price
Standard Internet Access - 100 x 50 Mbps	Configured with DHCP unless Static IP is requested	\$139.00	1	\$139.00
Free Static IP Address	Free Static IP Address	\$0.00	1	\$0.00

ORDER DETAILS				
Location: 7320 Black Hawk Blvd, Unit A, Black Hawk, CO 80422			Description: Commercial Bldg - Internet	
Service	Description	Unit Price	Qty	Total Price
Standard Internet Access - 100 x 50 Mbps	Configured with DHCP unless Static IP is requested	\$139.00	1	\$139.00
Free Static IP Address	Free Static IP Address	\$0.00	1	\$0.00

ORDER DETAILS				
Location: 987 Miners Mesa Road, Central City, CO 80427			Description: Public Works Admin bldg - P2P	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 1040 Dory Hill Road, Black Hawk, CO 80422			Description: Dory Hill WTP - Point 2 Point	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 8060 Highway 119, Black Hawk, CO 80402			Description: Truck Fill/ Trail head - Point 2 Point	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 911 Miners Mesa Road, Central City, CO 80427			Description: Public Safety bldg - Point 2 Point	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 7457 Black Hawk Blvd, Black Hawk, CO 80422			Description: Fire Station - Point 2 Point	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 211 Gregory St, Black Hawk, CO 80422			Description: City Hall - Internet	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00

ORDER DETAILS				
Location: 270 Gregory St, Black Hawk, CO 80402			Description: Gregory Plaza/Carriage House - Internet/Point 2 Point	
Service	Description	Unit Price	Qty	Total Price
Dark Fiber Lease		\$250.00	1	\$250.00
Direct Internet Access - 200 Mbps	Dedicated Internet Access (DIA) is a premium symmetrical internet service that is fully redundant across GPC IP core.	\$500.00	1	\$500.00

CHARGES		
Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) (due at install)	Upfront Charge (due upon signing)
\$4,328.00	\$0.00	\$0.00

SPECIAL TERMS AND CONDITIONS
<p>Installation: Estimated 90 days. Standard installation included in installation charge. Any after-hours installation (before 7am or after 7pm) or expedited installation, if requested by Customer, may incur special installation fees.</p> <p>Funding Allocation: Customer's obligation to pay amounts due on this order for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, Customer may terminate this order with respect to those payments for the fiscal year(s) for which such funds are not appropriated. Customer shall give Provider written notice 30 days prior to the effective date of termination. All obligations of Customer to make payments after such termination date will cease. Provider shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall Provider be paid for a loss of anticipated profit.</p>

GENERAL TERMS AND CONDITIONS
<p>This order is entered between the Great Plain's affiliate listed below ("<u>Provider</u>") and the undersigned Customer. The services, terms, charges, and other details agreed to between the parties are set forth above. All prices are before applicable taxes, fees, and surcharges. This order is further subject to and governed by Provider's standard service agreement for business customers, available upon request. This order is subject to availability and becomes binding upon acceptance by Provider. This order may be executed in counterparts, signed and delivered physically or digitally. Customer acknowledges it has read, understands, and accepts the terms and conditions of this order.</p>

SIGNATURE - Each party duly executes this order, intending to be legally bound.	
Customer: CITY OF BLACK HAWK	Provider: Netlink LLC
Sign:	Sign:
Print:	Print: Barry Kisselman
Title:	Title: District Manager
Date:	Date:

SERVICE AGREEMENT

1. **Applicability.** This Service Agreement ("Agreement") governs the services provided by Great Plains Communications LLC or its applicable affiliate ("Provider") to the party purchasing services ("Customer"). By accepting service from Provider, Customer accepts the terms set forth in this Agreement as a binding agreement between Provider and Customer, without modification.
2. **Purpose; Additional Terms.** This Agreement establishes general terms, conditions, and a framework for Customer to purchase and use services from Provider. This Agreement may be supplemented by Provider with additional terms and conditions agreed upon by the parties, including applicable service schedules, and including specific terms and conditions stated in an order.
3. **Services.** Provider will provide Customer the services set forth in a service order executed by both parties. Part or all of the services may be provided by an affiliate of Provider. Additional services (including additional lines, features, IP addresses, cross connections, splicing, special building access, demarcation extensions, special equipment, or certifications), if available and requested, may incur additional charges.
4. **Charges; Billing; Payment; Taxes; Assurance.**
 - 4.1. **Charges.** Customer will pay Provider the charges set forth in the order, which may include monthly recurring charges ("MRC"), non-recurring charges ("NRC") including installation charges, or any additional specific charges applicable to the ordered service, including construction charges. Additional charges may also be described in the applicable service schedules.
 - 4.2. **Billing.** Billing of MRC will commence at the start of the service term. Billing of NRC will occur upon or prior to the start of the service term (upfront charges billed upon placement of order). A monthly statement of the amount due will be provided to Customer.
 - 4.3. **Payment; Late Fee.** Customer will pay the amount due to Provider by the Payment Date shown on the statement. Any payment received after the Payment Date will be subject to a late fee, which will be the greater of 1.5% of the amount due or \$10. If payment is not received within 30 days of the Payment Date, Customer will be considered in default, and Provider may suspend or terminate the services immediately. Upon any suspension or termination, Provider may require Customer to pay all past-due amounts and a reconnection fee.
 - 4.4. **Taxes.** Except for taxes based on Provider's net income, Customer is responsible for all taxes and surcharges applicable to the services purchased by Customer. Provider will compute, bill, and collect from Customer all applicable taxes and surcharges and remit to the appropriate authority. Customer must present a valid exemption certificate if Customer is exempt from any tax or surcharge.
 - 4.5. **Assurance.** Provider may require a reasonable deposit or other assurance if Customer fails to pay. Provider may use deposits to cover unpaid amounts. Upon full payment and closure of Customer's account, remainders of deposits will be returned to Customer.
5. **Term and Termination.**
 - 5.1. **Term.** Each service will commence upon installation and remain in effect for the term specified in the order. Thereafter, the service will automatically renew on a month-to-month basis until terminated by either party upon 30 days written notice. Provider may deem the service term commenced if Customer unreasonably refuses or delays installation.
- 5.2. **Intentionally Omitted.**
6. **Use of Service.** Customer must abide by Provider's Acceptable Use Policy, found at <https://www.gpcom.com/terms>. Customer may only use the services for lawful purposes. Customer may not resell, share, trade, or in any way provide the services to any other customer. Customer will be responsible for all content transmitted by Customer or others using Customer's service.
7. **Access; Equipment.** Customer grants Provider a permanent easement on the property to install, maintain, and operate facilities necessary to provide the service. If Customer is not the owner of the property, Customer warrants it has lawful authority from the owner to allow Provider such access. If Customer fails to provide necessary access to the property, Provider may cancel the order and bill the ETF. Customer must provide access to and appropriate and safe space for the equipment. Customer will be responsible for damage to Provider's equipment due to Customer's negligence or willful conduct. All equipment placed on site by Provider will remain the property of Provider. Provider will not be responsible for any equipment or services furnished by Customer.
8. **Limitation of Liability.** Neither party will be liable to the other for any indirect, special, punitive, reliance, or consequential damages (including lost profits or lost data) of any kind arising from or related to this Agreement, the services, or performance of obligations hereunder. Provider's liability hereunder will not exceed the total amount paid by Customer for the service to which the claim pertains in the 12-month period preceding the event giving rise to the claim.
9. **DISCLAIMER.** EXCEPT AS EXPRESSLY STATED HEREIN OR IN ANY SERVICE SCHEDULE, SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT SERVICE WILL BE ERROR-FREE, VIRUS-FREE, SECURE, OR WITHOUT INTERRUPTION. NO COMMUNICATION BY PROVIDER WILL CREATE ANY SUCH WARRANTY UNLESS EXPRESSLY SIGNED BY AN OFFICER OF PROVIDER.
10. **Intentionally Omitted.**
11. **Waiver.** No course of dealing will be construed as a waiver. No waiver of any breach will be deemed a waiver of any other breach.
12. **Force Majeure.** Provider will not be liable for any delay, interruption, or failure due to causes beyond its reasonable control.
13. **Governing Law; Severability; Change of Law; Jury Trial Waiver.** This Agreement is governed by the laws of the State of Colorado, without regard to its choice of law provisions. If any provision is held to be invalid or unenforceable under applicable law, such provision will only be ineffective to the extent of such invalidity or unenforceability, without affecting the remainder. In the event Provider is prohibited from providing service or required to change the service by any law, the parties will in good faith modify this Agreement or the affected order to comply with such law, including adjusting rates for increased costs; if no such modification is agreeable, either party may terminate the affected service without further liability. TO THE FULLEST EXTENT ALLOWED BY LAW, PROVIDER AND CUSTOMER EXPRESSLY WAIVE THE RIGHT TO TRIAL BY JURY FOR DISPUTES ARISING OUT OF THIS AGREEMENT.
14. **Assignment.** Customer may not assign the services without prior written consent from Provider, not unreasonably withheld. Provider may assign the services without notice or consent. The services are binding upon the successors, assigns, heirs of the parties.
15. **Amendment.** This Agreement and any order may only be modified by a duly executed written amendment or change order.
16. **Entire Agreement; Execution.** This Agreement sets forth the entire understanding of the parties pertaining to the services provided by Provider. This Agreement and any order may be executed in counterparts, signed and delivered physically or digitally.

ACCOUNT INFORMATION

Please review, verify, and complete the following information to assist Great Plains in creating your account.

GENERAL INFORMATION	
Customer Legal Name: CITY OF BLACK HAWK	
Business Type and State (e.g. Nebraska corporation):	
Owner/Account Holder:	
Phone:	
Email:	
Service Address:	
Is the Service Address within city limits?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you own the property (land and building)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <i>Customer is responsible for all land/building access.</i>
Property Manager contact information (if applicable):	
Billing Address:	
EXISTING CUSTOMER INFORMATION ONLY	
Current GPC Account #:	
Do you prefer billing on:	<input type="checkbox"/> Combined/Single Statement <input type="checkbox"/> Separate Statement
TAX INFORMATION	
Tax ID #:	Are you a tax-exempt business? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please provide a tax-exempt form.</i>
ACCOUNT PASSWORDS AND SECURITY	
<i>In order to protect customer privacy, you must authorize a CPNI Contact. Your CPNI Contact(s) will be the only person(s) allowed to discuss customer proprietary network information ("CPNI") or make service changes.</i>	
CPNI Contact:	
CPNI Phone:	
CPNI Email:	
Account Password:	
Password Hint:	
<i>In order to make payments over the phone, you must establish a personal identification number ("PIN"). Your PIN is a unique identifier that will be required to access your account through a secure payment portal.</i>	
4-digit PIN:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
TECHNICAL CONTACT	
Do you have a technical contact or consultant? <i>If yes, please provide their contact information:</i>	
EMAIL SETUP	
Do you want a Great Plains email address (email@gpcom.net)? (Up to 10 free.) <i>If yes, please list desired email addresses.</i>	

RESOLUTION 74-2023
A RESOLUTION
REAPPOINTING TWO (2)
REGULAR MEMBERS TO
THE CITY OF BLACK
HAWK HISTORIC
PRESERVATION
COMMISSION

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

Resolution No. 74-2023

**TITLE: A RESOLUTION REAPPOINTING TWO (2) REGULAR MEMBERS TO
 THE CITY OF BLACK HAWK 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 reappoints the following two (2) members
to the Historic Preservation Commission, for four (4) year terms, retroactive to August 1, 2023:

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

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT:

To consider a Resolution reappointing two (2) regular members, Curtis Linder and Larry Linker, to the City of Black Hawk Historic Preservation Commission for four (4) year terms, retroactive to August 1, 2023.

RECOMMENDATION:

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

MOTION TO APPROVE: **RESOLUTION 74-2023**, A Resolution reappointing two (2) regular members to the City of Black Hawk Historic Preservation Commission for four (4) year terms, retroactive to August 1, 2023.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

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

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

The Commission currently has two (2) commissioners with terms that expired on August 1, 2023. Letters of Intent to Continue Service have been received from Curtis Linder and Larry Linker. Both are City of Black Hawk residents and currently serve on the Commission. Curtis Linder has served on the Commission since 2010 as the Vice Chairman and Commissioner. Larry Linker is a Commissioner and has served on the Commission since 2013. Both members are in good standing, and expressed an interest to remain on the Commission. Staff recommends their reappointment for another four (4) year term limit retroactive from August 1, 2023 to August 1, 2027.

AGENDA DATE:

September 13, 2023

WORKSHOP DATE:

N/A

FUNDING SOURCE:

N/A

DEPARTMENT DIRECTOR APPROVAL:

[X]Yes []No

STAFF PERSON RESPONSIBLE:

Cynthia L. Linker, CP&D Director

DOCUMENTS ATTACHED:

Resolution 74-2023
Letters of Intent to Continue Service

RECORD:

[] Yes [X] No


CoBH CERTIFICATE OF INSURANCE REQUIRED

[] Yes [X] No

CITY ATTORNEY REVIEW:


[] Yes [X] N/A

SUBMITTED BY:



Cynthia L. Linker, CP&D Director

REVIEWED BY:



Stephen N. Cole, City Manager

Curtis Linder
111 Marchant Street
Black Hawk, CO 80422

August 15, 2023

City of Black Hawk
Honorable Mayor Spellman and the Board of Aldermen
201 Selak Street, PO Box 68
Black Hawk, CO 80422

Subject: Historic Preservation Commission – Letter of Intent to Continue Service

Dear Honorable Mayor and the Board of Aldermen:

Please accept, for your consideration, this letter as my official request to continue to serve on the City of Black Hawk Historic Preservation Commission.


I have served on the Commission since November 9, 2010, as a Commissioner or Vice Chairman.

It would be my honor to continue to serve the City of Black Hawk through the Historic Preservation Commission. The preservation of Black Hawk remains of great interest and importance to me. Serving on the Commission provides me the unique opportunity to stay involved and positively influence the City's continued preservation efforts.

Please consider renewing my term for another four years, starting August 1, 2023.

Thank you.

Respectfully submitted,

DocuSigned by:

43F6342D510D4CE...

Curtis Linder

Larry Linker
311 Chase Street
Black Hawk, CO 80422

August 15, 2023

City of Black Hawk
Honorable Mayor Spellman and the Board of Aldermen
201 Selak Street, PO Box 68
Black Hawk, CO 80422

Subject: Historic Preservation Commission – Letter of Intent to Continue Service

Dear Honorable Mayor and the Board of Aldermen:

Please accept, for your consideration, this letter as my official request to continue to serve on the City of Black Hawk Historic Preservation Commission.

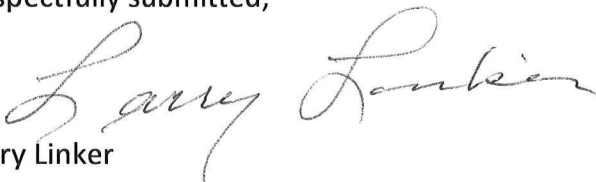
I have served on the Commission since December 2013 as a Commissioner.

It would be my honor to continue to serve the City of Black Hawk through the Historic Preservation Commission. The preservation of Black Hawk remains of great interest and importance to me. Serving on the Commission provides me the unique opportunity to stay involved and positively influence the City's continued preservation efforts.

Please consider renewing my term for another four years, starting August 1, 2023.

Thank you.

Respectfully submitted,


Larry Linker

RESOLUTION 75-2023
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

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

Resolution No. 75-2023

**TITLE: 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**

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

Section 1. Consistent with the Eighth Amendment to the Service Plan of the Silver Dollar Metropolitan District (the "District"), and based on the City's ownership of certain property within the boundaries of the District, the City Council hereby authorizes the Mayor to execute a Quitclaim Deed on behalf of the City to W. Chris Cramer as a qualified elector, upon recommendation of the District, and to serve on the Board of Directors of the District.

RESOLVED AND PASSED this 13th day of September, 2023.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Quitclaim Deed

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

MOTION TO APPROVE Resolution 75-2023 A Resolution Authorizing the Mayor to Execute a Quitclaim Deed on Behalf of the City to a Newly Appointed Registered Elector Qualified to Serve on the Silver Dollar Metropolitan District.

AGENDA DATE: September 13, 2023

WORKSHOP DATE: N/A

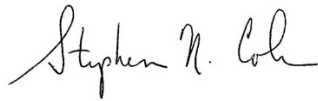
FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: ☒ Yes ☐ N/A

RECORD: ☒ Yes ☐ No

CITY ATTORNEY REVIEW: ☒ Yes ☐ N/A

SUBMITTED BY:



Stephen N. Cole
City Manager

Consideration less than \$500 – no documentary fee required

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this 13th day of September, 2023, between the CITY OF BLACK HAWK, a Colorado home rule municipality, whose address is 201 Selak Street, Black Hawk, CO 80422 ("Grantor"); and W. CHRIS CRAMER, whose address is c/o City of Black Hawk, PO Box 68, Black Hawk, CO 80422 ("Grantee").

WITNESSETH, that Grantor, for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed and QUITCLAIMED, and by these presents does grant, bargain, sell convey and QUITCLAIM to Grantee, as a joint tenant with right of survivorship, an undivided ONE PERCENT (1%) interest in and to all of Grantor's right, title, interest, claim and demand in and to the real property, together with all improvements, if any, situate, lying and being in the County of Gilpin, and State of Colorado as follows:

See Exhibit A attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of Grantor, either in law or equity, to the only proper use, benefit and behoof of Grantee, his heirs, successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed on the Date set forth above.

[remainder of page intentionally left blank; signature page follows]

Signed this 13th day of September, 2023.

CITY OF BLACK HAWK, COLORADO

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, CMC, City Clerk

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by David D. Spellman, as the Mayor of the City of Black Hawk, Colorado.

My commission expires: _____

Witness my hand and official seal. _____
Notary Public

Exhibit A

Legal Description

City of Black Hawk, Lots 8, 9 & 10 of Block 12 less Highway r-o-w, City of Black Hawk, County of Gilpin, State of Colorado

