TOWN OF
BRECKENRIDGE

Town Council Regular Meeting
Tuesday, November 22, 2022, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS HOLDING HYBRID MEETINGS. THIS MEETING WILL BE HELD IN PERSON AT BRECKENRIDGE TOWN HALL. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. IN PERSON ATTENDEES MUST NOT ACCESS THE VIRTUAL MEETING WHILE IN COUNCIL CHAMBERS.
This meeting will also be broadcast live over Zoom. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. All public comments must be delivered in person in Council Chambers during designated public comment times, by email to mayor@townofbreckenridge.com, or by mailed letter, prior to the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - NOVEMBER 8, 2022

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

A. PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)
B. BRECKENRIDGE TOURISM OFFICE UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2022
1. *COUNCIL BILL NO. 35, SERIES 2022 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2023*
2. *COUNCIL BILL NO. 36, SERIES 2022 - A BILL FOR AN ORDINANCE REPEALING POLICY 4A PERTAINING TO MASS AND MAKING CONFORMING AMENDMENTS*

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2022
1. *COUNCIL BILL NO. 37, SERIES 2022 - A BILL FOR AN ORDINANCE ESTABLISHING A REGULATORY FEE IN CONNECTION WITH THE COMMERCIAL MATERIALS MANAGEMENT PROGRAM*
2. *COUNCIL BILL NO. 38, SERIES 2022 - AN ORDINANCE AMENDING CHAPTER 13 PERTAINING TO THE PROCESS FOR BRECKENRIDGE SPECIAL EVENTS AND THE BRECKENRIDGE EVENTS COMMITTEE*

B. RESOLUTIONS, SERIES 2022

1. *RESOLUTION NO. 21, SERIES 2022 - A RESOLUTION ADOPTING THE 2023 BUDGET AND MAKING APPROPRIATIONS THEREFOR; AND APPROVING THE 2023-2027 CAPITAL IMPROVEMENT PLAN*
2. *RESOLUTION NO. 22, SERIES 2022 - A RESOLUTION APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND SUMMIT COUNTY, COLORADO TO DEVELOP WORKFORCE HOUSING ON REAL PROPERTY REFERRED TO AS "THE JUSTICE CENTER"*

C. OTHER

1. *BRECKENRIDGE SOCIAL EQUITY ADVISORY COMMISSION APPOINTMENT*

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC (Mayor/Town Manager)
B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Mr. Bergeron)
C. BRECKENRIDGE TOURISM OFFICE (Mr. Carleton)
D. BRECKENRIDGE HISTORY (Ms. Saade)
E. BRECKENRIDGE CREATIVE ARTS (Mr. Rankin)
F. BRECKENRIDGE EVENTS COMMITTEE (Ms. Owens)
G. CHILD CARE ADVISORY COMMITEE (Mr. Beckerman)
H. WORKFORCE HOUSING COMMITTEE (Mr. Carleton/Mr. Rankin)
I. SOCIAL EQUITY ADVISORY COMMISSION (Ms. Saade)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR NOVEMBER, DECEMBER AND JANUARY

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of November 8, 2022 to order at 7:00pm. The following members answered roll call: Mr. Rankin, Ms. Owens, Ms. Saade, Mr. Bergeron, Mr. Carleton, Mr. Beckerman and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – OCTOBER 25, 2022

With no changes or corrections to the meeting minutes of October 25, 2022 Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Mr. Holman stated there were no changes to the agenda.
Mayor Mamula declared the agenda approved as presented.

IV) COMMUNICATIONS TO COUNCIL

A) PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Public Comment.
There were no comments and Public Comment was closed.

B) BRECKENRIDGE SKI RESORT UPDATE

Ms. Jody Churich, COO of Breckenridge Ski Resort, stated the ski resort is opening tomorrow with good conditions. Ms. Churich stated there are events all week for opening week with music, food and giveaways. She also stated it will be a normal season with no restrictions and full service, and their priorities will be employees, community and flow and circulation. She highlighted their new childcare program and afterschool care contributions for the community. Ms. Churich stated Vail Resorts will be donating to Summit Search and Rescue and the Summit Foundation. She stated they are focusing on getting people to ski to Town and launching a new brand focusing on the five peaks. Ms. Churich stated staffing is doing well, with a new minimum wage and wellness benefits for families attracting applicants.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2022 - PUBLIC HEARINGS

1) COUNCIL BILL NO. 34, SERIES 2022 - AN ORDINANCE CONCERNING A FOR RENT WORKFORCE HOUSING PROJECT AND IN CONNECTION THEREWTITH AUTHORIZING THE PROJECT, APPROVING THE CONVEYANCE OF PROPERTY, AND THE EXECUTION AND DELIVERY OF A DEED, A SITE LEASE, A LEASE PURCHASE AGREEMENT, AND OTHER DOCUMENTS

Mayor Mamula read the title into the minutes. Ms. Laurie Best stated there are several changes to this ordinance from first reading, mostly having to do with increased budget numbers and a change in the way the Town plans to finance this project.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 34, SERIES 2022 - AN ORDINANCE CONCERNING A FOR RENT WORKFORCE HOUSING PROJECT AND IN CONNECTION THEREWTITH AUTHORIZING THE PROJECT, APPROVING THE CONVEYANCE OF PROPERTY, AND THE EXECUTION AND DELIVERY OF A DEED, A SITE LEASE, A LEASE PURCHASE AGREEMENT, AND OTHER DOCUMENTS. Mr. Beckerman seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2022

1) COUNCIL BILL NO. 35, SERIES 2022 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2023

Mayor Mamula read the title into the minutes. Mr. Dave Byrd, Finance Director, stated this ordinance would set the Mill Levy for 2023 at 5.07 Mills and is required annually. He further stated staff recommends approval of this ordinance.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 35, SERIES 2022 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2023. Mr. Rankin seconded the motion.

The motion passed 7-0.

2) COUNCIL BILL NO. 36, SERIES 2022 - A BILL FOR AN ORDINANCE REPEALING POLICY 4A PERTAINING TO MASS AND MAKING CONFORMING AMENDMENTS
Mayor Mamula read the title into the minutes. Ms. Stefi Shrek stated this ordinance would repeal the Policy 4A Mass policy and all details are included in the memo in the packet, specifically noted in the table. She also noted staff will make the changes from the work session discussion prior second reading.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 36, SERIES 2022 - A BILL FOR AN ORDINANCE REPEALING POLICY 4A PERTAINING TO MASS AND MAKING CONFORMING AMENDMENTS. Ms. Saade seconded the motion.

The motion passed 7-0.

B) RESOLUTIONS, SERIES 2022

1) RESOLUTION NO. 20, SERIES 2022 - A RESOLUTION TO SET FORTH FINDINGS OF FACT AND CONCLUSIONS AS TO THE ELIGIBILITY OF THE UNDEVELOPED LAND KNOWN AS THE ENTRADA PROPERTY
Mayor Mamula read the title into the minutes. Ms. Kirsten Crawford stated this resolution is required as part of the regular annexation process. She further stated staff recommends approval of this resolution because the conditions determining the annexation eligibility have been met.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Mr. Bergeron moved to approve RESOLUTION NO. 20, SERIES 2022 - A RESOLUTION TO SET FORTH FINDINGS OF FACT AND CONCLUSIONS AS TO THE ELIGIBILITY OF THE UNDEVELOPED LAND KNOWN AS THE ENTRADA PROPERTY. Mr. Rankin seconded the motion.

The motion passed 7-0.

C) OTHER

1) 2023 PROPOSED BUDGET AND 2023-2027 CAPITAL IMPROVEMENT PLAN PUBLIC HEARING
Mr. Dave Byrd reviewed the submitted 2023 budget, highlighting personnel costs and housing projects that are impacting the budget. Mayor Mamula opened the public hearing for the 2023 Proposed Budget and 2023-2027 Capital Improvement Plan. There were no public comments and the hearing was closed.

VII) PLANNING MATTERS

A) PLANNING COMMISSION DECISIONS
Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

B) BRECKENRIDGE SKI AREA MASTER SIGN PLAN DE NOVO HEARING
Mayor Mamula introduced the BRECKENRIDGE SKI AREA MASTER SIGN PLAN DE NOVO HEARING. He read the hearing script into record. Mr. Chris Kulick, Planning Manager, reviewed the plan details. He stated this Master Sign Plan has been a long-term goal of staff for many years. Mr. Clif Cross, Planner, conducted a brief overview of the sign plan. He noted that the signage falls within four zones, some signs are exempt from Town Code due to the nature of the signs, and Breckenridge Ski Resort

is seeking five variances as detailed in the plan information in the packet. He further stated variances include the use of electronic and temporary signs, among other things.

Ms. Elaina Scott, Norris Design, was present to represent the applicant. She stated this master plan is developed specifically for a ski area and was created for safety and wayfinding for visitors. She further stated the Planning Commission asked questions at the meeting at which the plan was approved, and this master plan is only for the Peak 8 area at this time.

Mr. Jim Testin, Director of Mountain Planning for Vail Resorts, stated staff was good to work with during the process, and the goal has been to create consistency across the base areas. Ms. Owens asked about the implementation of this plan and Mr. Testin stated the goal is to create a guiding document for use as needed and current signage will be replaced over time. Mr. Carleton stated one of the reasons Council called up this item was because of the sandwich boards variance, and Ms. Scott stated the sandwich boards will be used for safety and direction only, and not sales. She further stated vinyl signage will be used for lift queues and other places where it can be moved for wayfinding. Mr. Carleton further asked about brand standards.

Mr. Carleton stated that after reviewing the full project he is now comfortable with it.

Mr. Bergeron moved to approve BRECKENRIDGE SKI AREA MASTER SIGN PLAN. Mr. Rankin seconded the motion.

The motion passed 7-0.

VIII) REPORT OF TOWN MANAGER AND STAFF

Reports of Town Manager and Staff were covered as part of the afternoon Work Session.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

Reports of Mayor and Council Members were covered as part of the afternoon Work Session.

A. CAST/MMC
B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE
C. BRECKENRIDGE TOURISM OFFICE
D. BRECKENRIDGE HISTORY
E. BRECKENRIDGE CREATIVE ARTS
F. BRECKENRIDGE EVENTS COMMITTEE
G. CHILD CARE ADVISORY COMMITTEE
H. WORKFORCE HOUSING COMMITTEE
I. SOCIAL EQUITY ADVISORY COMMISSION

X) OTHER MATTERS

There were no other matters presented at this meeting.

XI) SCHEDULED MEETINGS

A) SCHEDULED MEETINGS FOR NOVEMBER AND DECEMBER

XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:46pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

_____ _____

Helen Cospolich, CMC, Town Clerk Eric S. Mamula, Mayor

Memo

TOWN OF BRECKENRIDGE

To: Breckenridge Town Council

From: Pam Ness, Revenue Manager

Date: 11.22.22

Subject: 2023 Property Tax Mill Levy

Please find attached the ordinance setting the mill levy within the Town of Breckenridge for 2023 at 5.07 mills. The ordinance is submitted for second reading.

The 5.07 mill levy is the amount the Town is authorized to impose, and cannot be increased without an election. For the 2023 budget year, we are forecasting the 5.07 mill levy to result in property tax revenues of $3.7M.

The 5.07 mills are for the purpose of defraying the expenses of the General Fund.

FOR WORKSESSION/SECOND READING – NOV. 22

COUNCIL BILL NO. XX

Series 2022

AN ORDINANCE SETTING THE MILL LEVY WITHIN THE
TOWN OF BRECKENRIDGE FOR 2023

WHEREAS, the Town Council of the Town of Breckenridge has determined that a mill levy of 5.07 mills upon each dollar of the assessed valuation of all taxable property within the Town of Breckenridge is needed to balance the 2023 Town budget.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. For the purposes of defraying the expense of the General Fund of Breckenridge, Colorado for the fiscal year 2023, there is hereby levied a tax of 5.07 mills upon each dollar of assessed valuation for all taxable property within the Town of Breckenridge.

Section 2. The Town Clerk is authorized and directed, after adoption of the budget by the Town Council, to certify to the Board of County Commissioners of Summit County, Colorado, the tax levies for the Town of Breckenridge, Colorado as herein set forth.

Section 3. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN FULL this 22nd day of November, 2022. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 22nd day of November 2022, at 7:00 p.m., or as soon thereafter as possible.

ATTEST: TOWN OF BRECKENRIDGE

_____ _____

Helen Cospolich, Town Clerk Eric Mamula, Mayor

APPROVED IN FORM

_____

Town Attorney

Memo

To:	Town Council
From:	Stefi Szrek, AICP, Planner II
Date:	November 15, 2022 (for meeting of November 22, 2022)
Subject:	2nd Reading: Policy 4R Amendments- Mass Bonus Redaction

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The Town Council recently reviewed Policy 4: Mass, at a first reading, and unanimously recommend eliminating mass bonuses for all building types. The elimination of Mass bonuses results in all interior square footage being counted as density.

Based on Council's direction, staff proposes to eliminate Policies 4A (Absolute) and 4R (Relative) from the Development Code. Since all interior square footage will now count as density, staff has moved over relevant sections from Policy 4, such as the home size policy and exemptions for renewable energy mechanical rooms, into Policy 3: Density. The proposed amendments included in the Bill were discussed in the previous hearing. No major changes have been made to the Bill from first reading, except for some code policy clean up regarding sections of code that still mentioned massing or referred to Policy 4.

At a future work session, staff intends to present additional code amendments to the Council regarding the allowance of additional density for carriage houses (Market Rate) in the Wellington and Lincoln Park neighborhoods.

Staff will be available at the meeting to answer any questions.

COUNCIL BILL NO. ___

Series 2022

A BILL FOR AN ORDINANCE REPEALING POLICY 4A PERTAINING TO MASS AND MAKING CONFORMING AMENDMENTS.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That Section 9-1-5, Definitions, of the Breckenridge Development Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

9-1-5:DEFINITIONS:

CLASS D DEVELOPMENT: Any development which includes any of the following activities and elements:

Class D – Major:

A. New single-family, duplex structure, or major remodel outside of the historic district, with or without an accessory dwelling unit, including, without limitation, master planned property with multiple single-family and duplex structures, except where the proposed development either:

1. Warrants the assessment of any negative points based upon the director's preliminary assessment at the time the application is initially filed; or

2. Is located on a lot, tract, or parcel without a platted building or disturbance envelope outside of the conservation district as defined in section ~~9-1-19-4A~~ 9-1-19-3A of this chapter (~~mass~~density).

A Class D – major permit application that meets the conditions described in subsection A(1) or (2) of this definition shall be reclassified as a Class C development permit application.

B. Those wireless communication facilities permit applications described in section 9-1-19-50A(D)(2) of this chapter.

C. Accessory dwelling units except when the permit application meets the conditions described in subsection A(1) or (2) of this definition, in which case the application shall be reclassified as a Class C development permit application.

DENSITY: ~~The preparation of drawings and other documents illustrating the scale and relationship of the components of a development; or the preparation of drawings and other documents to fix and describe the size and character of the development as to structural, mechanical and electrical systems, materials and such other essentials as may be appropriate.~~

The computation of units per acre for residential development or floor area ratio for commercial development based on a fully enclosed space within the surrounding exterior walls (including the exterior wall itself) that extend to a roof of a building or portion thereof including dwelling areas of the building, closets, bathrooms, living room, garage space of single family, duplexes, and townhomes, interior hallways, interior common spaces and areas of the building that are unfinished but have a floor to ceiling height of five feet (5') or greater. Building areas that are not fully enclosed and feature portions of open or mesh wall that exceeds 12" vertically and are entirely permeable across at least one façade such as trash dumpster enclosures, parking garages, porches and similar areas shall not be counted as density.

RECREATION AND LEISURE AMENITY CLUB OR AMENITY CLUB: The meaning of Amenity Club depends upon the type of residential property in which the property's amenity components (as defined below) are located:

In a hotel/lodge/inn or a condominium that does not include one or more timeshare estates an Amenity Club:

1. Allows admission to the property's amenity components by a person who is not a registered overnight guest at the property; and

2. Requires payment of a fee, a club membership, or other consideration given by the user of the property's amenity components.

In a condominium that includes one or more timeshare estates an Amenity Club permits admission to the property's amenity components by a person who is not an overnight guest at the property.

No residential property other than a hotel/lodge /inn or a condominium may contain an Amenity Club.

An Amenity Club is classified as a commercial use and requires commercial density ~~above the allowed mass~~.

An Amenity Club may include, but shall not be limited to, the following amenity components:

1. Personal lockers;
2. Boot dryers;
3. Ski storage racks;
4. Ski tuning;
5. Areas for congregation and/or socializing;
6. Restrooms and/or shower facilities;
7. Movie theaters;
8. Game rooms;

9. Clubhouse food amenities;

10. Concierge ski services;

11. Access to an aquatics facility or other recreational facilities; and/or

12. Parking.

Section 2. That Section 9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY be amended by deleting the language stricken and adding the language underlined to read as follows**:**

9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY:

C. General Provisions:

2. Square footage shall be calculated by counting the following floor areas against the density calculations:

Residential:

"Single-family" - the total square footage of the building from the outside of the exterior walls shall constitute the proposed density. This shall include any basement areas (finished or unfinished) ~~and~~ entryways, ~~but shall not include the garage nor other unfinished areas that could not constitute living area under the Building Code without substantial physical renovation (i.e., crawl spaces, attic)~~ and all unfinished areas that have greater than 5 ft. of ceiling height, including garages but excluding crawl spaces and attics.

Exception: If a deed restricted single-family or duplex structure located within the Wellington, Wellington II or Lincoln Park Subdivisions contains or proposes a garage, the measurement of above ground density defined above in this section applies only to that portion of the garage that exceeds five hundred (500) square feet.

"Townhouses and duplexes" - same as for single-family.

"Multifamily" - the total square footage of the residential portions of the building from the outside of the exterior wall to the outside of the interior wall, if adjacent to a common area, or to the outside of the other exterior wall if not. Common areas such as lobbies, hallways, and amenity areas shall ~~not~~ be counted against the density.

"Hotels, lodges, etc." - same as for multifamily.

*****In those instances where commercial uses are being proposed within a multifamily building, hotel, etc., the density of those uses shall be counted against the allowed density; and, where the allowed density is calculated in units rather than floor area ratio, the one thousand (1,000) square foot equals one unit calculation shall be utilized.

Exception: Any portion of a basement area of a "Town designated landmark" as defined in chapter 11 of this title, which is: a) located directly underneath the landmark building, and b) completely or partially buried below grade, shall not be counted toward allowed density for such building under this policy so long as the historic USGS floor elevation of the building is maintained. This exception shall not apply to any other provision of this code.

~~2.5. Space that is utilized for a recreation and leisure amenity club may be included in the additional twenty five percent (25%) of aboveground floor area allowed under subsection A4 of section 9-1-19-4R, "Policy 4 (Relative) Mass," of this chapter, provided there is any remaining space after all common areas have been counted. Any additional common area space above this additional twenty five percent (25%) shall be counted as commercial density.~~

Section 3. That subsection H of section 9-1-19-3A be amended by deleting the language stricken and adding the language underlined to read as follows:

H. Aboveground Density In Historic District:

1. Within the Main Street residential/commercial, south end residential, and South Main Street character areas a maximum of 12.0 units per acre for aboveground density for new construction is allowed. Projects within such areas which contain 12.01 units per acre, or more, of aboveground density shall be deemed to have failed this policy for failing to meet a priority policy.

a. Within the Main Street residential/commercial character area only, density and mass will not be assessed against a project for the construction of a "connector" element which complies with priority policy 80C of the "Handbook of Design Standards for the Historic and Conservation Districts".

2. a. Within the eastside residential, north end residential, and the North Main Street residential character areas, a maximum of 9.0 units per acre for aboveground density for new construction is allowed, except for those developments described in subsection H(2)b of this

section. Projects within such areas which contain 9.01 units per acre, or more, of aboveground density shall be deemed to have failed this policy for failing to meet a priority policy.

b. In connection with permit applications for projects which involve "preserving", "restoring", or "rehabilitating" a "landmark structure", "contributing building", or "contributing building with qualifications" (as those terms are defined in the "Handbook of Design Standards for the Historic and Conservation Districts") anywhere within the eastside residential, north end residential, and the North Main Street residential character areas, a maximum of 10.0 units per acre for aboveground density is allowed. Projects of such types which contain 10.01 units per acre, or more, of aboveground density shall be deemed to have failed this policy for failing to meet a priority policy.

3. For the purposes of this chapter, "aboveground density" shall mean that portion of the density of a structure that is above finished grade. If a structure has a foundation wall that is exposed more than two feet (2') above finished grade, a portion of the allowable above grade density for such structure shall be assessed to the floor which is partially below grade in accordance with priority policy 80B of the "Handbook of Design Standards" adopted by section 9-5-3 of this title.

Within the Historic District a one thousand six hundred (1,600) square foot multiplier is used to calculate the allowed aboveground density for any use. For example, a typical fifty foot by one hundred twenty five foot (50' x 125') aboveground density for any use (0.143 acre x 1,600 x 9 UPA).

If a single-family or duplex structure located within the Historic District contains a historic garage, barn or shed that does not qualify as dwelling area, the measurement of the density may be excluded. All non-historic garage, barn and shed square footage shall count as density.

I. Maximum Above Ground Density Outside of the Historic District:

1. For any development permit application submitted on or after November 11, 2009, the maximum aboveground square footage of a single-family or duplex structure located on a lot, tract or parcel without a platted building or disturbance envelope shall be the lesser of:

Subdivision Or Geographic Area	Floor Area Ratio (FAR)		Maximum Aboveground Square Footage
Breckenridge South	1:5.00	Or	6,000
Brooks Hill	1:5.00	Or	7,000
Christie Heights	1:3.50	Or	6,500
Gold Flake	1:4.50	Or	9,000
Gold King	1:8.50	Or	7,000
Highlands, filing 1	1:8.50	Or	9,000
Highlands, filing 2	1:8.50	Or	9,000
Highlands, filing 3	1:8.50	Or	9,000
Highlands, filing 4	1:8.50	Or	9,000
Peaks	1:1.75	Or	6,500
Penn Lode	1:3.00	Or	6,000
Sunbeam Estates	1:3	Or	7,000
Sunrise Point	1:2.00	Or	6,500

Subdivision Or Geographic Area	Floor Area Ratio (FAR)		Maximum Aboveground Square Footage
Trafalgar	1:2.00	Or	7,500
Tyra	1:2.00	Or	6,000
Warrior's Mark	1:2.00	Or	4,000
Warrior's Mark West	1:2.00	Or	4,500
Weisshorn	1:4.00	Or	8,000
Yingling & Mickles	1:1.30	Or	5,600

Real property that has a platted building or disturbance envelope, or with a density or mass determined by an active master plan or planned unit development or is within the Conservation District, is not subject to this policy.

The floor area ratio and maximum aboveground square footage of any lot, tract or parcel of land without a platted building or disturbance envelope located outside of the Conservation District that is not listed in the table above shall be determined by the Director. In making such determination, the Director shall consider the applicable floor area ratio and maximum aboveground square footage of adjacent subdivisions or geographic areas, and shall establish the applicable floor area ratio and maximum aboveground square footage so that it will be compatible with the character of the area in which the lot, tract or parcel of land is located.

2. Damage Or Destruction: If a single-family or duplex structure that was lawfully constructed before the date described in subsection I.1 of this section is damaged or destroyed by fire or other calamity it may be rebuilt to the same size that existed immediately prior to the fire or other calamity. However, except as provided in the preceding sentence, the provisions of

section 9-1-12 of this chapter shall apply to the repair or reconstruction of such single-family or duplex structure.

3. Additional Square Footage: For any single-family or duplex structure existing or for which a development permit has been issued before the date described in subsection I.1 of this section:

a. An additional five hundred (500) square feet of aboveground square footage is permitted for a single- family or duplex structure if such square footage is not allowed by subsection I.1 of this section; and

b. An interior addition is permitted without violating this policy if the addition does not result in any change to the exterior of the single-family or duplex structure.

4. Alternative Allocation Of Additional Square Footage: For any duplex structure that is subject to the provisions of subsection 3 (a) of this section, if each duplex unit has the same aboveground square footage each duplex unit shall be allocated an additional two hundred fifty (250) square feet of allowed aboveground square footage. If either of the duplex units has a greater amount of aboveground square footage than the other duplex unit, the smaller duplex unit shall receive so much of the additional aboveground square footage as is required to make it equal to the aboveground square footage of the larger duplex unit, and the remaining additional aboveground square footage shall be divided equally between the two (2) duplex units. If both duplex owners agree to an alternative allocation of the duplex's additional five hundred (500) square feet of allowed aboveground square footage, the town may approve such alternative allocation if both owners submit an agreement in a form acceptable to the town attorney prior to the submission of any application for a development permit that involves the use of any of the duplex's additional five hundred (500) square feet of aboveground square footage. The duplex owners' agreement for an alternative allocation of the additional aboveground square footage must be recorded in the real property records of the Clerk and Recorder of Summit County prior to the issuance of a development permit for the use of such additional square footage, and must run with the land and be binding upon all subsequent owners of the two (2) duplex units.

5. Density Allowance For On Site Renewable Energy Mechanical System In Multifamily And Commercial Uses: The goal of this subsection is to encourage renewable energy production in existing multifamily and commercial structures. This subsection is not applicable to new construction. This subsection seeks to improve energy efficiency by permitting existing

nonconforming structures to install appropriate on site renewable energy mechanical systems to help protect the health, safety, and welfare of the community.

A. Additional Square Footage: Any existing multifamily residential or commercial structure constructed pursuant to a development permit issued prior to May 8, 2012, may be permitted additional aboveground density square footage for the installation of a renewable energy mechanical system, even if the structure already exceeds applicable density limitations. The additional square footage shall be the lesser of the following:

i. The space necessary for an efficiently designed mechanical room; or

ii. Three hundred fifty (350) square feet, or two percent (2%) of the existing density square footage, whichever is less.

B. Design Standards:

i. An on site renewable energy mechanical system shall be located based upon the following order of preference. Preference 1 is the highest and most preferred; preference 4 is the lowest and least preferred. An on site renewable energy mechanical system shall be located as follows: 1) within the existing building footprint; 2) out of view from the public right-of- way and adjacent properties and screened; 3) partly visible from the public right-of-way or adjacent property and screened; and 4) highly visible from the public right- of-way or adjacent properties. An application for a system to be located in a least preferred location must adequately demonstrate why the system cannot be located in a more preferred location.

ii. Any structural modifications or additions made for a renewable energy mechanical system shall meet the intent of policy 5 (absolute) architectural compatibility and policy 5 (relative) architectural compatibility, in addition to all other applicable policies of this code.

Section 4. That section 9-1-19-4A: POLICY 4 (ABSOLUTE) MASS is hereby repealed.

Section 5. That section 9-1-19-4R: POLICY 4 (RELATIVE) MASS is hereby repealed.

Section 6. That subsection A of section 9-1-19-24A: POLICY 24 (ABSOLUTE) THE SOCIAL COMMUNITY is hereby stricken and that section 9-1-19-24A is renumbered accordingly.

Section 7. That subsection D of section 9-1-19-24R entitled "POLICY 24 (RELATIVE) SOCIAL COMMUNITY" is hereby repealed and replaced with the following language underlined to read as follows:

D. Meeting and Conference Rooms, and Amenity Space: The provision of legally guaranteed meeting and conference facilities in condominium/hotels, hotels, lodges, and inns, over and above the ratio of one square foot of meeting area for every thirty five (35) square feet of gross dwelling area is strongly encouraged. The conversion of space that had previously received positive points as meeting and conference facilities or recreational and leisure amenities is strongly discouraged.

The square footage of any portion of previously approved Recreation and Leisure Amenity space that is proposed to be converted into an Amenity Club shall be treated as commercial density.

Section 8. That section 9-1-19-51A entitled "POLICY 51 (ABSOLUTE) ACCESSORY DWELLING UNIT" be amended by adding the language underlined to read as follows:

An accessory dwelling unit shall meet each of the following criteria:

A. Be no greater in size than the lesser of:

1. One-third (1/3) of the total density of the primary unit; or

2. One thousand two hundred (1,200) square feet;

B. Conform with sections 9-1-19-3A, Policy 3 (absolute) density/intensity~~, and 9-1-19-4A, Policy 4 (absolute) mass,~~ of this chapter;

Section 9. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2022. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____, 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

_____
Helen Cospolich, CMC,
Town Clerk

Memo

TOWN OF BRECKENRIDGE

To: Town Council

From: Jessie Burley, Sustainability + Parking Manager

Date: 11/14/2022

Subject: First Reading Material Management Fee

At the October 25, 2022 Town Council Meeting, Staff was directed to draft a material management fee ordinance establishing a fee schedule and criteria to recover administrative, operational and maintenance costs of the shared commercial enclosure program. In addition to the ordinance, Staff has also drafted administrative rules and regulations to accompany the ordinance and to further clarify implementation procedures of the program. Those rules are also posted in the packet for the November 22 meeting.

Staff presented a high level overview of the material management plan at the special meeting on September 6, 2022. The discussion at the October 25 meeting focused on the cost recovery portion of the plan. During the discussion, Council directed Staff to include the café business type in the Tier 2 rate level which includes other small restaurants and bars. That change is reflected in proposed ordinance.

Staff has drafted a business communication informing businesses in the program about the fee. Staff has also sent a compost survey to the restaurants enrolled in the commercial enclosure program to understand data points related to compost pricing and availability, etc. This will help Staff develop a proposal to address economic incentives for compost pricing as directed by Council.

It is Staff's recommendation that Council adopt the ordinance on first reading.

COUNCIL BILL NO. ___

Series 2022

A BILL FOR AN ORDINANCE ESTABLISHING A REGULATORY FEE IN CONNECTION WITH THE COMMERCIAL MATERIALS MANAGEMENT PROGRAM.

WHEREAS, after an extensive outreach and stakeholder process taking place over a six month period, the SustainableBreck plan was updated in 2022 and identifies targets and strategies to achieve sustainability goals adopted by Town Council;

WHEREAS, one of the goals identified in the SustainableBreck plan was to manage and reduce materials going to the landfill by reducing waste at the source and divert what remains through recycling and composting with a target to achieve 40% landfill diversion by 2035;

WHEREAS, the Town Council has adopted universal recycling requirements for commercial entities and operates and maintains ten shared commercial enclosure facilities in the conservation district made available to approved residential units and businesses for the temporary collection of trash, single stream recycling, and glass; and,

WHEREAS, based on a study conducted by Town Staff to include 2021 operation and maintenance costs and based on business tiers, Staff has proposed a fee to be imposed on users of the material management program in an amount that bears a reasonable relationship to the direct and indirect costs of implementing the Town's material management program established by this Chapter.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That section 5-6-10 of the code is hereby amended to add the language underlined to read as follows:

5-6-10: ALLOWED USE OF COMMERCIAL SHARED TRASH ENCLOSURE:

A. A commercial shared trash enclosure may only be used for the temporary collection and storage of refuse, including recycling material.

B. The director shall adopt administrative rules and regulations to establish a program to manage the commercial shared trash enclosures and in connection therewith may determine appropriate users which can include commercial and residential generators.

1. In connection therewith, the director shall determine those persons who are authorized to use a commercial shared trash enclosure, and which enclosure such person shall be authorized to use.

2. In determining which enclosure a user shall be authorized to use the director shall consider all relevant information, including, but limited to, the user's proximity to the enclosure, and whether the enclosure has the capacity to accommodate the user's anticipated volume of trash.

3. The director shall attempt to permit an authorized user to use the enclosure that is nearest to the prospective user's property or business. However, there is no right to use a particular trash enclosure, and a user's authorized trash enclosure may be changed by the director at any time upon reasonable notice.

4. Establishment of material management regulatory fee and separate fund:

i. Commencing on the effective date of this ordinance, commercial and/or residential users participating in the material management program shall pay an annual fee in the amounts set forth in the table below:

Tier	Type	Amount
1	Office/Beauty/Spa, Retail ≤1,999 sq ft Residential	$379.52
2	Cafes, Restaurants + Bars ≤1,999 sq ft Retail ≥2,000 st ft	$759.04
3	Restaurants + Bars ≥2,000 sq ft Grocery	$1138.55

ii. Beginning with the town's 2024 fiscal year, the amount of the material management fee described in this section shall be reviewed annually at the time of the budget process. The director shall submit for review by council a report confirming that the fee amount from the prior year is adequately and reasonably covering the direct and indirect costs of the regulatory program or propose any increase or decrease in the amount of the fee for administration of the program. If, for any reason, the amount of such fee is not fixed by the town council as part of its annual budget process, the fee for the preceding year shall continue in full force and effect until changed by the town council.

iii. The material management fee shall be paid annually on or before April 1 of each calendar year. Failure to pay the fee in accordance with this section will result in the nonissuance or nonrenewal of a license.

iv. All sums of money collected by the town per this section are intended exclusively for use in the material management program.

The fees collected in accordance with this section shall not be used for general municipal or governmental purposes or spending. Nor shall the fund ever be transferred to or become part of the town's general fun

v. Fees collected in accordance with this section shall be accounted for by the finance director in such a manner that the finance director can separately track the collection and expenditure of such fees.

C. Nothing in this section prohibits a person from constructing an approved private trash enclosure upon such person's property (and not upon public property); provided, that legal vehicular access for waste collection is available. All necessary development and building permits must be obtained prior to the construction of the approved private trash enclosure.

Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 4. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2022. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____, 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____

Eric S. Mamula, Mayor

ATTEST:

_____

Helen Cospolich, CMC,
Town Clerk

Memo

TOWN OF BRECKENRIDGE

To: Breckenridge Town Council Members

From: Kirsten J. Crawford, Town Attorney

Date: 11/16/2022

Subject: Amendment to the SEPA Ordinance to Establish the Breckenridge Events Committee

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In 2018, by adoption of Resolution No. 14, Series 2018, the Town of Breckenridge Town Council established a temporary committee known as the "Town of Breckenridge Events Committee." That resolution generally set forth the composition and duties of the committee. The Town Council amended the original resolution in 2022, but maintained the temporary status of the committee. Staff believes that the committee plays a more integral role in the events process and recommends that the committee be more permanently created by ordinance.

Per the municipal charter, section 9.2, the following shall apply to the composition of all existing permanent boards and commissions and those created by this charter or subsequently by ordinance:

(a) Neither the mayor nor any town employees shall serve on any such board or commission.

(b) No board or commission shall have more than one council member appointed to serve on such board or commission.

(c) Terms and conditions of appointment to such boards and commissions shall be determined by ordinance, except as provided in section 9.3 regarding the planning commission.

In keeping with the charter, the committee does not include the mayor or more than one council member. Further, the composition of the committee does include one *ex officio* member of the Town administration that will serve on the committee. The role of that position will be separately defined in the bylaws of the committee, which staff is proposing be amended to conform to the new code. Such bylaws will be created and amended by the committee at its next meeting.

One other substantive change to the code is to the appeal process. As we have discussed with Town Council previously, staff recommends modifying Town code so that not all appeals go to Town Council as is the current structure of the code, with very few exceptions. The proposed amendment would allow for the manager or a designated administrative hearing officer to handle appeals pertaining to disputes around special event permits.

COUNCIL BILL NO. ___

Series 2022

AN ORDINANCE AMENDING CHAPTER 13 PERTAINING TO THE PROCESS FOR BRECKENRIDGE SPECIAL EVENTS AND THE BRECKENRIDGE EVENTS COMMITTEE.

WHEREAS, by adoption of Resolution No. 14, Series 2018, the Town of Breckenridge Town Council established a temporary committee known as the "Town of Breckenridge Events Committee" and in connection therewith set forth the duties, composition and authority of the committee;

WHEREAS, by adoption of Resolution No, 8, Series 2022, the Town Council made amendments to the Town of Breckenridge Events Committee;

WHEREAS, the Town Council has determined that it is in the best interest of the health, safety and welfare of the Town to more permanently established the Breckenridge Events Committee by creating the committee by ordinance and superseding the 2018 and 2022 resolutions;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That section 4-13-4, entitled "Definitions" be amended by deleting the language stricken as follows:

~~BRECKENRIDGE EVENTS COMMITTEE (or EVENTS COMMITTEE): The town of Breckenridge Events Committee created by Resolution No. 14, Series 2018, as amended from time to time.~~

Section 2. That section 4-13-8 shall be replaced with the below language creating a special events committee and that the remaining sections of title 4, chapter 13 be renumbered accordingly:

BRECKENRIDGE EVENTS COMMITTEE

A. Membership on the Committee.

1. The Committee shall consist of up to fourteen members approved from time to time by the Town Council. A member may be an individual, or either a for profit or nonprofit

business entity. Membership on the Committee shall be based upon a member's relevance, interest, and involvement with events within the Town, and/or the impact of events within the community. Membership of the Committee will be based on the needs of the Committee as determined by the Town Council, and may change over time.

2. Composition. The Committee shall be comprised of entities that have a business office located within the corporate limits of the Town of Breckenridge, that may act through one or more individuals to act as the member's representative on the Committee. A member representative shall have full authority to act for such member with respect to all decisions and other actions of the Committee.

3. Appointment and Removal of Member Entities. The Member entities shall be appointed by and serve at the pleasure of Town Council. A member may change its representative at any time in its sole and absolute discretion.

B. Duties and Responsibilities. The Committee shall have the following duties and responsibilities:

1. To effectively function as the single, primary point of contact for evaluation of potential events, as defined in Section 4-13-4 of the Breckenridge Town Code, against agreed upon event strategies including, but not limited to attract destination visitation; branding/media; animation/community goodwill; sustainable visitation; and quality of life for primary residents;

2. To identify potential impacts on Town and citizens requiring extra vetting; street and parking closures, parking capacity, gridlock, trail use, noise, multiday events; and

3. To perform such other functions and duties regarding events as may, from time to time, be delegated by the Town Council, or which are provided for by Town ordinance or resolution.

C. Members of the Committee shall serve without compensation. Nothing herein shall limit a member entity from compensating its designated representative for its service on the Committee in the member's sole and absolute discretion.

Section 3. That section 4-13-18 entitled “APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT” is hereby repealed and replaced with the following language underlined to read as follows:

4-13-18: ADMINISTRATIVE REVIEW AND COURT PROCEEDINGS.

(a) An applicant for a special event permit who disputes any determination made by or on behalf of the Town pursuant to the authority of the manager, which determination adversely affects such person, may petition the manager for a hearing concerning such determination no later than thirty (30) days after having been notified of any such determination. Compliance with the provisions of this subsection shall be a jurisdictional prerequisite to any action brought under the provisions of this section, and failure of compliance shall forever bar any such action.

(b) The manager may hold such hearing themselves or they have the sole discretion to designate a hearing officer to hold such hearing or such hearings

(c) Such petition shall be in writing, and the facts and figures submitted shall be submitted under oath or affirmation either in writing or orally at a hearing scheduled by the manager or the hearing officer. The hearing, if any, shall take place at Town Hall, and notice thereof and the proceedings shall otherwise be in accordance with rules and regulations issued by the manager.

(d) The burden of proof shall be on the proponent of a claim or issue to prove such claim or issue by a preponderance of the evidence, and on the party raising any affirmative defense or matter of mitigation to prove such affirmative defense or matter of mitigation by a preponderance of the evidence. "Preponderance of the evidence" means to prove that something is more probably true than not.

(e) Thereupon, the manager shall make a final determination. Such final determination shall be considered a final order of the manager and may be reviewed under Rule 106(a)(4) of the state rules of civil procedure by the petitioner or by the town.

(f) The district court of the fifth judicial district of the State of Colorado shall have original jurisdiction in proceedings to review all questions of law and fact determined by the manager by order or writ under Rule 106(a)(4) of the state rules of civil procedure.

Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 5. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2022. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____, 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

_____
Helen Cospolich, CMC,
Town Clerk

Memo

TOWN OF BRECKENRIDGE

To: Breckenridge Town Council

From: Finance Department

Date: 11.22.22

Subject: 2023 Budget Document

Linked in this memo for approval by resolution is the 2023 budget document and 2023-2027 Capital Improvement Plan. The purpose of this memo is to explain the major highlights of the budget, as well as to list the changes that have been made for the final document.

2023 BUDGET HIGHLIGHTS

The 2023 budget reflects our first budget process with the new Finance Team. In development of the 2023 budget, we used 2020 and 2021 actuals for analysis along with updated 2022 projections based on the 2022 budget. 2022 projections and the 2023 budget were developed with a collaborative effort with the town budget team. We did not assume any impact from COVID-19 as both 2021 and 2022 show a return to normal business for the Town. Our major headwinds for 2023 include economic uncertainty from increased inflation and mortgage interest rates along with employment challenges due to workforce housing and compensation.

Our revenue budget for 2023 is based on 2022 projections along with analysis of 2019 actuals. Due to the current economic uncertainty, we reduced revenue 10% from the 2022 projections. Even with this reduction, we are 25% higher than 2019 for sales tax and 40% higher for accommodations tax. This result shows a resumption of strong growth after an initial period of contraction during the COVID-19 shut-down.

Our expense projections for 2023 budget reflect increases in spending levels that account for merit increases and pay adjustments made in order to remain competitive for staff as well as a robust capital improvement plan (CIP). While we were not able to include the impact of the current compensation study; we will analyze the data upon completion and come back with a budget appropriation as required. Last, we did not make a blanket expense increase for inflation. The Town departments made expense projections based upon current spending levels to continue into 2023.

CHANGES

At our annual budget retreat held on October 11th, Council was presented with an overview for the 2023 budget. The highlights below represent changes made to the 2023 budget after the retreat:

1. **Parking and Transportation Fund:** Corrected 2022 projected revenue entry for Sustainability (EV charges): $30,426. Net impact for the ending 2023 Fund Balance: $30,426 improvement.

2. **Childcare Fund:** Added $20K for 2022 projection and $60K for the 2023 for the Circle Grant. Reclassed $26,364 in IT allocations to the Affordable Housing Fund. Net impact for the ending 2023 Fund Balance: $106,364 improvement. This amount has been added to the restriction for the new childcare facility. Net fund balance after restriction is unchanged.

3. **Special Projects Fund**: Reduced the capital improvement budget for Breckenridge History by $37,500. Added $50,000 to the Breckenridge History Capital Reserve to account for 2 draws in 2022. Net impact for the ending 2023 Fund Balance: ($12,500) reduction.

4. **Open Space Fund:** Removed $75,000 for the Wellington Oro Plant Reserve and $600,000 for the Rec Path Reserve in the 2022 projection. Removed these reserves in the 2023 budget. Net impact for the ending 2023 Fund Balance: $675,000 improvement.

5. **Affordable Housing Fund**: See attached reconciliation.

6. **Excise Tax:** Added Affordable Housing Transfer (Loan): ($8,362,188). Reduced transfer to Capital Fund for Block 11 True Up: $3,700,000. Reduced projection for Comcast Franchise Fees: ($14,632). Net impact to the ending 2023 Fund Balance: ($4,676,820) reduction.

7. **Capital:** Reduced Bock 11 final project expense: $2,000,000. Added transfer from Affordable Housing for Block 11: $1,700,000. Reduced Excise Fund transfer: ($3,700,000). Net impact to ending 2023 Fund Balance: $0.

8. **General Fund:** ($224,179) reduction due to payroll balance sheet reconciliations.

Please find the budget document linked here.

ALL FUNDS
REVENUE AND EXPENDITURE SUMMARY
NET OF TRANSFERS, EXCLUDING FULLY APPROPRIATED FUND BALANCES

	2023 BUDGET RETREAT	2023 FINAL BUDGET	VARIANCE
REVENUE SUMMARY			
PROPERTY TAX	$ 3,865,040	$ 3,865,040	$ -
SALES TAX	$ 42,780,973	$ 42,780,973	$ -
ACCOMMODATION TAX	$ 8,700,930	$ 8,700,930	$ -
CIGARETTE & NICOTINE TAX	$ 844,035	$ 844,035	$ -
FRANCHISE TAX	$ 907,020	$ 907,020	$ -
CABLE PEG TAX	$ 11,720	$ 11,720	$ -
MARIJUANA TAX	$ 640,000	$ 640,000	$ -
REAL ESTATE TRANSFER TAX	$ 5,405,283	$ 5,405,283	$ -
LICENSES AND PERMITS	$ 1,509,242	$ 1,509,242	$ -
INTERGOVERNMENTAL REVENUE	$ 6,661,951	$ 6,721,951	$ 60,000
CHARGES FOR SERVICES	$ 21,461,507	$ 21,461,507	$ -
FINES AND FORFEITS	$ 389,400	$ 389,400	$ -
PLANT INVESTMENT FEES	$ 1,000,000	$ 1,000,000	$ -
RECREATION FEES	$ 3,722,925	$ 3,722,925	$ -
GOLF COURSE REVENUE	$ 3,745,500	$ 3,745,500	$ -
ADVERTISING REVENUE	$ 13,000	$ 13,000	$ -
PARKING DISTRICT ASSESSMENT	$ -	$ -	$ -
INVESTMENT INCOME	$ 1,015,753	$ 1,015,753	$ -
DEBT PROCEEDS	$ 6,500,000	$ 6,500,000	$ -
SALE OF ASSETS	$ 58,000	$ 58,000	$ -
MCCAIN RENT/ROYALTIES	$ -	$ -	$ -
BGVCC NAMING AGREEMENT	$ 50,000	$ 50,000	$ -
LOAN PAYMENTS	$ 187,139	$ 187,139	$ -
RENTAL INCOME	$ 1,814,421	$ 1,814,421	$ -
RECOVERIES & CONTRIBUTIONS	$ 41,570	$ 41,570	$ -
REFUND OF EXPENDITURES	$ 2,470,943	$ 2,470,943	$ -
INTERNAL SERVICE REVENUE	$ 10,954,496	$ 10,954,496	$ -
MISCELLANEOUS INCOME	$ 1,058,368	$ 1,058,368	$ -
TOTAL REVENUES	$ 125,809,216	$ 125,869,216	$ 60,000
EXPENDITURES			
PERSONNEL	$ 33,549,005	$ 33,549,005	$ -
MATERIALS & SUPPLIES	$ 3,649,489	$ 3,649,489	$ -
CHARGES FOR SERVICES	$ 28,090,918	$ 30,384,118	$ (2,293,200)
MINOR CAPITAL	$ 63,737,928	$ 51,213,146	$ 12,524,782
FIXED CHARGES	$ 801,442	$ 801,442	$ -
DEBT SERVICES	$ 9,418,493	$ 9,419,243	$ (750)
GRANTS/CONTINGENCIES	$ 3,504,189	$ 3,504,189	$ -
ALLOCATION	$ 6,807,830	$ 6,807,830	$ -
TOTAL EXPENDITURES	$ 149,559,294	$ 139,328,462	$ 10,230,832
EXPENDITURES BY PROGRAM (GF=programs in the General Fund)			
GENERAL GOVERNMENT (GF)	$ 5,468,680	$ 5,468,680	$ -
FINANCE (GF)	$ 1,398,677	$ 1,398,677	$ -
PUBLIC SAFETY (GF)	$ 5,026,393	$ 5,026,393	$ -
COMMUNITY DEVELOPMENT (GF)	$ 2,184,586	$ 2,184,586	$ -
PUBLIC WORKS (GF)	$ 10,356,805	$ 10,356,805	$ -
RECREATION (GF)	$ 8,066,075	$ 8,066,075	$ -
UTILITY FUND	$ 13,099,832	$ 13,099,832	$ -
CAPITAL FUND	$ 20,771,483	$ 20,771,483	$ -
MARKETING FUND	$ 4,835,755	$ 4,835,755	$ -
GOLF COURSE FUND	$ 3,234,950	$ 3,234,950	$ -
EXCISE TAX FUND	$ 510,775	$ 510,775	$ -
HOUSING FUND	$ 42,549,076	$ 32,332,108	$ (10,216,968)
OPEN SPACE ACQUISITION FUND	$ 2,653,707	$ 2,653,707	$ -
CONSERVATION TRUST FUND	$ -	$ -	$ -
GARAGE SERVICES FUND	$ 4,339,486	$ 4,339,486	$ -
INFORMATION TECHNOLOGY FUND	$ 1,521,454	$ 1,521,454	$ -
FACILITIES MAINTENANCE FUND	$ 818,164	$ 818,164	$ -
SPECIAL PROJECTS FUND	$ 3,540,000	$ 3,552,500	$ 12,500
MARIJUANA FUND	$ 158,311	$ 158,311	$ -
CEMETERY FUND	$ 18,500	$ 18,500	$ -
CHILD CARE FUND	$ 1,049,843	$ 1,023,479	$ (26,364)
PARKING & TRANSPORTATION FUND	$ 12,972,892	$ 12,972,892	$ -
HEALTH BENEFITS FUND	$ 4,500,000	$ 4,500,000	$ -
ACCOMMODATION UNIT COMPLIANCE FUND	$ 483,850	$ 483,850	$ -
TOTAL EXPENDITURES	$ 149,559,294	$ 139,328,462	$ (10,230,832)
Net Revenues minus Expenditures	**(23,750,078)**	**(13,459,246)**	

ALL FUNDS
GOVERNMENTAL AND PROPRIETARY FUND BALANCE ROLL-FORWARD

BUDGET RETREAT REVIEW				FINAL 2023 BUDGET		
FUND	**2023 FUND BALANCE**	**2023 RESTRICTED**	**2023 ENDING BALANCE**	**FUND**	**2023 ENDING BALANCE**	**VARIANCE**
GOVERNMENTAL FUNDS				**GOVERNMENTAL FUNDS**		
DISCRETIONARY				DISCRETIONARY		
001 - GENERAL	$ 14,338,958	$ 12,924,006	$ 1,414,952	001 - GENERAL	$ 1,190,774	$ (224,179)
006 - EXCISE TAX	$ 68,524,449	$ 49,284,600	$ 19,239,849	006 - EXCISE TAX	$ 14,563,029	$ (4,676,820)
013 - SPECIAL PROJECTS	$ 720,744	$ -	$ 720,744	013 - SPECIAL PROJECTS	$ 708,244	$ (12,500)
014 - MARIJUANA	$ 280,582	$ -	$ 280,582	014 - MARIJUANA	$ 280,582	$ -
016 - CHILD CARE	$ 4,932,617	$ 4,432,617	$ 500,000	016 - CHILD CARE	$ 500,000	$ -
017 - PARKING & TRANSPORTATION	$ 6,359,686	$ 4,636,300	$ 1,723,386	017 - PARKING & TRANSPORTATION	$ 1,753,811	$ 30,425
003 - CAPITAL	$ 529,280	$ -	$ 529,280	003 - CAPITAL	$ 529,280	$ -
TOTAL DISCRETIONARY FUND BALANCE	$ 95,686,315	$ 71,277,523	**$ 24,408,792**	TOTAL DISCRETIONARY FUND BALANCE	**$ 19,525,719**	**$ (4,883,073)**
SPECIAL REVENUE				SPECIAL REVENUE		
020 - ACCOMMODATION UNIT COMPLIANCE	$ 7,353,612	$ 7,353,612	$ 0	020 - ACCOMMODATION UNIT COMPLIANCE	$ 0	$ -
007 - AFFORDABLE HOUSING	$ 22,978,363	$ 29,600,018	$ (6,621,655)	007 - AFFORDABLE HOUSING	$ 0	$ 6,621,655
008 - OPEN SPACE	$ 9,518,292	$ -	$ 9,518,292	008 - OPEN SPACE	$ 10,193,292	$ 675,000
004 - MARKETING	$ 5,341,893	$ -	$ 5,341,893	004 - MARKETING	$ 5,341,893	$ -
009 - CONSERVATION TRUST	$ 12,612	$ -	$ 12,612	009 - CONSERVATION TRUST	$ 12,612	$ -
TOTAL SPECIAL REVENUE FUND BALANCE	$ 45,204,773	$ 36,953,630	$ 8,251,143	TOTAL SPECIAL REVENUE FUND BALANCE	$ 15,547,798	$ 7,296,655
TOTAL GOVERNMENTAL FUND BALANCE	$ 140,891,088	$ 108,231,153	$ 32,659,935	**TOTAL GOVERNMENTAL FUND BALANCE**	$ 35,073,517	$ 2,413,582
PROPRIETARY FUNDS				**PROPRIETARY FUNDS**		
ENTERPRISE				ENTERPRISE		
002 - UTILITY	$ 60,924,055	$ 41,998,519	$ 18,925,536	002 - UTILITY	$ 18,925,536	$ -
005 - GOLF	$ 10,729,727	$ 7,747,985	$ 2,981,742	005 - GOLF	$ 2,981,742	$ -
015 - CEMETERY	$ 225,808	$ -	$ 225,808	015 - CEMETERY	$ 225,808	$ -
TOTAL ENTERPRISE FUND BALANCE	$ 71,879,590	$ 49,746,505	$ 22,133,085	TOTAL ENTERPRISE FUND BALANCE	$ 22,133,085	$ -
INTERNAL SERVICES				INTERNAL SERVICES		$ -
010 - GARAGE	$ 14,580,527	$ 4,504,965	$ 10,075,562	010 - GARAGE	$ 10,075,562	$ -
012 - FACILITIES	$ 5,230,112	$ 51,697	$ 5,178,415	012 - FACILITIES	$ 5,178,415	$ -
011 - IT	$ 1,048,439	$ 0	$ 1,048,438	011 - IT	$ 1,048,438	$ -
018 - HEALTH BENEFITS	$ 1,799,990	$ -	$ 1,799,990	018 - HEALTH BENEFITS	$ 1,799,990	$ -
						$ -
TOTAL INTERNAL SERVICE FUND BALANCE	$ 22,659,067	$ 4,556,662	$ 18,102,405	TOTAL INTERNAL SERVICE FUND BALANCE	$ 18,102,405	$ -
TOTAL PROPRIETARY FUND BALANCE	$ 94,538,657	$ 54,303,167	$ 40,235,490	**TOTAL PROPRIETARY FUND BALANCE**	$ 40,235,490	$ -
TOTAL FUND BALANCE	**$ 235,429,745**	**$ 162,534,319**	**$ 72,895,426**	**TOTAL FUND BALANCE**	**$ 75,309,007**	**$ 2,413,582**

TOWN OF BRECKENRIDGE

2023 BUDGET RECONCILIATION

FINAL 2023 BUDGET		
FUND	**ESTIMATED ENDING BALANCE**	**VARIANCE**
006 - EXCISE TAX FUND BUDGET RETREAT	$ 19,239,849	
Reduced allocation to Capital Fund (Block 11)		$ 3,700,000
Loan to the Affordable Housing Fund		$ (8,362,188)
Reduced Franchise Fees for Comcast		$ (14,632)
Net Change		$ (4,676,820)
2023 Revised Ending Fund Balance	**$ 14,563,029**	
013 - SPECIAL PROJECTS FUND BUDGET RETREAT	$ 720,744	
Reduced 2023 Capital Projects for Breck Housing		$ 37,500
Increased 2022 Capital Reserve based on draw timing		$ (50,000)
Net Change		$ (12,500)
2023 Revised Ending Fund Balance	**$ 708,244**	
016 - CHILD CARE FUND BUDGET RETREAT	$ 500,000	
Reclassed IT Allocation to Affordable Housing		$ 26,364
Updated Grants for Circle Grant		$ 80,000
Increased Restriction for Child Care Center		$ (106,364)
Net Change		$ -
2023 Revised Ending Fund Balance	**$ 500,000**	
003 - CAPITAL FUND BUDGET RETREAT	$ 529,280	
Affordable Housing Allocation for Block 11		$ 1,700,000
Reduced Block 11 Project Cost		$ 2,000,000
Reduced Excise Tax Fund Transfer		$ (3,700,000)
Net Change		$ -
2023 Revised Ending Fund Balance	**$ 529,280**	
020 - ACCOMMODATION UNIT COMPLIANCE FUND BUDGET RETREAT	$ 0	
Reclassed Housing Helps from Affordable Housing		$ (300,000)
Reduced Allocation to Affordable Housing		$ 300,000
Net Change		$ -
2023 Revised Ending Fund Balance	**$ 0**	
007 - AFFORDABLE HOUSING FUND BUDGET RETREAT	$ (6,621,655)	
Excise Tax Fund Transfer (Loan)		$ 8,362,188
Reduced allocation from Accomodation Unit Compliance		$ (300,000)
Reclass IT Allocation from Childcare		$ (26,364)
Reduced Stillson Project		$ 3,000,000
The LOGE water/sewer project		$ (750,000)
Increased construction expense (Alta Verde I & II)		$ (958,827)
Expensed The LOGE/Washington St. (eliminated restriction)		$ -
Updated Buydown projection for 2022		$ (3,213,842)
Updated Buydown projection for 2023		$ (3,274,000)
Reduced 2023 Buy Down Restriction		$ 3,750,000
DOLA grant update		$ 32,500
Net Change		$ 6,621,655
2023 Revised Ending Fund Balance	**$ 0**	
008 - OPEN SPACE FUND BUDGET RETREAT	$ 9,518,292	
Removed Wellington Oro Reserve		$ 75,000
Removed recreation path reserve		$ 600,000
Net Change		$ 675,000
2023 Revised Ending Fund Balance	**$ 10,193,292**	

A RESOLUTION ADOPTING THE 2023 BUDGET
AND MAKING APPROPRIATIONS THEREFOR; AND APPROVING THE 2023-2027
CAPITAL IMPROVEMENT PLAN

WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt an operating budget for each fiscal year; and

WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt a five-year Capital Improvement Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The proposed operating budget for 2023 based on certain fee changes, as revised by Town Council and maintained on file by the Town Clerk, is adopted and appropriations are made to the various programs as shown therein.

Section 2. The 2023-2027 Capital Improvement Plan, as proposed by the Town Manager and as amended by the Town Council, is approved.

Section 3. All fees and charges contained in the 2023 operating budget are approved and adopted. Such fees shall become effective January 1, 2023. Further, the Town Manager may implement any of the other fees and charges contained in the 2023 operating budget prior to January 1, 2023 if the Town Manager determines, in his judgment, that such early implementation is necessary or appropriate.

Section 4. This Resolution is effective upon adoption.

RESOLUTION ADOPTED AND APPROVED this 22nd day of November 2022.

ATTEST: TOWN OF BRECKENRIDGE

_____ _____
Helen Cospolich, Town Clerk Eric Mamula, Mayor

APPROVED IN FORM

_____
Town Attorney Date

TOWN OF
BRECKENRIDGE

To: Breckenridge Town Council

From: Laurie Best-Community Development Department

Date: 11/16/2022 (for 11/22/2022)

Subject: A RESOLUTION APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO CONCERNING THE JUSTICE CENTER PROJECT

The Town of Breckenridge (Town) and Summit County (County) executed an Intergovernmental Agreement (IGA) regarding the development of the Justice Center workforce housing project on January 11, 2022. Since then, a few of the project terms and conditions have changed and the parties believe the IGA should be amended to reflect these changes. A copy of the original IGA is included in your packet along with a copy of the amended IGA with the most substantial change highlighted for your review.

There are several minor non-substantive changes, but the most significant modifications include:

- Exhibit A and Section 5 (Ownership): The project was increased by approximately 1/3 acre when a small sliver of land (Government Tract 47), which was owned by the Town of Breckenridge, was added to the County's original Lot 4, Parkway Center. A replat was filed in September 2022 to combine the two lots and the legal description has been updated in this Amended IGA to reflect the new parcel. Pursuant to the first IGA, the County had conveyed interest in the original Lot 4 to the Town and County as tenants in common via a special warranty deed recorded in March, but the sliver of Tract 47 was still owned solely by the Town. At the Town Council meeting on November 8th, the Council approved an Ordinance authorizing conveyance of the silver of Tract 47 which ensures that all of the new larger parcel is owned by the Town and County as tenants in common.

- Section 10 (Project Financing): The original IGA assumed that both the Town and County would contribute approximately $4 million cash to the development of the project, and that the Town would cover the balance of the cost by issuing Certificates of Participation (COPs). Subsequently, the parties agreed to finance the project costs without any cash contributions, using only Town issued Certificates of Participation and a $2.5 million grant from the State Department of Local Affairs. The Amended IGA includes the updated cost projection which is $22 million to be financed with $19.5 million COPs and the $2.5 million grant.

- Section 18 (Insurance): The original IGA required both the Town and the County obtain insurance However, because the Town is issuing the COPs to cover the construction cost, the Town is responsible for procuring and maintaining the insurance. The IGA has been amended to clarify that the Town will obtain the insurance with the County named as an additional insured party on the policy.

Recommendation: A resolution has been prepared authorizing the execution of the amended IGA. Staff recommends approval of the resolution to ensure we are able to execute an updated IGA that reflects the changes that have been made to the project and to ensure that the IGA is consistent with the financing documents required for the Town to issue the debt for this project. Staff will be available at your meeting on November 22, 2022 if there are any questions.

A RESOLUTION

SERIES 2022

A RESOLUTION APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND SUMMIT COUNTY, COLORADO TO DEVELOP WORKFORCE HOUSING ON REAL PROPERTY REFERRED TO AS "THE JUSTICE CENTER."

WHEREAS, the Town Council of the Town of Breckenridge ("Town") and the Board of County Commissioners of Summit County, Colorado (hereinafter "Parties") entered into an Agreement dated January 11, 2022 pertaining to development of real property referred to as the Justice Center;

WHEREAS, the Parties desire to amend the agreement to conform to new terms and conditions, including with respect to how the Project will be financed;

WHEREAS, the Town Council has reviewed the proposed Amended and Restated Agreement attached hereto as **Exhibit A**, and finds and determines that it would be in the best interest of the Town to enter into such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. The proposed Amended and Restated Intergovernmental Agreement between the Town of Breckenridge and Summit County is hereby approved and the Town Manager is hereby authorized, empowered and directed to execute such agreement for and on behalf of the Town of Breckenridge.

Section 2. This resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED this 22nd day of November, 2022.

TOWN OF BRECKENRIDGE

ATTEST:

By_____
Eric Mamula, Mayor

_____
Helen Cospolich, Town Clerk

APPROVED IN FORM

_____
Town Attorney Date

INTERGOVERNMENTAL AGREEMENT
(Justice Center Workforce Housing Project)

This Intergovernmental Agreement (this "**Agreement**") is dated January 11, 2022 (the "**Effective Date**") and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the "**Town**") and SUMMIT COUNTY, COLORADO, acting by and though the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (the "**County**"). The Town and the County are sometimes referred to individually as a "**Party**," and together as the "**Parties**."

Background

The Parties have been working cooperatively to analyze, evaluate, and plan for the joint development and operation of an affordable workforce housing project on the County's real property located in the Town of Breckenridge, Colorado, and as more particularly described on the attached **Exhibit "A"** (the "**Property**"). Such project does not yet have an agreed upon name and has been generally referred to as the "Justice Center Project", and will be referred to in this Agreement as the "**Project**."

The Parties are in agreement on all essential aspects of the project and have a joint understanding of the costs, the funding, the contractor(s), and rough schedule for development. The Town has entered into one pre-construction contract to do initial soils testing and preliminary design work for the Project. The County has entered into one pre-construction contract for a site and tree survey for the parcel. The Parties are in agreement that the costs of those two preliminary contracts will be shared 50-50, and moving forward costs will be allocated as set forth in this IGA. This Agreement is executed for the purpose of providing all of the specific details, terms, and conditions of the construction of the Project.

This Agreement is entered into pursuant to the authority granted by Article XIV, Section 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29, C.R.S.

Agreement

For and in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the Parties agree as follows:

1. Term. The term of this Agreement commences as of the Effective Date of this Agreement and will continue until it is terminated as provided in this Agreement.

2. Agreement to Develop the Project. The Parties agree to develop the Project in accordance with, and subject to, the terms and conditions of this Agreement.

3. Agreement to Cooperate. The Parties agree to take all action reasonably necessary to develop the Property in a timely manner and will not unreasonably delay the

development of the Project, and to cooperate with each other fairly and in good faith with respect to all aspects of the final design, construction, and operation of the Project.

4. Mutual Agreement Required. Unless otherwise specified in this Agreement, all substantial decisions concerning the development, operation, and management of the Project requires the mutual written agreement of the Town and the County.

5. Ownership of Property. The Parties acknowledge that at the time of the execution of this Agreement the Property is solely owned by the County. Unless otherwise agreed, the Parties will jointly own the Property as tenants in common during the term of this Agreement. To accomplish this, within 60 days of the execution of this IGA, the County agrees to execute and deliver to the Town an appropriate warranty deed conveying the Property to the Town and the County as tenants in common, subject to all existing liens and encumbrances of record as of the date of the execution of the deed.

6. Design of the Project. As soon as practicable following the execution of this Agreement the Parties will take all action required to complete the final design of the Project. In connection with the final design of the Project it is agreed that:

A. The entitlements for the Project will be established by the Town pursuant to the Town's Development Code. The Town's staff will expedite the establishment of the Project entitlements insofar as possible.

B. The Project will be reviewed under the "Town Project" provisions of the Development Code. Once approved, the development permit will be issued jointly to the Town and the County.

C. The final design of the Project will comply with the County's building and technical codes in effect at the time an application for the building permit is made. The building permit for the Project will be issued by the County. The County's staff will expedite the review of the building permit application and the issuance of the building permit insofar as possible. All inspections of the Project during the construction phase will be conducted by the County.

7. Conditions Precedent. Notwithstanding anything in this Agreement to the contrary, the decision to proceed with the construction of the Project is subject to the Parties reaching agreement on all of the following issues:

A. the final design of the Project;

B. the estimated final cost of the Project, and the guaranteed maximum price ("**GMP**") of constructing the Project, if there should be one; and

C. all other matters related to final design, construction, financing, and initial operation of the Project.

If, for any reason, the Parties are unable to reach an agreement as to all such issues this Agreement may be terminated by either Party without liability for breach of this Agreement.

8. Selection and Management of Contractor. Once the Parties have finally agreed upon all of the conditions precedent described in Section 7 then the Parties will authorize the general contractor to proceed with the construction of the Project. The County will be the construction liaison and owner's representative for the Project. Because of the unique nature of the project, the general contractor has already been chosen and agreed upon by the Parties as part of a design-build partnership between Symmetry, LLC and Fading West, LLC. The contract with the general contractor will be based upon a GMP or equivalent ("GMP"). The form and substance of the construction contract and all related documents will be subject to the reasonable approval of both Parties and their respective attorneys. The construction contract must include both a payment bond and a performance bond in an amount equal to the GMP. Once a GMP has been agreed upon by the Parties and the general contractor, and an acceptable contract for the construction of the Project has been drafted and approved by the Parties and the general contractor, both Parties will sign the contract. If the Parties and the general contractor cannot agree on a GMP, this Agreement may be terminated by either Party without liability for breach of this Agreement.

9. Cost of the Project.

A. Subject to the adjustments provided for in this Section, and as otherwise provided in this Agreement, the Parties agree to each pay one-half of the total cost of developing, constructing, operating, managing, and maintaining the Project throughout the term of this Agreement, including the two contracts pertaining to pre-development services already executed by the Town and County and any additional contracts that are needed outside of the design-build construction contract.

B. As used in this Section, the "cost of developing, operating, and maintaining the Project" means all out-of-pocket costs incurred by the Parties in connection with the development, construction, operation, management, and maintenance of the Project.

C. It is anticipated that each of the Parties will provide certain agreed "in kind" services or benefits related to the initial development of the Project. The in kind contributions are not subject to the provisions of Subsection A of this Section, and it is agreed that the amount of in kind contributions by the Parties need not be equal in number or value. No adjustment to the Parties' obligations to share equally in the total cost of developing, constructing, operating, managing, and maintaining the Project will be made as a result of the Parties' in kind contributions.

At the time of the execution of this Agreement such in kind services are anticipated by the Parties to be as follows:

i. Town will provide the following in kind services:

a. a connection to the Town's municipal water service and payment of any required water plant investment fee for the Project. The Project will pay for all water used in its operation;

b. a Town Project development permit for the Project, together with such additional development permits as may be necessary to the successful development and operation of the Project;

c. a waiver of all fees associated with any required development permit(s), including both the initial development permit for the construction of the Project and such additional development permits as may be required throughout the term of this Agreement;

d. the cost of having the Town staff and the Town Attorney perform actions required of the Town under this Agreement; and

e. required snow removal for the access road to the Project.

ii. County will provide the following in kind services:

a. the contribution of the Property, together with an estimation of the fair market value of the Property;

b. a waiver of all plan check, building permit, and inspection fees required for the Project, including both the initial building permit for the construction of the Project and such additional building permits as may be required throughout the term of this Agreement;

c. any required fee for the inclusion of the Property into the Upper Blue Sanitation District;

d. the required sewer tap connection fee for the Project; and

e. the cost of having the County staff and County attorneys perform actions required of the County under this Agreement.

D. Notwithstanding anything contained in this Agreement to the contrary, it is agreed that any unanticipated cost of developing, constructing, operating, managing, and maintaining the Project will be paid equally by the Parties; provided, however, if such unanticipated cost arises solely from the action or inaction of one of the Parties, such Party will be solely responsible for the payment of such cost. As used in this Subsection E, "unanticipated cost of

developing, constructing, operating, managing, and maintaining the Project" means any cost that is not the subject to the Parties' agreed budget for the development, construction, operation, management, and maintenance of the Project.

10. Project Financing and Debt Service for the Project.

A. The Parties anticipate to each contribute Two Million ($2,000,000) in cash to the development and construction of the Project, for a total of Four Million $4,000,000 in cash financing. Based on the final cost of the Project, the Parties may mutually agree to increase their cash contribution.

B. To finance the remainder of the costs of developing and constructing the Project, the Town will issue debt in a principal amount of approximately Thirteen Million Dollars ($13,000,000) ("**Project Financing**"), which amount includes the funds to be used to construct the Project, together with the cost of the issuance of the Project Financing, including, but not limited to, bond counsel fees and underwriter's discount. The Project Financing will be in such form, and upon such terms and at such interest rates, as the Town determines to be appropriate. If necessary the Parties agree that the amount of Project Financing may change depending on Project needs, subject to mutual written agreement.

C. The Parties acknowledge and agree that as to the investors who acquire the Town's Financing, the Town will be solely responsible to pay the Town Financing in accordance with its terms, and the County will have no liability to pay the investors.

11. Revenue of the Project. All net operating revenue of the Project will be applied toward the Debt Service until the Debt Service has been fully paid. It is understood that the net operating revenue of the Project is not anticipated to fully pay the Debt Service, and the Parties agree to share equally in the payment of that portion of the Debt Service that is not covered by the net operating revenue of the Project. Once the Debt Service has been fully paid, all net operating revenue of the Project will be shared equally between the Parties. "**Net Operating Revenue**" means the total of all income received by the Parties from the operation of the Project, less all expenses incurred and paid by the Parties in connection with the operation of the Project. Once the Debt Service for the Project has been fully paid, the Parties will agree upon the frequency of the distribution of the Net Operating Revenues.

12. Management of the Project. Prior to the completion of construction of the Project, the Parties will agree upon a qualified person to manage the day-to-day operations of the Project on their behalf. The County will take the lead on the day-to-day management of Project. The form and substance of the management contract, if any, and all related documents will be subject to the reasonable approval of both Parties and their respective attorneys.

13. Initial Leasing Rates, Tenant Qualifications, and Other Matters. Prior to the completion of construction of the Project, the Parties will agree upon:

A. the initial leasing rates for the apartments in the Project;

B. the form and substance of the income and other qualifications and restrictions that will apply to tenants of the Project;

C. the establishment and maintenance of a reserve fund for the Project; and

D. other issues related to the operation and management of the Project.

E. the final number of units to be reserved for each Parties' use.

It is agreed that initially fifty percent (50%) of the units in the Project will be offered for lease to persons who work in the Upper Blue River Basin (the area bounded by Farmers Korner on the north and Hoosier Pass on the south); and fifty percent (50%) of the units in the Project will be offered for lease to persons who work in Summit County. Any subsequent priority will be mutually agreed to by both Parties.

14. Meet and Confer Obligation. At least once annually, or more frequently if necessary or desirable, the Parties agree to meet to discuss matters related to the operation and management of the Project.

15. Day-To-Day Communications. All communications between the Parties relating to the day-to-day activities of the Project will be exchanged between the respective Project Representatives of Town and County who will be designated by the Parties promptly upon the execution of this Agreement. Either Party may change their designated Project Representative at any time.

16. Books and Records. Within 60 days after the Effective Date of this Agreement the Parties will agree upon how, where, and by whom the books of account for the Project will be maintained. Each Party will have the right, at its sole cost and expense, at all reasonable times during usual business hours to audit, examine, and copy the books of account of the Project. Such right may be exercised through any agent or employee of such Party.

17. Waiver of Right to Partition. Neither the Town nor the County have any right to partition the Property or any of the Parties' jointly owned assets exclusively used or associated with the Project, and both the Town and the County hereby irrevocably waive any and all rights that they might have to maintain any action for partition of the Property and such jointly owned assets.

18. Insurance.

A. Required Insurance. Throughout the term of this Agreement the Town and the County will each procure and maintain the following minimum insurance coverages:

i. workers' compensation insurance to cover obligations imposed by applicable laws for any employee of the Town or the County (as applicable).

ii. commercial general liability insurance with limits of liability not less than the limits of liability established from time to time by the Colorado Governmental Immunity Act, Article 10 of Title 24, C.R.S., as amended from time to time ("**Act**"). The policy must include coverage for bodily injury, broad form property damage (including complete operations), personal injury (including coverage for contractual and employee's acts), blanket contractual, products, and completed operations.

Such coverages will be procured and maintained with forms and insurers reasonably acceptable to the other Party. All coverage will be continuously maintained until this Agreement has been terminated in accordance with the requirements of this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods will be procured to maintain such continuous coverage.

B. Deductibles. The Town and the County are each solely responsible for any deductible amounts required to be paid under their own required insurance policies described in Subsection A of this Section.

C. Insurance Certificate. Each Party will provide the other Party with a certificate of insurance evidencing that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and listing the other Party as an additional insured. Such certificates will be provided within 30 days of the Effective Date of this Agreement, and on each renewal or replacement of the required insurance policies throughout the term of this Agreement. The completed insurance certificates will be sent to the Parties at the addresses provided in Section 25.

19. Mutual Indemnification.

A. Indemnification By Town. To the extent permissible by law, the Town will indemnify and defend the County, its officers, employees, insurers, and self-insurance pool, against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent that such injury, loss, or damage is caused by the negligence or intentional wrongful act of the Town, or any officer, employee, representative, or agent of the Town; except to the extent such liability, claim, or demand arises through the negligence or intentional wrongful act of the County, its officers, employees, or agents, or the County's breach of this Agreement. To the extent indemnification is required under this Agreement, the Town agrees to

investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

B. Indemnification By County. To the extent permissible by law, the County will indemnify and defend the Town, its officers, employees, insurers, and self-insurance pool, against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent that such injury, loss, or damage is caused by the negligence or intentional wrongful act of the County, or any officer, employee, representative, or agent of the County; except to the extent such liability, claim, or demand arises through the negligence or intentional wrongful act of the Town, its officers, employees, or agents, or the Town's breach of this Agreement. To the extent indemnification is required under this Agreement, the County agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

C. Indemnity Subject To Applicable Law. To the extent permissible by law, the obligation of a Party to indemnify and defend the other Party pursuant to this Section is expressly subject to any applicable limitation or provision of the Act, or any other law providing similar limitations or protections. Neither Party waives the right to assert that its obligation to indemnify and defend the other Party is barred by any applicable provision of the Colorado Constitution that prohibits one Party from indemnifying the other Party.

D. Indemnity For Worker's Compensation Claims.

i. The Town will indemnify and defend the County with respect to any claim, damage, or loss arising out of any worker's compensation claim of any employee of the Town.

ii. The County will indemnify and defend the Town with respect to any claim, damage, or loss arising out of any worker's compensation claim of any employee of the County.

E. Survival. To the extent permissible by law, the he obligation of a Party to indemnify and defend the other Party pursuant to this Section will survive the termination of this Agreement, and, subject to any applicable statute of limitation, will continue to be enforceable thereafter until such obligations are fully performed.

20. Termination. This Agreement may be terminated as follows:

F. As provided in Sections 7 and 8 of this Agreement;

G. For default as provided in Section 21(A); or

H. For non-appropriation as provided in Section 26(C).

21. Default; Resolution Of Disputes.

A. Default. A default exists under this Agreement if any Party violates any covenant, condition, or obligation required to be performed under this Agreement. As used in this Section, a Party violating any covenant, condition, or obligation required to be performed under this Agreement is the "**Defaulting Party**," and the other Party is the "**Non-Defaulting Party**." If a Defaulting Party fails to cure such default within 30 business days after the other Non-Defaulting Party gives written notice of the default to the Defaulting Party then, at the Non-Defaulting Party's option, the Non-Defaulting Party may terminate this Agreement, subject to the provisions of Section 22 of this Agreement concerning the disposition of the Project and the Parties' property upon termination of this Agreement. If a default is not capable of being cured within 30 business days, a Defaulting Party will not be in default if it commences curing the default within 30 business days after receipt of written notice of default from the Non-Defaulting Party, and thereafter cures such default with due diligence and in good faith. Notwithstanding any Party's right to terminate this Agreement for an uncured default, this Agreement is subject to the rights of any Party to invoke the remaining provisions of this Section.

B. Negotiation. Either Party may give the other Party written notice of any dispute arising out of or related to this Agreement that is not resolved in the normal course of business. The Parties will attempt in good faith to resolve any such dispute promptly by negotiations between the Parties' authorized representatives. Within 15 business days after receipt of said notice, authorized representatives will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 60 business days of the notice of dispute, or if the Parties fail to initially meet within 15 business days, either Party to the dispute may initiate mediation of the controversy as provided below.

C. Mediation. If the dispute has not been resolved by negotiation as provided above, the Parties will endeavor to settle the dispute by mediation with a neutral third party. If the Parties encounter difficulty in agreeing on a neutral third party, they may each appoint a neutral third party who will agree on a mediator, and the Parties agree to mediate with said mediator.

D. Judicial Action. Any dispute arising out of or relating to this Agreement or the breach, termination, or validity hereof, which has not been resolved by the

methods set forth above within 30 days of the initiation of mediation, may be finally resolved by appropriate judicial action commenced in a court of competent jurisdiction. The Parties agree to venue in the courts of Summit County, Colorado with respect to any dispute arising out of or relating to this Agreement. The Parties hereby waive the right to a jury trial in any action to enforce, interpret, or construe this Agreement.

E. Provisional Remedies. The procedures specified in this Section are the sole and exclusive procedures for the resolution of disputes among the Parties arising out of or relating to this Agreement; provided, however, that a Party may seek a preliminary injunction or other provisional judicial relief if, in its judgment, such action is necessary to avoid irreparable damage or to preserve the status quo. Despite such action, the Parties will continue to participate in good faith in the procedures specified in this Section.

F. Performance To Continue. Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

G. Extension Of Deadlines. All deadlines specified in this Section may be extended by mutual agreement in writing signed by the Parties.

H. Costs. Each Party will pay its own costs with respect to negotiation and mediation. The prevailing Party in any judicial action is entitled to reimbursement from the other Party for all reasonable costs and expenses, including attorney fees and expert witness fees, in connection with such judicial action.

22. Disposition of Project and Property Upon Termination. Upon the lawful termination of this Agreement pursuant to Section 20, the Parties will promptly and in good faith attempt to agree upon a fair and equitable disposition of the Property, the Parties' jointly owned assets exclusively used or associated with the Project, and all other remaining Project assets, income, and liabilities. For this purpose, authorized representatives of the Parties will meet not later than 15 business days after the effective date of termination at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve all issues related to the disposition of the Property and all remaining Project assets, income, and liabilities. If the matter has not been resolved within 60 business days of the effective date of termination of this Agreement, the Property, together with all of the Parties' jointly owned assets exclusively used or associated with the Project, will be offered for sale for cash at their then fair market value. The "**Fair Market Value**" of the Property and the Parties' jointly owned assets will be determined by an appraiser mutually acceptable to the Parties. The appraiser will be a licensed Colorado real estate broker with no less than 10 years' experience in appraising real property in Summit County, Colorado. If the Parties are unable to agree upon a mutually acceptable appraiser, they each may appoint a neutral third party to agree on an appraiser. The appraiser's determination will be binding

on the Parties. The cost of the appraisal will be paid equally by the Parties. Either Party may be the purchaser of the other Party's right, title, and interest in the Property and the Parties' jointly owned assets exclusively used or associated with the Project. The net sale proceeds of the Property and the Parties' jointly owned assets exclusively used or associated with the Project, will be used to pay the balance of the Debt Service for the Project, and any balance of such proceeds will then be divided equally between the Town and the County. The provisions of this Section control over the dispute resolution provisions of Section 21.

23. Right to Final Accounting. In addition to such other remedies as may be available by applicable law or this Agreement, and without regard to a Party's receipt of a share of the net sale proceeds of the Property and the Parties' jointly owned assets exclusively used or associated with the Project as described in Section 22, either Party has the right to a final accounting of all financial matters associated with the development of the Property and the operation of the Project to assure compliance with the terms and conditions of this Agreement. A request for a final accounting must be made no later than the last to occur of:

A. The expiration of 180 days after the sale of the Property and the Parties' jointly owned assets exclusively used or associated with the Project pursuant to Section 22 of this Agreement; or

B. The expiration of one year after the effective date of the termination of this Agreement.

The failure to make a timely request for a final accounting will be a waiver of the right to a final accounting.

24. Force Majeure. Neither Party is liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the control of that Party, including, without limitation, strikes, boycotts, labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy, terrorism, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such Party is not responsible or which is not in its power to control.

25. Notices. All notices required or permitted under this Agreement must be given by registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial carrier delivery, or by telecopies directed as follows:

If intended for the Town to:

Town of Breckenridge
P.O. Box 168
150 Ski Hill Road
Breckenridge, Colorado 80424

Attn: Rick G. Holman, Town Manager
Telecopier number: (970)547-3104
Telephone number: (970)453-2251

with a copy in each case (which will not constitute notice) to:

Kirsten Crawford
Town Attorney

If intended for the County, to:

Board of the County Commissioners
P.O. Box 68
Breckenridge, Colorado 80424
Attn: Scott Vargo, County Manager
Telephone number: (970)453-3401
Telecopier number: (970)453-3535

with a copy in each case (which will not constitute notice) to:

Jeffrey R. Huntley, Esq.
Summit County Attorney
P.O. Box 68
Breckenridge, Colorado 80424
Telephone number: (970)453-3407
Telecopier number: (970)454-3535

Any notice delivered by mail in accordance with this Section is effective on the third business day after being deposited in any post office or postal box regularly maintained by the United States Postal Service. Any notice delivered by telecopier in accordance with this Section is effective upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt requested, on the same day to that intended recipient. Any notice delivered by hand or commercial carrier is effective upon actual receipt. Either Party, by notice given as above, may change the address to which future notices may be sent. E-mail is not a valid method for the giving of notice under this Agreement.

26. Annual Appropriation.

A. Financial obligations of the Town under this Agreement payable after the current fiscal year in which this Agreement is executed are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Town Council of the Town of Breckenridge, Colorado.

B. Financial obligations of the County under this Agreement payable after the current fiscal year in which this Agreement is executed are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Board of County Commissioners of Summit County, Colorado.

C. If the governing body of the either Party (the "**Non-Appropriating Party**") fails to appropriate and budget sufficient funds to pay the financial obligations of the Non-Appropriating Party under this Agreement, this Agreement may be terminated by either Party without penalty.

D. In the event of non-appropriation the Non-Appropriating Party will, upon request of the other Party, execute, acknowledge, and deliver to the other Party a deed conveying to the other Party all of the Non-Appropriating Party's right, title, and interest, of whatever kind or nature, in and to the Property. The conveyance of the Property pursuant to this Subsection D will not be a waiver of the Non-Appropriating Party's rights under this Agreement. The provisions of this Section D are specifically enforceable, and both Parties irrevocably waive the right to challenge the enforceability of such specific performance remedy.

E. Neither the Town's nor the County's obligations under this Agreement will constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

27. Governmental Immunity. The Parties are each relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations of the Act, which limitations are as of the date of this Agreement $387,000 per person and $1,093,000 per occurrence, or any other limitation, right, immunity, defense or protection otherwise available to the Town and the County, and their respective officers, representatives, agents and employees.

28. Third Parties. This Agreement does not confer upon or grant to any third party any right to claim damages or to bring suit, action, or other proceeding against either the Town or the County because of any breach of this Agreement, or because of any of the terms, covenants, agreements, and conditions contained in this Agreement.

29. Waiver. The failure of either Party to exercise any of its rights under this Agreement is not a waiver of those rights. A Party waives only those rights specified in writing and signed by either Party waiving its rights.

30. Independent Contractor. In connection with this Agreement each of the Parties acts as an independent contractor (and not an agent or employee of the other Party), without the right or authority to impose tort or contractual liability upon the other Party.

31. Applicable Law. This Agreement is to be interpreted in all respects in accordance with the laws of the State of Colorado.

32. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties as to the subject matter of this Agreement, and supersedes any prior agreement or understanding relating thereto.

33. Amendment. This Agreement may be modified or amended only by a duly authorized written instrument executed by the Parties. No oral amendment or modification of this Agreement is allowed.

34. Severability. If any of the provisions of this Agreement are declared by a final, non-appealable judgment court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby.

35. "Day" Defined. Unless specifically indicated to be a business day, the term "day" when used in this Agreement means a calendar day. A "business day" is a day when the banks in the Town of Breckenridge, Colorado are open for business.

36. Section Headings. Section and subsection headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

37. Authority. The individuals executing this Agreement on behalf of each of the Parties represent to the other Party that they have all requisite powers and authority to cause the Party for whom they have signed to enter into this Agreement, and to bind such Party to fully perform its obligations as set forth in this Agreement.

38. No Adverse Construction. Both Parties acknowledge having had the opportunity to participate in the drafting of this Agreement. This Agreement is not to be construed against either Party based upon authorship.

39. Incorporation of Exhibits. All exhibits referred to in this Agreement are attached to and incorporated into this Agreement by reference.

40. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successor governing boards.

41. Approval By Governing Boards or Other Authority. In accordance with Section 29-1-203(1), C.R.S., this Agreement will not become effective unless and until it has been approved by the governing bodies of both the Town and the County, or by such persons as has the power to approve this Agreement on behalf of the Town and the County.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

_____
Helen Cospolich
Town Clerk

BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO

By: _____
Tamara Pogue, Chair

ATTEST:

_____
Clerk and Recorder, and ex-officio
clerk to the Board of the County Commissioners

EXHIBIT "A"
TO
INTERGOVERNMENTAL AGREEMENT
(Justice Center Workforce Housing Project)

Legal Description of the Property

LOT 4, BLOCK 1, PARKWAY CENTER SUBDIVISION FILING NO. 1 AMENDED, ACCORDING TO THE PLAT FILED JULY 26, 1985 UNDER RECEPTION NO. 300636, COUNTY OF SUMMIT, STATE OF COLORADO

AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
(Justice Center Workforce Housing Project)

This Amended and Restated Intergovernmental Agreement (this "**Agreement**") is dated _____, 2022 (the "**Effective Date**") and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the "**Town**") and SUMMIT COUNTY, COLORADO, acting by and though the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (the "**County**"). The Town and the County are sometimes referred to individually as a "**Party**," and together as the "**Parties**."

Background

The Parties have been working cooperatively to analyze, evaluate, and plan for the joint development and operation of an affordable workforce housing project on \ real property located in the Town of Breckenridge, Colorado, and as more particularly described on the attached **Exhibit "A"** (the "**Property**"). Such project does not yet have an agreed upon name and has been generally referred to as the "Justice Center Project" (hereinafter the "**Project**").

The Parties initially executed an Agreement, dated January 11, 2022, pursuant to the authority granted by Article XIV, Section 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29, C.R.S. Some terms of the Project have changed and this Amended and Restated Agreement is intended to supersede that previous Agreement.

The Parties are in agreement on all essential aspects of the project and have a joint understanding of the costs, the funding, the contractor(s), and rough schedule for development. The Town has entered into one pre-construction contract to do initial soils testing and preliminary design work for the Project. The County has entered into one pre-construction contract for a site and tree survey for the parcel. The Parties are in agreement that each will pay one-half of the entire price of the two preliminary contracts, and moving forward costs will be allocated as set forth in this Agreement. This Agreement is executed for the purpose of providing all of the specific details, terms, and conditions of the funding and construction of the Project.

Agreement

For and in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the Parties agree as follows:

1. Term. The term of this Agreement commences as of the Effective Date of this Agreement and will continue until it is terminated as provided in this Agreement.

2. Agreement to Develop the Project. The Parties agree to develop the Project in accordance with, and subject to, the terms and conditions of this Agreement.

3. Agreement to Cooperate. The Parties agree to take all action reasonably necessary to develop the Property in a timely manner and will not unreasonably delay the development of the Project, and to cooperate with each other fairly and in good faith with respect to all aspects of the final design, construction, and operation of the Project.

4. Mutual Agreement Required. Unless otherwise specified in this Agreement, all substantial decisions concerning the development, operation, and management of the Project requires the mutual written agreement of the Town and the County.

5. Ownership of Property. The Parties acknowledge that at the time of the execution of this Agreement, the Property described in Exhibit A is owned jointly by the Parties as tenants in common as reflected in the Special Warranty Deed that will be recorded with the Summit County Clerk and Recorded. . Within

6. Design of the Project. As soon as practicable following the execution of this Agreement the Parties will take all action required to complete the final design of the Project. In connection with the final design of the Project it is agreed that:

A. The entitlements for the Project will be established by the Town pursuant to the Town's Development Code. The Town's staff will expedite the establishment of the Project entitlements insofar as reasonably possible.

B. The Project will be reviewed under the "Town Project" provisions of the Development Code. Once approved, the development permit will be issued jointly to the Town and the County.

C. The final design of the Project will comply with the County's building and technical codes in effect at the time an application for the building permit is made. The building permit for the Project will be issued by the County. The County's staff will expedite the review of the building permit application and the issuance of the building permit insofar as reasonably possible. All inspections of the Project during the construction phase will be conducted by the County.

7. Conditions Precedent. Notwithstanding anything in this Agreement to the contrary, the decision to proceed with the construction of the Project is subject to the Parties reaching agreement on all of the following issues:

A. the final design of the Project;

B. the estimated final cost of the Project, and the guaranteed maximum price ("**GMP**") of constructing the Project; and

C. all other matters related to final design, construction, financing, and initial operation of the Project.

If, for any reason, the Parties are unable to reach an agreement as to all such issues this Agreement may be terminated by either Party without liability for breach of this Agreement.

8. Selection and Management of Contractor. Once the Parties have finally agreed upon all of the conditions precedent described in Section 7 then the Parties will authorize the general contractor to proceed with the construction of the Project. The County will be the construction liaison and owner's representative for the Project. Because of the unique nature of the project, the general contractor has already been chosen and agreed upon by the Parties as part of a design-build partnership between Symmetry, LLC and Fading West, LLC. The contract with the general contractor will be based upon a GMP or equivalent ("GMP"). The form and substance of the construction contract and all related documents will be subject to the reasonable approval of both Parties and their respective attorneys. The construction contract must include both a payment bond and a performance bond in an amount equal to the GMP. Once a GMP has been agreed upon by the Parties and the general contractor, and an acceptable contract for the construction of the Project has been drafted and approved by the Parties and the general contractor, both Parties will sign the contract. If the Parties and the general contractor cannot agree on a GMP, this Agreement may be terminated by either Party without liability for breach of this Agreement.

9. Cost of the Project.

A. Subject to the adjustments provided for in this Section, and as otherwise provided in this Agreement, the Parties agree to each pay one-half of the total cost of developing, constructing, operating, managing, and maintaining the Project throughout the term of this Agreement, including the two contracts pertaining to pre-development services already executed by the Town and County and any additional contracts that are needed outside of the design-build construction contract.

B. As used in this Section, the "cost of developing, operating, and maintaining the Project" means all out-of-pocket costs incurred by the Parties in connection with the development, construction, operation, management, and maintenance of the Project.

C. It is anticipated that each of the Parties will provide certain agreed "in-kind" services or benefits related to the initial development of the Project. The in-kind contributions are not subject to the provisions of Subsection A of this Section, and it is agreed that the amount of in-kind contributions by the Parties need not be equal in number or value. No adjustment to the Parties' obligations to share equally in the total cost of developing, constructing, operating, managing, and maintaining the Project will be made as a result of the Parties' in-kind contributions.

At the time of the execution of this Agreement such in-kind services are anticipated by the Parties to be as follows:

i. Town will provide the following in-kind services:

a. Connection to the Town's municipal water service and payment of any required water plant investment fee for the Project. The Project will pay for all water used in its operation;

b. Waiver of all fees associated with any required development permit(s), including both the initial development permit for the construction of the Project and such additional development permits as may be required throughout the term of this Agreement;

c. Town staff and Town Attorney time and resources to perform actions required of the Town under this Agreement; and

d. Snow removal for the access road to the Project.

ii. County will provide the following in kind services:

a. Contribution of Real Property, together with an estimation of the fair market value of the Property;

b. Waiver of all plan check and building permit fees required for the Project, including both the initial building permit for the construction of the Project and such additional building permits as may be required throughout the term of this Agreement;

c. payments for the inclusion of the Property into the Upper Blue Sanitation District;

d. required sewer tap connection fee for the Project; and

e. the cost of having the County staff and County attorneys time and resources to perform actions required of the County under this Agreement.

D. Notwithstanding anything contained in this Agreement to the contrary, it is agreed that any unanticipated cost of developing, constructing, operating, managing, and maintaining the Project the Parties will each pay one-half of the entire price of the Project; provided, however, if such unanticipated price arises solely from the action or inaction of one of the Parties, such Party will be solely responsible for the payment of such price increase. As used in this Subsection E, "unanticipated increase in price of developing, constructing, operating, managing, and maintaining the Project" means any increase that is not included

in the Parties' agreed budget for the development, construction, operation, management, and maintenance of the Project.

10. Project Financing and Debt Service for the Project.

A. To finance the Project, the Town will issue debt in a principal amount of approximately Nineteen Million and Five Hundred Thousand Dollars ($19,500,000) ("**Project Financing**"), which amount includes the funds to be used to construct the Project, together with the cost of the issuance of the Project Financing, including, but not limited to, bond counsel fees and underwriter's discount. The Project Financing will be in such form, and upon such terms and at such interest rates, as the Town determines to be appropriate.

B. In addition to the debt issued by the Town, the Parties anticipate that the County will obtain a grant for approximately Two and ½ Million ($2,500,000) to be used for the Project. Depending on the final price of the Project (Section 9), the amount of the debt may change or the Parties may elect to contribute cash contributions to the Project subject to mutual written agreement.

C. The Parties acknowledge and agree that as to the investors who acquire the Town's Financing, the Town will be solely responsible to pay the Town Financing in accordance with its terms, and the County will have no liability to pay the investors.

11. Revenue of the Project. All net operating revenue of the Project will be applied toward the Debt Service until the Debt Service has been fully paid. It is understood that the net operating revenue of the Project is not anticipated to fully pay the Debt Service, and the Parties agree each pay one half of the portion of the Debt Service that is not covered by the net operating revenue of the Project. Once the Debt Service has been fully paid, all net operating revenue of the Project will be shared equally between the Parties. "**Net Operating Revenue**" means the total of all income received by the Parties from the operation of the Project, less all expenses incurred and paid by the Parties in connection with the operation of the Project. Once the Debt Service for the Project has been fully paid, the Parties will agree in writing upon the frequency of the distribution of the Net Operating Revenues.

12. Management of the Project. Prior to the completion of construction of the Project, the Parties will agree upon a qualified person to manage the day-to-day operations of the Project on their behalf. The County will take the lead on the day-to-day management of Project. The form and substance of the management contract, if any, and all related documents will be subject to the reasonable approval of both Parties and their respective attorneys.

13. Initial Leasing Rates, Tenant Qualifications, and Other Matters.

A. Prior to the completion of construction of the Project, the Parties will agree upon:

i. the initial leasing rates for the apartments in the Project;

ii. the form and substance of the income and other qualifications and restrictions that will apply to tenants of the Project;

iii. the establishment and maintenance of a reserve fund for the Project;

iv. the final number of units to be reserved for each Parties' use; and,

v. other issues related to the operation and management of the Project.

B. It is agreed that initially fifty percent (50%) of the units in the Project will be offered for lease to persons who work in the Upper Blue River Basin (the area bounded by Farmers Korner on the north and Hoosier Pass on the south); and fifty percent (50%) of the units in the Project will be offered for lease to persons who work in Summit County. Any subsequent priority will be mutually agreed to by both Parties.

14. Meet and Confer Obligation. At least once annually, or more frequently if necessary or desirable, the Parties agree to meet to discuss matters related to the operation and management of the Project.

15. Day-To-Day Communications. All communications between the Parties relating to the day-to-day activities of the Project will be exchanged between the respective Project Representatives of Town and County who will be designated by the Parties promptly upon the execution of this Agreement. Either Party may change their designated Project Representative at any time.

16. Books and Records. Within 60 days after the Effective Date of this Agreement the Parties will agree upon how, where, and by whom the books of account for the Project will be maintained. Each Party will have the right, at its sole cost and expense, at all reasonable times during usual business hours to audit, examine, and copy the books of account of the Project. Such right may be exercised through any agent or employee of such Party.

17. Waiver of Right to Partition. Neither the Town nor the County have any right to partition the Property or any of the Parties' jointly owned assets exclusively used or associated with the Project, and both the Town and the County hereby irrevocably waive any and all rights that they might have to maintain any action for partition of the Property and such jointly owned assets.

18. Insurance.

A. Required Insurance. Throughout the term of this Agreement the Town will procure and maintain the following minimum insurance coverages:

i. workers' compensation insurance to cover obligations imposed by applicable laws for any employee of the Town or the County (as applicable).

ii. commercial general liability insurance with limits of liability not less than the limits of liability established from time to time by the Colorado Governmental Immunity Act, Article 10 of Title 24, C.R.S., as amended from time to time ("**Act**"). The policy must include coverage for bodily injury, broad form property damage (including complete operations), personal injury (including coverage for contractual and employee's acts), blanket contractual, products, and completed operations.

Such coverages will be procured and maintained with forms and insurers reasonably acceptable to the County. All coverage will be continuously maintained until this Agreement has been terminated in accordance with the requirements of this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods will be procured to maintain such continuous coverage.

B. Deductibles. The Town and the County will each pay one-half of any deductible amounts required to be paid under the required insurance policies described in Subsection A of this Section.

C. Insurance Certificate. The Town will provide the County with a certificate of insurance evidencing that policies providing the required coverages, conditions, and minimum limits are in full force and effect and will list the County as an additional insured. Such certificates will be provided within 30 days of the Effective Date of this Agreement, and on each renewal or replacement of the required insurance policies throughout the term of this Agreement. The completed insurance certificates will be sent to the Parties at the addresses provided in Section 25.

19. Mutual Indemnification.

A. Indemnification By Town. To the extent permissible by law, the Town will indemnify and defend the County, its officers, employees, insurers, and self-insurance pool, against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent that such injury, loss, or damage is caused by the negligence or intentional wrongful act of the Town, or any officer, employee, representative, or agent of the Town; except to the extent such liability, claim, or demand arises through the negligence or intentional wrongful act of the County, its officers, employees, or agents, or the County's breach of this Agreement. To the extent indemnification is required under this Agreement, the Town agrees to

investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

B. Indemnification By County. To the extent permissible by law, the County will indemnify and defend the Town, its officers, employees, insurers, and self-insurance pool, against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent that such injury, loss, or damage is caused by the negligence or intentional wrongful act of the County, or any officer, employee, representative, or agent of the County; except to the extent such liability, claim, or demand arises through the negligence or intentional wrongful act of the Town, its officers, employees, or agents, or the Town's breach of this Agreement. To the extent indemnification is required under this Agreement, the County agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

C. Indemnity Subject To Applicable Law. To the extent permissible by law, the obligation of a Party to indemnify and defend the other Party pursuant to this Section is expressly subject to any applicable limitation or provision of the Act, or any other law providing similar limitations or protections. Neither Party waives the right to assert that its obligation to indemnify and defend the other Party is barred by any applicable provision of the Colorado Constitution that prohibits one Party from indemnifying the other Party.

D. Indemnity For Worker's Compensation Claims.

i. The Town will indemnify and defend the County with respect to any claim, damage, or loss arising out of any worker's compensation claim of any employee of the Town.

ii. The County will indemnify and defend the Town with respect to any claim, damage, or loss arising out of any worker's compensation claim of any employee of the County.

E. Survival. To the extent permissible by law, the he obligation of a Party to indemnify and defend the other Party pursuant to this Section will survive the termination of this Agreement, and, subject to any applicable statute of limitation, will continue to be enforceable thereafter until such obligations are fully performed.

20. Termination. This Agreement may be terminated as follows:

F. As provided in Sections 7 and 8 of this Agreement;

G. For default as provided in Section 21(A); or

H. For non-appropriation as provided in Section 26(C).

21. Default; Resolution Of Disputes.

A. Default. A default exists under this Agreement if any Party violates any covenant, condition, or obligation required to be performed under this Agreement. As used in this Section, a Party violating any covenant, condition, or obligation required to be performed under this Agreement is the "**Defaulting Party**," and the other Party is the "**Non-Defaulting Party**." If a Defaulting Party fails to cure such default within 30 business days after the other Non-Defaulting Party gives written notice of the default to the Defaulting Party then, at the Non-Defaulting Party's option, the Non-Defaulting Party may terminate this Agreement, subject to the provisions of Section 22 of this Agreement concerning the disposition of the Project and the Parties' property upon termination of this Agreement. If a default is not capable of being cured within 30 business days, a Defaulting Party will not be in default if it commences curing the default within 30 business days after receipt of written notice of default from the Non-Defaulting Party, and thereafter cures such default with due diligence and in good faith. Notwithstanding any Party's right to terminate this Agreement for an uncured default, this Agreement is subject to the rights of any Party to invoke the remaining provisions of this Section.

B. Negotiation. Either Party may give the other Party written notice of any dispute arising out of or related to this Agreement that is not resolved in the normal course of business. The Parties will attempt in good faith to resolve any such dispute promptly by negotiations between the Parties' authorized representatives. Within 15 business days after receipt of said notice, authorized representatives will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 60 business days of the notice of dispute, or if the Parties fail to initially meet within 15 business days, either Party to the dispute may initiate mediation of the controversy as provided below.

C. Mediation. If the dispute has not been resolved by negotiation as provided above, the Parties will endeavor to settle the dispute by mediation with a neutral third party. If the Parties encounter difficulty in agreeing on a neutral third party, they may each appoint a neutral third party who will agree on a mediator, and the Parties agree to mediate with said mediator.

D. Judicial Action. Any dispute arising out of or relating to this Agreement or the breach, termination, or validity hereof, which has not been resolved by the

methods set forth above within 30 days of the initiation of mediation, may be finally resolved by appropriate judicial action commenced in a court of competent jurisdiction. The Parties agree to venue in the courts of Summit County, Colorado with respect to any dispute arising out of or relating to this Agreement. The Parties hereby waive the right to a jury trial in any action to enforce, interpret, or construe this Agreement.

E. Provisional Remedies. The procedures specified in this Section are the sole and exclusive procedures for the resolution of disputes among the Parties arising out of or relating to this Agreement; provided, however, that a Party may seek a preliminary injunction or other provisional judicial relief if, in its judgment, such action is necessary to avoid irreparable damage or to preserve the status quo. Despite such action, the Parties will continue to participate in good faith in the procedures specified in this Section.

F. Performance To Continue. Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

G. Extension Of Deadlines. All deadlines specified in this Section may be extended by mutual agreement in writing signed by the Parties.

H. Costs. Each Party will pay its own costs with respect to negotiation and mediation. The prevailing Party in any judicial action is entitled to reimbursement from the other Party for all reasonable costs and expenses, including attorney fees and expert witness fees, in connection with such judicial action.

22. Disposition of Project and Property Upon Termination. Upon the lawful termination of this Agreement pursuant to Section 20, the Parties will promptly and in good faith attempt to agree upon a fair and equitable disposition of the Property, the Parties' jointly owned assets exclusively used or associated with the Project, and all other remaining Project assets, income, and liabilities. For this purpose, authorized representatives of the Parties will meet not later than 15 business days after the effective date of termination at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve all issues related to the disposition of the Property and all remaining Project assets, income, and liabilities. If the matter has not been resolved within 60 business days of the effective date of termination of this Agreement, the Property, together with all of the Parties' jointly owned assets exclusively used or associated with the Project, will be offered for sale for cash at their then fair market value. The "**Fair Market Value**" of the Property and the Parties' jointly owned assets will be determined by an appraiser mutually acceptable to the Parties. The appraiser will be a licensed Colorado real estate broker with no less than 10 years' experience in appraising real property in Summit County, Colorado. If the Parties are unable to agree upon a mutually acceptable appraiser, they each may appoint a neutral third party to agree on an appraiser. The appraiser's determination will be binding

on the Parties. The parties will each pay one-half of the price of the appraisal. Either Party may be the purchaser of the other Party's right, title, and interest in the Property and the Parties' jointly owned assets exclusively used or associated with the Project. The net sale proceeds of the Property and the Parties' jointly owned assets exclusively used or associated with the Project, will be used to pay the balance of the Debt Service for the Project, and any balance of such proceeds will then be divided equally between the Town and the County. The provisions of this Section control over the dispute resolution provisions of Section 21.

23. Right to Final Accounting. In addition to such other remedies as may be available by applicable law or this Agreement, and without regard to a Party's receipt of a share of the net sale proceeds of the Property and the Parties' jointly owned assets exclusively used or associated with the Project as described in Section 22, either Party has the right to a final accounting of all financial matters associated with the development of the Property and the operation of the Project to assure compliance with the terms and conditions of this Agreement. A request for a final accounting must be made no later than the last to occur of:

A. The expiration of 180 days after the sale of the Property and the Parties' jointly owned assets exclusively used or associated with the Project pursuant to Section 22 of this Agreement; or

B. The expiration of one year after the effective date of the termination of this Agreement.

The failure to make a timely request for a final accounting will be a waiver of the right to a final accounting.

24. Force Majeure. Neither Party is liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the control of that Party, including, without limitation, strikes, boycotts, labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy, terrorism, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such Party is not responsible or which is not in its power to control.

25. Notices. All notices required or permitted under this Agreement must be given by registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial carrier delivery, or by telecopies directed as follows:

If intended for the Town to:

Town of Breckenridge
P.O. Box 168
150 Ski Hill Road
Breckenridge, Colorado 80424

Attn: Rick G. Holman, Town Manager
Telecopier number: (970)547-3104
Telephone number: (970)453-2251

with a copy in each case (which will not constitute notice) to:

Kirsten Crawford
Town Attorney

If intended for the County, to:

Board of the County Commissioners
P.O. Box 68
Breckenridge, Colorado 80424
Attn:, County Manager
Telephone number: (970)453-3401
Telecopier number: (970)453-3535

with a copy in each case (which will not constitute notice) to:

Jeffrey R. Huntley, Esq.
Summit County Attorney
P.O. Box 68
Breckenridge, Colorado 80424
Telephone number: (970)453-3407
Telecopier number: (970)454-3535

Any notice delivered by mail in accordance with this Section is effective on the third business day after being deposited in any post office or postal box regularly maintained by the United States Postal Service. Any notice delivered by telecopier in accordance with this Section is effective upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt requested, on the same day to that intended recipient. Any notice delivered by hand or commercial carrier is effective upon actual receipt. Either Party, by notice given as above, may change the address to which future notices may be sent. E-mail is not a valid method for the giving of notice under this Agreement.

26. Annual Appropriation.

A. Financial obligations of the Town under this Agreement payable after the current fiscal year in which this Agreement is executed are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Town Council of the Town of Breckenridge, Colorado.

B. Financial obligations of the County under this Agreement payable after the current fiscal year in which this Agreement is executed are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Board of County Commissioners of Summit County, Colorado.

C. If the governing body of the either Party (the "**Non-Appropriating Party**") fails to appropriate and budget sufficient funds to pay the financial obligations of the Non-Appropriating Party under this Agreement, this Agreement may be terminated by either Party without penalty.

D. In the event of non-appropriation the Non-Appropriating Party will, upon request of the other Party, execute, acknowledge, and deliver to the other Party a deed conveying to the other Party all of the Non-Appropriating Party's right, title, and interest, of whatever kind or nature, in and to the Property. The conveyance of the Property pursuant to this Subsection D will not be a waiver of the Non-Appropriating Party's rights under this Agreement. The provisions of this Section D are specifically enforceable, and both Parties irrevocably waive the right to challenge the enforceability of such specific performance remedy.

E. Neither the Town's nor the County's obligations under this Agreement will constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

27. Governmental Immunity. The Parties are each relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations of the Act, which limitations are as of the date of this Agreement $387,000 per person and $1,093,000 per occurrence, or any other limitation, right, immunity, defense or protection otherwise available to the Town and the County, and their respective officers, representatives, agents and employees.

28. Third Parties. This Agreement does not confer upon or grant to any third party any right to claim damages or to bring suit, action, or other proceeding against either the Town or the County because of any breach of this Agreement, or because of any of the terms, covenants, agreements, and conditions contained in this Agreement.

29. Waiver. The failure of either Party to exercise any of its rights under this Agreement is not a waiver of those rights. A Party waives only those rights specified in writing and signed by either Party waiving its rights.

30. Applicable Law. This Agreement is to be interpreted in all respects in accordance with the laws of the State of Colorado.

31. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties as to the subject matter of this Agreement, and supersedes any prior agreement or understanding relating thereto.

32. Amendment. This Agreement may be modified or amended only by a duly authorized written instrument executed by the Parties. No oral amendment or modification of this Agreement is allowed.

33. Severability. If any of the provisions of this Agreement are declared by a final, non-appealable judgment court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby.

34. "Day" Defined. Unless specifically indicated to be a business day, the term "day" when used in this Agreement means a calendar day. A "business day" is a day when the banks in the Town of Breckenridge, Colorado are open for business.

35. Section Headings. Section and subsection headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

36. Authority. The individuals executing this Agreement on behalf of each of the Parties represent to the other Party that they have all requisite powers and authority to cause the Party for whom they have signed to enter into this Agreement, and to bind such Party to fully perform its obligations as set forth in this Agreement.

37. No Adverse Construction. Both Parties acknowledge having had the opportunity to participate in the drafting of this Agreement. This Agreement is not to be construed against either Party based upon authorship.

38. Incorporation of Exhibits. All exhibits referred to in this Agreement are attached to and incorporated into this Agreement by reference.

39. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successor governing boards.

40. Approval By Governing Boards or Other Authority. In accordance with Section 29-1-203(1), C.R.S., this Agreement will not become effective unless and until it has been approved by the governing bodies of both the Town and the County, or by such persons as has the power to approve this Agreement on behalf of the Town and the County.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By:_____
Eric S. Mamula, Mayor

ATTEST:

_____
Helen Cospolich
Town Clerk

BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO

By:_____
Tamara Pogue, Chair

ATTEST:

_____
Clerk and Recorder, and ex-officio
clerk to the Board of the County Commissioners

EXHIBIT “A”
TO
INTERGOVERNMENTAL AGREEMENT
(Justice Center Workforce Housing Project)

Legal Description of the Property

LOT 4R, A RESUBDIVISION PLAT OF LOT 4, BLOCK 1 AMENDED PLAT OF PARKWAY CENTER SUBDIVISION FILING NO.1 AND A PORTION OF GOVT LOT 47 SECTION 30 T6 SOUTH R 77 WEST OF THE 6TH P.M ACCORDING TO THE PLAT RECORDED SEPTEMBER 2, 2022 UNDER RECEPTION NO. 1296242, COUNTY OF SUMMIT, STATE OF COLORADO

Memo

TOWN OF BRECKENRIDGE

To: Breckenridge Town Council Members

From: Shannon Haynes, Assistant Town Manager

Date: 11/16/2022

Subject: Recommendations for Social Equity Commission Appointment

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The Breckenridge Social Equity Advisory Commission consists of nine (9) members who are appointed by the Town Council. The Commission has one vacancy that occurred when Councilmember Dick Carleton stepped off the commission.

The commission vacancy was advertised in English and Spanish in a variety of locations, including: the Town website, English and Spanish radio, Summit Daily News, on social media channels, as well as local organizations such as Mountain Dreamers, FIRC, and Building Hope. We received nine (9) applications.

The selection committee was comprised of Tahja Grier (commission chair), Carol Saade, Silvia Vicuna, and Shannon Haynes. After a review of all applications, the selection committee interviewed eight (8) candidates with three finalists participating in additional interviews. The selection committee is recommending that Council appoint June Walters to the open commission seat. June will serve a three (3) year term.

If Council agrees with the committee recommendation, an appointment may be made by motion during the Regular meeting. A sample motion follows:

Motion: “I move that we affirm the Breckenridge Social Equity Advisory Commission selection committee’s recommendation by appointing June Walters to the Breckenridge Social Equity Advisory Commission for a term of three years beginning in December 2022.

Memo

TOWN OF BRECKENRIDGE

To: Breckenridge Town Council Members

From: Mark Truckey, Director of Community Development

Date: November 16, 2022

Subject: Planning Commission Decisions of the November 15, 2022 Meeting

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DECISIONS FROM THE PLANNING COMMISSION MEETING, November 15, 2022:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS: None.

TOWN PROJECT HEARINGS: None.

OTHER: None.

PLANNING COMMISSION MEETING

The meeting was called to order at 5:30pm by Chair Frechter.

ROLL CALL

Mike Giller	Mark Leas	Allen Frechter	Susan Propper
Tanya Delahoz- **absent**	Ethan Guerra	Steve Gerard	

APPROVAL OF MINUTES
With no changes, the November 1, 2022, Planning Commission Minutes were approved.

APPROVAL OF AGENDA
With no changes, the November 15, 2022, Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No public comment.

CERTIFIED LOCAL GOVERNMENT (CLG) REPRESENTATIVE TRAINING:
Lindsey Flewelling, CLG Coordinator for History Colorado, gave an overview of the CLG program with an additional focus on defensible Planning Commission decision making and ethics.

Commissioner Questions / Comments:

Mr. Giller: Under ex parte contact, what about the example of calling a staff member for clarification? Does that need to be disclosed? (Ms. Flewelling: It is okay to do so for fact finding but you don't want to discuss the merits of the case.) (Mr. Kulick: Our Town attorney has also stated that it is okay to contact staff for fact finding.)

Mr. Frechter: A recent project, Tesla Solar Roof tiles, is that decision being looked at on the State or Federal level and how is it being evaluated considering the balance of historic preservation versus sustainability goals? (Ms. Flewelling: The decision is made on the local level to understand how the material fits in to the local context. More evidence might be needed before more modern materials like the solar tiles can be considered eligible for historic preservation tax credits.) (Ms. Puester: We did discuss that project with the State office when it came about.) (Ms. Flewelling: Local communities really make those decisions prior to the Federal level adopting regulations that allow for tax credits.)

Mr. Gerard: There have been a few times when we have been mired on certain topics and would have liked to consider what History Colorado might say. Can you give an opinion on the merits of a case if asked? (Ms. Flewelling: I can advise on what guidelines might apply but cannot rule or issue an opinion on the merits.)

Mr. Giller: What are other mountain communities considering or seeing as far as preservation issues? (Ms. Flewelling: We are seeing similar discussions on new materials when considering sustainability and fire resistance. We are seeing how this will play out over time considering the modern materials. It is up to the local government to rule on the allowance of those materials but again tax credits may not be available for projects that use modern materials. As for whether something may be eligible for credits, it depends on the specific project and whether existing materials are character defining for the historic property).

Mr. Leas: We haven't had a discussion of preserving historic windows versus sustainability since I have been on the Commission. How would we deal with that? (Mr. Kulick: The current consensus is that preserving historic windows is the way to go. Those are

sometimes the most defining features to distinguish historic properties and we would require those materials to be preserved).

Mr. Gerard: As Commissioners we apply our standards to what the applicant is asking for approval; we should not worry about whether the applicant can get a tax credit.

Mr. Giller: This issue is usually taken care of at the State or Federal level where plans are reviewed prior to construction for tax credits so the timing wouldn't be an issue and plans that don't qualify would be caught before they are implemented. (Ms. Flewelling: We see this often at the State level where an applicant applies for tax credits for a project that has been approved by a local Commission but that approval doesn't mean the project would qualify for the tax credits).

Mr. Giller: Another frequent discussion here is the "50-year rule" and we have looked at structures from the 1950s and early ski town architecture from the 1960s; where is the State in consideration of the historic nature of those structures? (Ms. Flewelling: We are more pro-preservation of those more recent historic resources; especially those that would be representative of the development of the ski area).

Mr. Truckey: We are seeing over the last decade that with investment and restoration in historic structures local people and workers are being displaced from downtown that were previously housed in historic dwellings. Historic preservation of our downtown district is still the right answer, but it does increase the pressure on housing stock. (Ms. Flewelling: That is an interesting topic that could be good for the Ski Town Forum; I'm sure it is a common problem).

Mr. Gerard: Do you have comments on local landmarking? (Ms. Flewelling: Local landmarking is the only way to protect a property. The local level is where you can have the most impact on what historical structures are preserved and protected).

WORK SESSIONS:

1. Joint Upper Blue Master Plan & TDRs (MT)

Mr. Truckey provided an overview of the Transferable Density Rights (TDR) program, as well as the Joint Upper Blue Master Plan.

Commissioner Questions / Comments:

Mr. Leas: The Town understands that adding the cost of TDRs increases the overall cost of housing for all units? It is an added cost of development.

Mr. Frechter: Do other municipalities in the County go out and buy backcountry land like Breckenridge? (Mr. Truckey: The Town always had the foresight to purchase and protect backcountry land even if it was miles from the town boundary. Most of those acquisitions have been a 50/50 purchase with the County. Other towns in the County have not developed a similar cost sharing arrangement).

Mr. Giller: I believe the cost of the TDRs lowers the cost of development because adding another unit of development in Town where utilities are already connected is more cost effective and a financial incentive for developers. There was voter approval related to TDRs?

Mr. Truckey: This plan was approved by the Board of County Commissioners, Board of Trustees for Blue River, and the Breckenridge Town Council. There was voter approval for an Open Space tax in the 1990s.

Mr. Giller: Vail, for example, has gone from a 3-story town to a 7-8 story town. This plan allows us to keep the human scale of the core of Breckenridge. Is that true? (Mr. Truckey: Yes, you can see that 2-story is maintained in the historic district and height is increased some to the west of town).

Mr. Leas: That is a classic redevelopment argument. Other cities have passed similar height restrictions. That is an important piece to maintaining Breckenridge character that should continue. You can't have affordable housing without discussing increases of density.

Ms. Propper: Prices for density transfer are currently the same across the board. There could be an opportunity to have a lower cost for density transfer to affordable housing projects.

Mr. Giller: Density in Breckenridge is 85 percent built out. What percent of sending areas have been protected? (Mr. Truckey: Estimated ¾ of the privately held backcountry sending areas have been protected.) (Mr. Kulick: As we get closer to build out; you will see the remaining lots are the harder to build lots. Going forward density transfers will slow, and redevelopment will be more prevalent than developing undeveloped lots).

OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 7:35 pm.

_____

Allen Frechter, Chair

TOWN OF BRECKENRIDGE
TOWN COUNCIL

Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

November 2022

Tuesday, Nov. 22nd, 2022	**Council Chambers**	**Second Meeting of the Month**	**3:00 pm / 7:00 pm**

December 2022

Dec. 3rd, 2022	Main Street	Lighting of Breckenridge	All Day
Dec. 8th - 11th, 2022	Main Street	Ullr Festival	All Day
Tuesday, Dec. 13th, 2022	**Council Chambers**	**First Meeting of the Month**	**3:00 pm / 7:00 pm**

January 2023

Tuesday, Jan. 10th, 2023	**Council Chambers**	**First Meeting of the Month**	**3:00 pm / 7:00 pm**
Tuesday, Jan. 24th, 2023	**Council Chambers**	**Second Meeting of the Month**	**3:00 pm / 7:00 pm**
Jan. 24th - Feb. 2nd, 2023	Riverwalk Center	International Snow Sculpture Championships	

Other Meetings

November 21st, 2022	Social Equity Advisory Commission	7:30am
November 22nd, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
November 24th, 2022	Transit Advisory Council Meeting	8:10am
	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
November 28th, 2022	Open Space & Trails Meeting	5:30pm
December 6th, 2022	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
December 7th, 2022	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
December 8th, 2022	I-70 Coalition	3:30pm
	Upper Blue Sanitation District	5:30pm
December 12th, 2022	Open Space & Trails Meeting	5:30pm
December 13th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
December 14th, 2022	Breckenridge Heritage Alliance	Noon
December 15th, 2022	Breckenridge Creative Arts	Noon
December 19th, 2022	Social Equity Advisory Commission	7:30am

TOWN OF BRECKENRIDGE
TOWN COUNCIL

Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

December 20th, 2022	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Water Task Force Meeting	9:30am
	Planning Commission Meeting	5:30pm
December 22nd, 2022	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	Breckenridge Creative Arts	2:00pm
	RW&B Board Meeting	3:00pm
December 27th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
January 3rd, 2023	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
January 4th, 2023	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
January 10th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
January 11th, 2023	Breckenridge Heritage Alliance	Noon
January 12th, 2023	I-70 Coalition	11:30am
	Upper Blue Sanitation District	5:30pm
January 17th, 2023	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
January 18th, 2023	Summit Combined Housing Authority	9:00am
January 26th, 2023	Northwest CO Council of Governments	10:00am
TBD	Tourism Overlay District Advisory Committee Meeting	10:30am
	QQ - Quality and Quantity - Water District	1:15pm
	Transit Advisory Council Meeting	8:00am