



**TOWN OF
BRECKENRIDGE**

Town Council Regular Meeting
Tuesday, October 26, 2021, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS NOW HOLDING HYBRID MEETINGS. THIS MEETING WILL BE HELD IN PERSON AT BRECKENRIDGE TOWN HALL. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. MASKS ARE REQUIRED. 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 - OCTOBER 12, 2021

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

A. CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

B. BRECKENRIDGE CREATIVE ARTS UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2021

1. *COUNCIL BILL NO. 28, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," AND CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS," CONCERNING CALL UP HEARINGS*

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2021

B. RESOLUTIONS, SERIES 2021

1. *RESOLUTION NO. 27, SERIES 2021 - A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A GOCO COMMUNITY IMPACT GRANT FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND AND THE*

COMPLETION OF PHASE ONE OF THE BLUE RIVER RECPATH EXTENSION

2. RESOLUTION NO. 28, SERIES 2021 - RESOLUTION APPROVING THE COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING

C. OTHER

VII. PLANNING MATTERS

- A. PLANNING COMMISSION DECISIONS
- B. PLANNING COMMISSION APPOINTMENTS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

- A. CAST/MMC (MAYOR MAMULA)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MS. GIGLIELLO)
- C. BRECKENRIDGE TOURISM OFFICE (MR. KUHN)
- D. BRECKENRIDGE HERITAGE ALLIANCE (MR. KUHN)
- E. BRECKENRIDGE CREATIVE ARTS (MS. OWENS)
- F. BRECKENRIDGE EVENTS COMMITTEE (MS. SAADE)
- G. CHILD CARE ADVISORY COMMITTEE (MS. OWENS)
- H. WORKFORCE HOUSING COMMITTEE (MR. CARLETON)
- I. SOCIAL EQUITY ADVISORY COMMISSION (MS. SAADE, MR. CARLETON, MS. GIGLIELLO)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

- A. SCHEDULED MEETINGS FOR OCTOBER, NOVEMBER AND DECEMBER

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of October 12, 2021 to order at 7:00pm. The following members answered roll call: Ms. Saade, Ms. Gigliello, Mr. Carleton, Ms. Owens, Mr. Kuhn, Mr. Bergeron, Ms. Owens and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – SEPTEMBER 28, 2021

With no changes or corrections to the meeting minutes of September 28, 2021 Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Mr. Holman stated there were no changes to the agenda.

IV) COMMUNICATIONS TO COUNCIL

A) CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Citizen's Comment. Meeting attendees were encouraged to email their comments in advance of the meeting to the Mayor.

Ms. Carol Rockne, a Breckenridge resident, brought tourism brochures from 1964 for the Council to review. Ms. Rockne praised Council for the parking garage and stated the Town of Breckenridge bought two units at Kingdom Park Townhomes, and she doesn't understand why the Town spent \$1.7 million for something that cannot be deed-restricted. Ms. Rockne recommended using a financing program to help local families get into these units.

Mr. Chris O'Reilly stated he appreciates the hard work the Town has done on the STR issue, and stated those who live here appreciate what you have done for this community, including building the parking garage and COVID business support, and it's important for you to know that people appreciate what you do and that these decisions are hard.

There were no additional comments and Citizen's Comment was closed.

Mayor Mamula stated the Town will be forming a Temporary Advisory Task Force for Short Term Rentals, made up of 2 people from the STR lodging community, 2 realtors, 2 Council members, 1 hotel/exempt properties representative, and 4 at large members from the Upper Blue Basin to begin to look at a Tourism Overlay District. Council agreed they were in favor of this idea. Mr. Holman stated Ms. Haynes, Mr. Truckey and a Town Planner would be part of this Task Force.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2021 - PUBLIC HEARINGS

1) COUNCIL BILL NO. 27, SERIES 2021 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES TITLE 3 OF THE BRECKENRIDGE TOWN CODE CONCERNING TAXATION

Mayor Mamula read the title into the minutes. Mr. Berry stated there were editorial changes to the ordinance from first reading, but no substantive changes. He further stated the memo in the packet details the changes.

Mayor Mamula opened the public hearing.

There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 27, SERIES 2021 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES TITLE 3 OF THE BRECKENRIDGE TOWN CODE CONCERNING TAXATION. Ms. Saade seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2021

1) COUNCIL BILL NO. 28, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN

OF BRECKENRIDGE DEVELOPMENT CODE,” AND CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE SUBDIVISION STANDARDS,” CONCERNING CALL UP HEARINGS

Mayor Mamula read the title into the minutes. Mr. Berry stated the purpose of this ordinance is to update the provisions of the code related to call up hearings. He further stated it’s important to codify practices and procedures.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 28, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE DEVELOPMENT CODE,” AND CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE SUBDIVISION STANDARDS,” CONCERNING CALL UP HEARINGS. Mr. Carleton seconded the motion.

The motion passed 7-0.

B) RESOLUTIONS, SERIES 2021

C) OTHER

VII) PLANNING MATTERS

A) PLANNING COMMISSION DECISIONS

Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

B) TOWN PROJECT HEARING: MCCAIN MASTER PLAN THIRD AMENDMENT

Mayor Mamula read the project title into record. Mr. Chapin LaChance reviewed the proposed plan amendment, as well as the current master plan and the reasons it needs to be updated. He further stated Planning Commission recommends approval of the Master Plan with the findings in the packet. He also stated they would like to see commercial use for that area, including a grocery store and other things.

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

Mr. Bergeron moved to approve TOWN PROJECT HEARING: MCCAIN MASTER PLAN THIRD AMENDMENT. Ms. Gigliello seconded the motion.

The motion passed 7-0.

C) CALL UP DENOVO HEARING - RMU ROOFTOP DECK

Mayor Mamula read the call up hearing title and details into record. Mr. Chris Kulick introduced the project and reviewed the project details as included in the meeting packet.

Mr. Kuhn asked for clarity about which building would have the rooftop deck. Ms. Saade asked about the skylight and how that fits into the development code, and Mr. Kulick stated it is not visible from the ground level, and there has been extensive communication with the applicant about the skylight. Mr. Bergeron asked about the railing wall, which is 42 inches, and Mr. Kulick stated the wall is 6 inches below the cornice of the building and that is typical in the Historic District. Mr. Bergeron asked about the material for the wall, and Mr. Kulick stated it is an open-air deck and no noise-cancelling material is proposed. Mr. Kuhn asked about the restrooms, and Mr. Kulick stated there are none on the deck. Mr. Kulick stated he is not aware of other restrooms on decks in the historic district. He also stated the applicant may have to make modifications on the level below the deck to accommodate more people up top, and there is nothing in the code now about rooftop decks.

Mr. Kulick stated all absolute policies of the Development Code have been met, and the recommended point analysis is 0 points with all absolute policies met.

There were no questions from the applicant, who was represented by Mr. Danny Teodoru and Mr. Mike Waesche.

Mr. Waesche, representing RMU, thanked Council for its leadership during the past couple of years. He stated he has been in the community a long time, his business stands for four core values, and he represents 100 jobs in his business. He further stated his business is a big part of this community and he sells skis around the world, and he wants to have a positive impact on this community. Ms. Rebecca Pies, the Project Development Coordinator for RMU, stated there is a natural slope on the roof, and everything being built for the skylight will be below the wall. Mr. Teodoru, of Timberline Law and representing the applicant, stated there is no code requirement for bathrooms on the deck and they will meet all code requirements and all aspects of the Building Code. He further stated the deck will accommodate 82 people, and 69 people on the lower level with the installed sprinkler system. He also stated it is a Class D procedure for any speaker device used on the deck, and the applicant will address speakers under that procedure. He stated there are no sound muffling materials proposed now. He also stated he is appreciative of the staff through all of the modifications that have been made in response to public comments, and this is an administrative review. He stated with noise concerns there is a noise provision in code and the applicant will be subject to noise violations like everyone else. He stated tonight we are only addressing the site plan, this is not the first rooftop deck in the core, and we don't believe you can see the bar or bar stools from the street. He further stated outdoor space has become a critical component of many businesses and we think we have put the effort in to do this the right way.

Mr. Carleton asked about total occupancy number on the deck, and Mr. Kulick clarified it is 88. Mr. Bergeron asked about the noise and Mr. Kulick stated it's not something the code can address at this time. Mayor Mamula asked about the retail space, and Ms. Pies stated the retail space would be on the second floor.

Mayor Mamula opened the public hearing. Those in favor of the application commented first:

Mr. Ken Shindler stated he is in favor of the application and he believes RMU shows diversity in this community and is an important part of what this community represents for his demographic. He also stated he is a musician and wants to emphasize how important RMU is to the music community in this town. Mr. Shindler stated the rooftop deck is a key element of RMU's success.

Ms. Camille Bonta stated she is in favor of the application and RMU has brought a lot to the community and it has become a gathering place for the community. She further stated Mr. Waesche helped local artists and employees during the pandemic, and she hopes Council knows what they can and cannot do in making this decision.

Mr. Chris Guinn stated he is in favor of the application and he works for RMU and this job has given him the opportunity to live here. He further stated RMU will provide jobs and support for non-profits and the community.

Mr. Luke Allen, Marketing Director of RMU, stated he is in favor of the application and he came back to RMU after coaching at the Olympics. Mr. Allen further stated he wants to bring in the community with ski tuning clinics and bike rides and this expansion will allow us to provide more jobs for the community.

Mr. Andrew Vawter, a Breckenridge resident, stated he is in favor of the application and RMU is doing something different to welcome everyone.

Those opposed to this application:

Mr. Peter Grosscheuch spoke opposing the application and stated RMU has found a great niche in this community, but it's not why we are here. He further stated he is here representing homeowners in the Historic District and he believes the Planning Commission erred in their approval. He also stated he believes this application violates Policy 90 and Policy 91 with an active entertainment deck on the top of the building, and this would be the highest element on the building silhouette. He stated the primary dining area should be on the interior, and this is inverted from what we see with the precedents. Mr. Grosscheuch stated he is asking Council to change the point analysis.

Mr. John Gunson, an architect in Breckenridge since 1970, spoke opposing the application and stated he has designed a lot of the commercial buildings in Town. He stated he is not against RMU, only against this application not meeting code. He further

stated he was dealt with the ADA requirements of commercial buildings, and would like Council to consider where they have put the handicap access via lifts, because a rear entrance to the lifts does not provide easy access to the restrooms, among other things.

Mr. Tim Casey spoke opposing the application and stated he submitted a petition signed by local residents in the community and he understands the process, and in looking at the Development Code, the Town may deny the application with the finding that the project might have a negative impact on the surrounding community. He also asked Council to consider the ADA implications, and how everything is required to be accessible, and the noise will be an issue after 10pm. He stated he is concerned about amplification and noise, and asked if the Town can impose limitations on the hours of operation?

With no additional comments, the public hearing was closed.

Ms. Owens asked about the hours of operation, and the applicant stated the rooftop deck will be operational in the summer, 4-8pm, depending on weather and light. They stated the inside closes at midnight.

Mr. Bergeron asked about ADA access, and the applicant stated there will be parking spaces in the back to access the lift, and the new lift will be a single, 3-stop lift from the parking area to the bathrooms, and if you parked in the structure behind the building, you would cross the alley to the lift. They further stated staff parks wherever they can find a spot.

Mr. Danny Teodoru stated there is also a petition in support of the application, with signatures from more than 300 local residents, which will go into record. He stated in regard to decks, there are other decks in the Historic District, and this deck isn't at the street level. He also stated the Site Plan meets code.

Mayor Mamula asked if Council had questions. Ms. Gigliello asked about occupancy, and Mr. Kulick stated there are no occupancy ratios in code, and there are no formulas in the Development Code. Mr. Kuhn asked about Policy 90 and Policy 91, and Mr. Kulick stated this design does what the standard requires; furniture shouldn't be considered part of the structure and other rooftop decks are more unsightly than this, which will have less imposing visual impact.

Mayor Mamula stated the Call Up Hearing was closed.

Ms. Owens asked about a permit process for outdoor amplification, and it's a Class D Permit. Mr. Carleton stated he appreciates the core value of positive impact, but he's going to recommend adding a condition related to seating capacity and Policy 42A, and the "seating area" are the key words, not standing, and the only way to get to 88 occupancy you would need to remove the furniture. He also stated the spirit of the loudspeaker allowance is background music for dining, and a provision would be to prohibit loudspeakers on this outdoor deck. Ms. Gigliello asked for clarity about the Class D Permit, and it's intended for seating areas. Mr. Kulick stated the noise ordinance isn't tied to the Development Code, and occupancy is tied to the Building Code. Mr. Berry stated the occupancy load is established through the Fire Department, and if there is a condition placed on approval it would be done at the end with the approval process. Ms. Owens asked if the applicant could come back to us if they wanted a speaker. Mr. Berry stated RMU would have to get a modification of the liquor license and the Liquor and Marijuana Licensing Authority could address a noise issue with the modification. Ms. Owens asked about the difference between noise in levels of the building, and Mr. Kulick stated he didn't really know. He also stated they put Policy 42 in the staff report because they had heard these concerns. Mayor Mamula stated he doesn't think there's anything in the code that can impact this decision, but he'd like to make some changes to code regarding outdoor speakers and outdoor density limits. He stated there's not much they can do about it at this time. He also stated he hopes the building department can speak to dancing or bands on the roof because the building won't support that. Mayor Mamula asked to consider a moratorium or similar on exterior loudspeakers at the next meeting. Mr. Bergeron stated this application worries him, and he likes RMU as the next generation, but he has to defer to staff. He further stated he is concerned about the quality of life for those nearby, and hopes with an emergency ordinance or similar that we change the code to address some things in the future. Mr. Kuhn stated they have done a good job as a business, and hopes RMU will do their job to monitor the noise, and if they

do that the community will support it. Ms. Gigliello added she realizes this will impact the community, but there are other bars that create noise and everyone should be held to the same standard and possibly work for better enforcement. Ms. Owens stated we need to look at code and enforcement, since this is a bigger issue in this community. Mr. Carleton stated it's easier to avoid the noise issues than to fight them, but enforcement is important, and he'd like to prevent RMU from getting there. Mayor Mamula stated there's a rooftop deck across the street from RMU, and it set the precedent in the 1980s.

Mr. Bergeron made a motion to approve the RMU ROOFTOP DECK as presented.
Ms. Gigliello seconded the motion.
The motion passed 7-0.

VIII) REPORT OF TOWN MANAGER AND STAFF

Reports of the 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 HERITAGE ALLIANCE
- 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

Other Matters were covered as part of the afternoon work session.

XI) SCHEDULED MEETINGS

- A) SCHEDULED MEETINGS FOR OCTOBER AND NOVEMBER

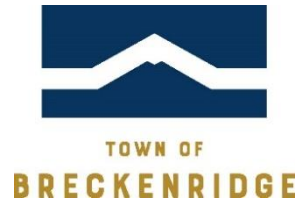
XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:15pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor



Memo

To: Mayor and Town Council Members
From: Tim Berry
Date: October 18, 2021 (for October 26th meeting)
Subject: Council Bill No. 28 (Revised Call Up Procedures Ordinance)

The second reading of the ordinance to update the Town Code concerning call up hearings conducted by the Town Council and Planning Commission is scheduled for your meeting on October 26th. There are no changes proposed to the ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.

1 **FOR WORKSESSION/SECOND READING – SEPT. 26**

2
3 **NO CHANGE FROM FIRST READING**

4
5 Additions To The Current Breckenridge Town Code Are
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 28

9
10 Series 2021

11
12 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE DEVELOPMENT CODE,”
14 AND CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE
15 “BRECKENRIDGE SUBDIVISION STANDARDS,” CONCERNING CALL UP HEARINGS

16
17 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
18 COLORADO:

19
20 Section 1. Section 9-1-18-1E6 is amended to read as follows:

21
22 6. Notice And Council Call Up: The Director shall notify the Council of all
23 Planning Commission decisions on Class A applications at the Council’s next
24 regular meeting after the decision. At that meeting, the Council may, by an
25 affirmative vote of the members present call up any decision of the Planning
26 Commission for their own review ~~under section 9-1-18-5 of this Chapter.~~ The
27 **Town Council’s call up hearing shall be held in accordance with Section 9-1-**
28 **18-5A of this Chapter.** In lieu of calling up a Planning Commission decision, the
29 Council may, with the consent of the applicant, modify or eliminate any condition
30 of approval imposed on the application by the Planning Commission, or add any
31 condition of approval. All Planning Commission decisions on Class A
32 applications shall stand as presented unless called up or modified by the Town
33 Council.

34
35 Section 2. Section 9-1-18-2(E)(6) is amended to read as follows:

36
37 6. Notice And Council Call Up: The Director shall notify the Council of all
38 Planning Commission decisions on Class A applications at the Council’s next
39 regular meeting after the decision. At that meeting, the Council may, by an
40 affirmative vote of the members present call up any decision of the Planning
41 Commission for their own review ~~under section 9-1-18-5 of this Chapter.~~ **The**
42 **Town Council’s call up hearing shall be held in accordance with Section 9-1-**
43 **18-5A of this Chapter.** In lieu of calling up a Planning Commission decision, the
44 Council may, with the consent of the applicant, modify or eliminate any condition
45 of approval imposed on the application by the Planning Commission, or add any

1 condition of approval. All Planning Commission decisions on Class B
2 applications shall stand as presented unless called up or modified by the Town
3 Council.

4
5 Section 3. Section 9-1-18-3C3 of the Breckenridge Town Code is amended to read as
6 follows:

7
8 3. The Director shall forward his or her decision to the Planning Commission at
9 its next regularly scheduled meeting. At that meeting the Planning Commission
10 may, by an affirmative vote of the members present, call up any decision of the
11 Director for its own review. If called up, ~~the Planning Commission shall review~~
12 ~~the application at the same meeting at which it was called up, unless the applicant~~
13 ~~consents to another hearing date.~~ **the Planning Commission's call up hearing**
14 **shall be held in compliance with Section 9-1-18-5B of this Chapter.** In lieu
15 of calling up a Director's decision, the Planning Commission may, with the
16 consent of the applicant, modify or eliminate any condition of approval imposed
17 on the application by the Director or add any condition of approval.

18
19 Section 4. Section 9-1-18-3C4 of the Breckenridge Town Code is amended to read as
20 follows:

21
22 4. The Director shall then forward the decision to the Town Council at its next
23 regularly scheduled meeting following the decision having been presented to the
24 Planning Commission if the Director's decision was not called up by the Planning
25 Commission, or the Planning Commission's decision on the application if the
26 Director's decision was called up, whichever is applicable. At that meeting, the
27 Town Council may, by an affirmative vote of the members present, call up any
28 decision for its own review. **The Town Council's call up hearing shall be held**
29 **in accordance with Section 9-1-18-5A of this Chapter.** In lieu of calling up the
30 Director's decision or the Planning Commission's decision, the Council may, with
31 the consent of the applicant, modify or eliminate any condition of approval
32 imposed on the application by the Planning Commission or add any condition of
33 approval. If the decision forwarded to the Town Council is not called up or
34 modified, it shall stand as presented.

35 ~~— a. If called up, the Town Council shall review the application at its next~~
36 ~~regularly scheduled meeting, unless the applicant consents to another hearing~~
37 ~~date. The Town Council after review shall grant or deny the application using the~~
38 ~~standards set forth in subsection C2 of this section, with or without conditions.~~

39 ~~— b.~~

40
41 Section 5. Section 9-1-18-5 of the Breckenridge Town Code is amended to read as
42 follows:

43
44 9-1-18-5: CALL UP PROCESS:

45
46 **A. Town Council Call Up:**

- 1 1. A call up may be requested by the applicant, a member of the public, the
2 Director, or a member of the Town Council.
- 3 2. If the Town Council calls up a final Planning Commission decision on a Class
4 A, Class B, or a Class C development permit application the procedure for
5 the Town Council’s call up hearing shall be as follows.
6
- 7 3. The Town Council shall fix a date and time for a call up hearing on a Class A
8 or B development permit application which date shall not be later than one
9 hundred twenty (120) days from the date of the call up unless the applicant
10 consents to a later hearing date. Notice of the Town Council’s call up hearing
11 on a Class A or Class B development permit application shall be given in the
12 same manner as for a final hearing on the same class of development permit
13 application held before the Planning Commission.
14
- 15 4. The Town Council shall fix a date and time for a call up hearing on a Class C
16 development permit application which date shall not be later than forty five
17 (45) days from the date of the call up unless the applicant consents to a later
18 hearing date. The call up hearing shall be listed on the Town Council’s
19 agenda at the meeting at which the hearing will be held. Written notice of the
20 time and place of a call up hearing on a Class C development permit
21 application shall be mailed by the Director to the applicant by regular mail,
22 postage prepaid, not less than seven (7) days before the date the hearing is to
23 be held. No further notice is required to be given of a call up hearing on a
24 Class C development permit application.
25
- 26 5. The scheduled date of a Town Council call up hearing may be continued for
27 good cause as described in this subsection:
28
- 29 (a) For purposes of this section, “good cause” may include, but is not limited
30 to:
31 (i) the unavailability of the applicant, the applicant’s attorney, the
32 applicant’s architect, or other key person necessary to the proper
33 presentation of the applicant’s application before the Town Council; (ii) a
34 showing that more time is necessary to obtain relevant information or
35 analysis related to the applicant’s application; or (iii) a showing that
36 more time is legitimately necessary to allow adequate preparation for the
37 hearing. “Good cause” normally shall not include the failure of an
38 attorney or a party to prepare for the hearing.
39
- 40 (b) A motion for a continuance by an applicant must be timely made.
41
- 42 (c) Before a call up hearing is convened the Mayor or the Director may
43 continue a call up hearing. Once a hearing is convened, only the Town
44 Council may continue a call up hearing.
45

1 (d) The Director shall notify the applicant if a continuance of the call up
2 hearing is granted outside of a meeting of the Town Council.

3
4 6. All Town Council call up hearings shall be conducted as de novo public
5 hearings.

6
7 7. At a call up hearing the applicant may appear with or without counsel. If the
8 applicant retains counsel, it shall be at the applicant's cost.

9
10 8. At a call up hearing the applicant shall have the right to present such
11 evidence as may be relevant, and to cross examine all witnesses.

12
13 9. The strict rules of evidence shall not apply to a call up hearing.

14
15 10. The burden of proof in a call up hearing shall be on the applicant.

16
17 11. An audiotaped record of the call up hearing shall be made. The Town shall
18 retain the original audiotape for not less than one year. A copy of an
19 audiotaped record of a call up hearing shall be made available by the Town
20 to the applicant upon written request and payment of a fee determined by
21 the Town Clerk to be sufficient to reimburse the Town for the cost of
22 providing such copy. The Town shall not be obligated to provide a transcript
23 of a call up hearing unless required by law, and any party desiring such
24 transcript shall obtain and pay the cost thereof. A court reporter may be
25 employed by any party, at the expense of such party, to prepare a verbatim
26 written record of the call up hearing.

27
28 12. The Department of Community Development is not a party to a call up
29 hearing. Therefore, it is not a violation of the rule against ex parte contacts
30 for the applicant or any member of the Town Council to talk to a member of
31 the Department of Community Development concerning the application
32 prior to a call up hearing.

33
34 13. In its decision on a development permit application that has been called up
35 the Town Council shall have the right to approve the application with or
36 without conditions, or deny it because it does not comply with the
37 requirements of this Chapter.

38
39 14. The Town Council shall have thirty (30) days from the date of the call up
40 hearing to make a final decision on a Class C development permit
41 application, and sixty (60) days from the date of the call up hearing to make a
42 final decision on Class A or Class B development permit application.

43
44 15. It is not a ground for disqualification that a Town Council member read or
45 reviewed the minutes of the Planning Commission with respect to the

1 application that is the subject of the call up hearing unless the applicant can
2 prove by a preponderance of the evidence that such member cannot fairly
3 hear and decide the application.
4

5 16. The Town Attorney shall not be involved in the presentation of any evidence
6 at the call up hearing and shall remain available to advise the Town Council
7 with respect to all matters pertaining to the call up hearing.
8

9 17. The Town Council's final decision on an application that has been called up
10 shall be in writing, and the time for an appeal of the Town Council's decision
11 shall not begin to run until the Town Council has issued its written decision
12 on the matter.
13

14 18. The record of a call up hearing held before the Town Council shall consist of:
15 (i) the relevant pages concerning the application from the Town Council's
16 agenda packet for the meeting at which the call up hearing was held; (ii) all
17 documents admitted into evidence by the Town Council; (iii) all documents
18 offered into evidence at the hearing, but not admitted, if any; (iv) copies of
19 the applicable provisions of the Development Code, and other applicable
20 Town ordinances; (v) a transcript of the public hearing; and (vi) such other
21 documents as may properly be included in the record.
22

23 19. The Town Council's decision on a development permit application that has
24 been called up shall be the final decision of the Town on such matter, and
25 may be appealed to the district court pursuant to Rule 106(a)(4) of the
26 Colorado Rules of Civil Procedure. The applicant's failure to timely appeal
27 the decision shall be a waiver of the applicant's right to contest the denial or
28 conditional approval of the application.
29

30 20. The procedures described in this Section 9-1-18-5A shall control over the
31 hearing procedures set forth in Chapter 19 of Title 1 of this Code.
32

33 B. Planning Commission Call Up: If a decision made by the Director on a Class C
34 development permit application is called up by the Planning Commission, the
35 Commission shall then act on the application as follows:

36 1. Hearing, Notice And Decision: If the applicant is present and ready to
37 proceed the Planning Commission may conduct the call up hearing at the
38 same meeting at which the application was called up. If the applicant is not
39 present or is not ready to proceed at the meeting at which the application was
40 called up the Planning Commission shall fix a date and time for the call up
41 hearing which date shall not be later than forty five (45) days from the date
42 of the call up unless the applicant consents to a later hearing date. If the call
43 up hearing is to be held at any meeting other than the meeting at which the
44 application was called up, written notice of the time and place of the call up
45 hearing shall be mailed by the Director to the applicant by regular mail.

1 postage prepaid, not less than seven (7) days before the date the hearing is to
2 be held. Additionally, the call up hearing shall be listed on the Planning
3 Commission's agenda for such meeting. Otherwise, no notice of the call up
4 hearing is required.
5

6 2. At the call up hearing the Planning Commission shall approve the
7 application with or without conditions, or deny it because it does not comply
8 with the requirements of this Chapter.
9

10 3. The scheduled date of a Planning Commission call up hearing may be
11 continued for good cause as described in this subsection:
12

13 (a) For purposes of this section, "good cause" may include, but is not limited
14 to:
15

16 (i) the unavailability of the applicant, the applicant's attorney, the
17 applicant's architect, or other key person necessary to the proper
18 presentation of the applicant's application before the Planning
19 Commission; (ii) a showing that more time is necessary to obtain relevant
20 information or analysis related to the applicant's application; or (iii) a
21 showing that more time is legitimately necessary to allow adequate
22 preparation for the hearing. "Good cause" normally shall not include the
23 failure of an attorney or a party to prepare for the hearing.
24

25 (b) A motion for a continuance by an applicant must be timely made.
26

27 (c) Before a call up hearing is convened the Chair of the Planning
28 Commission or the Director may continue a call up hearing. Once a
29 hearing is convened, only the Planning Commission may continue a call
30 up hearing.
31

32 (d) The Director shall notify the applicant if a continuance of the call up
33 hearing is granted outside of a meeting of the Planning Commission.
34

35 4. Except as otherwise provided in this Section 9-1-18-5B, a call up hearing by
36 the Planning Commission shall be conducted in accordance with the
37 requirements of this Chapter and the normal rules and procedures of the
38 Planning Commission.
39

40 5. All Planning Commission call up hearings shall be conducted as de novo
41 public hearings.
42

43 6. At a call up hearing the applicant may appear with or without counsel. If the
44 applicant retains counsel, it shall be at the applicant's cost.
45

- 1 7. At a call up hearing the applicant shall have the right to present such
2 evidence as may be relevant, and to cross examine all witnesses.
3
- 4 8. The strict rules of evidence shall not apply to a call up hearing.
5
- 6 9. The burden of proof in a call up hearing shall be on the applicant.
7
- 8 10. An audiotaped record of the call up hearing shall be made. The Town shall
9 retain the original audiotape for not less than one year. A copy of an
10 audiotaped record of a call up hearing shall be made available by the Town
11 to the applicant upon written request and payment of a fee determined by
12 the Town Clerk to be sufficient to reimburse the Town for the cost of
13 providing such copy. The Town shall not be obligated to provide a transcript
14 of a call up hearing unless required by law, and any party desiring such
15 transcript shall obtain and pay the cost thereof. A court reporter may be
16 employed by any party, at the expense of such party, to prepare a verbatim
17 written record of the call up hearing.
18
- 19 11. The Department of Community Development is not a party to a call up
20 hearing. Therefore, it is not a violation of the rule against ex parte contacts
21 for the applicant or any member of the Planning Commission to talk to a
22 member of the Department of Community Development concerning the
23 application prior to a call up hearing.
24
- 25 12. The Town Attorney shall not be involved in the presentation of any evidence
26 at the call up hearing and shall remain available to advise the Planning
27 Commission with respect to all matters pertaining to the call up hearing.
28
- 29 13. The record of a call up hearing held before the Planning Commission shall
30 consist of: (i) the relevant pages concerning the application from the
31 Planning Commission's agenda packet for the meeting at which the call up
32 hearing was held; (ii) all documents admitted into evidence by the Planning
33 Commission; (iii) all documents offered into evidence at the hearing, but not
34 admitted, if any; (iv) copies of the applicable provisions of the Development
35 Code, and other applicable Town ordinances; (v) a transcript of the public
36 hearing; and (vi) such other documents as may properly be included in the
37 record.
38
- 39 14. The Planning Commission's decision on an application that has been called
40 up may itself be called up by the Town Council in the manner provided in
41 this Chapter.
42
- 43 15. The procedures described in this Section 9-1-18-5B shall control over the
44 hearing procedures set forth in Chapter 19 of Title 1 of this Code.
45

1 Section 6. Section 9-2-3-1D3f of the Breckenridge Town Code is amended to read as
2 follows:

3
4 f. Notice And Council Call Up: The Director shall notify the Council of all
5 Planning Commission decisions on Class A subdivision applications at the
6 Council's next regular meeting after the decision. At that meeting, the Council
7 may, by an affirmative vote of a majority of the members present, call up any
8 decision of the Planning Commission for their own review under authority
9 granted in section 9-2-3-4 of this Chapter. **The Town Council's call up hearing**
10 **shall be held in accordance with Section 9-2-3-4 of this Chapter.** In lieu
11 of calling up a Planning Commission decision, the Council may, with the consent
12 of the applicant, modify or eliminate any condition of approval imposed on the
13 application by the Planning Commission or add any condition of approval. All
14 Planning Commission decisions on Class A subdivision applications shall stand as
15 made unless called up or modified by the Town Council.
16

17 Section 7. Section 9-2-3-2D3f of the Breckenridge Town Code is amended to read as
18 follows:

19
20 f. Notice And Council Call Up: The Director shall notify the Council of all
21 Planning Commission decisions on Class B subdivision applications at the
22 Council's next regular meeting after the decision. At that meeting, the Council
23 may, by an affirmative vote of a majority of the members present, call up any
24 decision of the Planning Commission for their own review under authority
25 granted in section 9-2-3-4 of this Chapter. **The Town Council's call up hearing**
26 **shall be held in accordance with Section 9-2-3-4 of this Chapter.** In lieu
27 of calling up a Planning Commission decision, the Council may, with the consent
28 of the applicant, modify or eliminate any condition of approval imposed on the
29 application by the Planning Commission or add any condition of approval. All
30 Planning Commission decisions on Class B subdivision applications shall stand as
31 made unless called up or modified by the Town Council.
32

33 Section 8. Section 9-2-3-4 of the Breckenridge Town Code is amended to read as
34 follows:

35
36 9-2-3-4: CALL UP PROCESS:

37
38 A. **Town Council Call Up: If the Town Council calls up a Planning Commission**
39 **decision on a Class A or Class B subdivision permit application, the procedure**
40 **for the Town Council's call up hearing shall be as follows:**

- 41 1. **A call up may be requested by the applicant, a member of the public, the**
42 **Director, or a member of the Town Council.**
43
44 2. **The Town Council shall fix a date and time for a call up hearing on a Class A**
45 **or B subdivision permit application which date shall not be later than one**

1 hundred twenty (120) days from the date of the call up unless the applicant
2 consents to a later hearing date.. Notice of the Town Council's call up
3 hearing on a Class A or Class B subdivision permit application shall be given
4 in the same manner as for a final hearing on the same class of subdivision
5 permit application held before the Planning Commission.
6

7 3. The scheduled date of a Town Council call up hearing may be continued for
8 good cause as described in this subsection:
9

10 (a) For purposes of this section, "good cause" may include, but is not limited
11 to: (a) the unavailability of the applicant, the applicant's attorney, the
12 applicant's architect, or other key person necessary to the proper
13 presentation of the applicant's application before the Town Council; (b) a
14 showing that more time is necessary to obtain relevant information or
15 analysis related to the applicant's application; or (c) a showing that more
16 time is legitimately necessary to allow adequate preparation for the
17 hearing. "Good cause" normally shall not include the failure of an
18 attorney or a party to prepare for the hearing.
19

20 (b) A motion for a continuance by an applicant must be timely made.
21

22 (c) Before a call up hearing is convened the Mayor or the Director may
23 continue a call up hearing. Once a hearing is convened, only the Town
24 Council may continue a hearing.
25

26 (d) The Director shall notify the applicant if a continuance of the call up
27 hearing granted outside of a meeting of the Town Council.
28

29 4. All Town Council call up hearings shall be conducted as de novo public
30 hearings.
31

32 5. At a call up hearing the applicant may appear with or without counsel. If the
33 applicant retains counsel, it shall be at the applicant's cost.
34

35 6. At a call up hearing the applicant shall have the right to present such
36 evidence as may be relevant, and to cross examine all witnesses.
37

38 7. The strict rules of evidence shall not apply to a call up hearing.
39

40 8. The burden of proof in a call up hearing on a subdivision permit application
41 shall be on the applicant.
42

43 9. An audiotaped record of the call up hearing shall be made. The Town shall
44 retain the original audiotape for not less than one year. A copy of an
45 audiotaped record of a call up hearing shall be made available by the Town

1 to the applicant upon written request and payment of a fee determined by
2 the Town Clerk to be sufficient to reimburse the Town for the cost of
3 providing such copy. The Town shall not be obligated to provide a transcript
4 of a call up hearing unless required by law, and any party desiring such
5 transcript shall obtain and pay the cost thereof. A court reporter may be
6 employed by any party, at the expense of such party, to prepare a verbatim
7 written record of the call up hearing.
8

9 **10. The Department of Community Development is not a party to a call up**
10 **hearing. Therefore, it is not a violation of the rule against ex parte contacts**
11 **for the applicant or any member of the Town Council to talk to a member of**
12 **the Department of Community Development prior to a call up hearing.**
13

14 **11. In its decision on a subdivision application that has been called up the Town**
15 **Council shall have the right to approve the application with or without**
16 **conditions, or deny it because it does not comply with the requirements of**
17 **this Chapter.**
18

19 **12. The Town Council shall have sixty (60) days from the date of the call up**
20 **hearing to make a final decision on Class A or Class B subdivision permit**
21 **application.**
22

23 **13. It is not a ground for disqualification that a Town Council member read or**
24 **reviewed the minutes of the Planning Commission with respect to the**
25 **application that is the subject of the call up hearing unless the applicant can**
26 **prove by a preponderance of the evidence that such member cannot fairly**
27 **hear and decide the application.**
28

29 **14. The Town Attorney shall not be involved in the presentation of any evidence**
30 **in at the call up hearing and shall remain available to advise the Town**
31 **Council with respect to all matters pertaining to the call up hearing.**
32

33 **15. The Town Council's final decision on an application that has been called up**
34 **shall be in writing, and time for an appeal of the Town Council's decision**
35 **shall not begin to run until the Town Council has issued its written decision**
36 **on the matter.**
37

38 **16. The record of a call up hearing held before the Town Council shall consist of:**
39 **(i) the relevant pages concerning the application from the Town Council's**
40 **agenda packet for the meeting at which the call up hearing was held; (ii) all**
41 **documents admitted into evidence by the Council; (iii) all documents offered**
42 **into evidence at the hearing, but not admitted, if any; (iv) copies of the**
43 **applicable provisions of the Development Code, and other applicable Town**
44 **ordinances; (v) a transcript of the public hearing; and (vi) such other**
45 **documents as may properly be included in the record.**

1
2 **17. The Town Council’s decision on an application that has been called up shall**
3 **be the final decision of the Town on such matter, and may be appealed to the**
4 **district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil**
5 **Procedure. The applicant’s failure to timely appeal the decision shall be a**
6 **waiver of the applicant’s right to contest the denial or conditional approval**
7 **of the application.**
8

9 **18. The procedures described in this Section 9-2-3-4 shall control over the**
10 **hearing procedures set forth in Chapter 19 of Title 1 of this Code.**
11

12 Section 9. Except as specifically amended hereby, the Breckenridge Town Code, and the
13 various secondary codes adopted by reference therein, shall continue in full force and effect.
14

15 Section 10. The Town Council hereby finds, determines and declares that this ordinance
16 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
17 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
18 thereof.
19

20 Section 11. The Town Council hereby finds, determines and declares that it has the
21 power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling
22 Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning
23 municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
24 (iv) Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
25 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
26 contained in the Breckenridge Town Charter.
27

28 Section 12. This ordinance shall be published and become effective as provided by
29 Section 5.9 of the Breckenridge Town Charter.
30

31 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
32 PUBLISHED IN FULL this ____ day of _____, 2021. A Public Hearing shall be held at the
33 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
34 _____, 2021, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
35 Town.
36

37 TOWN OF BRECKENRIDGE, a Colorado
38 municipal corporation
39

40
41 By: _____
42 Eric S. Mamula, Mayor
43
44

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ATTEST:

Helen Cospolich, CMC,
Town Clerk

500-432\Call Up Ordinance (10-18-21)(Second Reading)

1 **9-1-18-5: CALL UP PROCESS:**

2
3 ~~—A. Town Council Action: If a planning commission decision or affirmation by the planning~~
4 ~~commission of a staff decision on any class A, B or C application is then called up by the town~~
5 ~~council, the council shall then act on the application as follows:~~

6 ~~—1. Hearing, Notice And Decision:~~

7 ~~—a. Class C applications shall be heard at the council's next regularly scheduled meeting~~
8 ~~following the vote to call up the application, unless the applicant consents to another hearing~~
9 ~~date. No notice is required.~~

10 ~~—b. Class A and B applications shall be heard at a public hearing conducted at the council's~~
11 ~~next regularly scheduled meeting following the vote to call up the application, unless the~~
12 ~~applicant consents to another hearing date. Notice is required in the same manner as for final~~
13 ~~hearings held before the planning commission 1.~~

14 ~~—c. All hearings conducted under this section shall be conducted as de novo hearings.~~

15 ~~—d. The council shall have the right to approve an application as proposed, approve it with~~
16 ~~conditions, deny it or continue the hearing for good cause.~~

17 ~~—e. The council shall have forty five (45) days from the date of the call up to make a final~~
18 ~~decision on class C applications, and sixty (60) days from the date of the call up to make a final~~
19 ~~decision on class A or class B applications.~~

20 ~~—f. It is not a ground for disqualification that a town council member read or reviewed the~~
21 ~~minutes of the planning commission with respect to the application that is the subject of the call~~
22 ~~up hearing. (Ord. 22, Series 2016)~~

23 ~~—B. Planning Commission Action: If a decision made by the director on a class C application is~~
24 ~~called up by the planning commission, the commission shall then act on the application as~~
25 ~~follows:~~

26 ~~—1. Hearing, Notice And Decision: If the application is called up, the planning commission~~
27 ~~may review it at the meeting in which it is called up, or may continue the application for up to~~
28 ~~twenty one (21) days. The planning commission, after review, may grant or deny the application~~
29 ~~as they deem appropriate, with or without conditions. No additional notice shall be required.~~
30 ~~(Ord. 19, Series 1988)~~

1 9-2-3-4: CALL UP PROCESS:
2 —A. Town Council Action: If a planning commission decision is called up by the town council,
3 the council shall act on the application as provided in subsection B of this section.
4 —B. Hearing Notice And Decision:
5 —1. All subdivision applications shall be heard within thirty (30) days of the vote to call up
6 the application at a public hearing conducted by the council, unless the applicant consents to
7 another hearing date. Notice of the public hearing shall be required in the same manner as for
8 final hearings held before the planning commission for the class of subdivision proposed.
9 —2. All hearings conducted under this section shall be conducted as de novo hearings.
10 —3. The council shall have the right to approve an application as proposed, approve it with
11 conditions, deny it or continue the hearing for good cause.
12 —4. The council shall have sixty (60) days from the date of the call up to make a final
13 decision on class A or class B subdivision applications.
14 —5. It is not a ground for disqualification that a town council member read or reviewed the
15 minutes of the planning commission with respect to the application that is the subject of the call
16 up hearing. (Ord. 22, Series 2016)
17
18

MEMORANDUM

OPEN SPACE & TRAILS



To: Town Council

From: Anne Lowe, Open Space & Trails Manager

Date: October 26, 2021

Re: Resolution in support of GOCO grant application

Enclosed please find a draft resolution stating Town Council's support for a Great Outdoors Colorado (GOCO) Community Impact grant application and initial concept paper to be submitted by Town staff.

The Town is seeking funding for an extension of the Blue River Recreational Pathway "Recpath" through the McCain property. The recpath project is envisioned in two phases, with the connection through the Alta Verde workforce housing development as the first phase and subject of this grant application. A second and future grant application will focus on the remainder of the recpath along the McCain open space.

Staff is drafting the concept paper for the grant application seeking funding for up to \$500,000.

Staff seeks a resolution from Town Council in support of the grant application, as required by GOCO.

1 **FOR WORKSESSION/ADOPTION – October 26, 2021**

2
3 RESOLUTION NO. _____

4
5 SERIES 2021

6
7 A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A GOCO
8 COMMUNITY IMPACT GRANT FROM THE STATE BOARD OF THE GREAT
9 OUTDOORS COLORADO TRUST FUND AND THE COMPLETION OF PHASE ONE OF
10 THE BLUE RIVER RECPATH EXTENSION.
11

12
13 WHEREAS, the Town of Breckenridge supports the Great Outdoors Colorado grant application
14 for the Phase One of the Blue River Recpath Extension. And if the grant is awarded, the Town of
15 Breckenridge supports the completion of the project.
16

17 WHEREAS, the Town of Breckenridge has requested an amount up to \$500,000 from Great
18 Outdoors Colorado to design and construct a recpath extension with natural area park and river
19 access along the Blue River.
20

21 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
22 BRECKENRIDGE, COLORADO, as follows:
23

24 Section 1: The Town Council of the Town of Breckenridge strongly supports the application
25 for a grant with Great Outdoors Colorado.
26

27 Section 2: If the grant is awarded, the Town Council of the Town of Breckenridge strongly
28 supports the fulfillment of the project.
29

30 Section 3: If the grant is awarded, the Town Council hereby authorizes the Town Manager to
31 sign the grant agreement with Great Outdoors Colorado.
32

33 Section 4: If the grant is awarded, the Town Council of the Town of Breckenridge authorizes
34 the expenditure of funds necessary to meet the terms and obligations of the grant
35 agreement.
36

37 Section 5: All action taken by the Town staff with respect to the Town’s Great Outdoors
38 Colorado grant application is ratified, confirmed, and approved,
39

40 RESOLUTION APPROVED AND ADOPTED THIS 26th DAY OF October, 2021.
41
42
43

TOWN OF BRECKENRIDGE

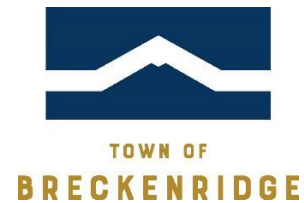
By _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC, Town Clerk

APPROVED IN FORM

Town Attorney date



Memo

To: Mayor Mamula and Members of Town Council
From: Town Attorney
Date: October 20, 2021 (for October 26, 2021 meeting)
Subject: Approval of agreements related to settlement of federal opioid litigation

At the October 26, 2021 meeting, you will be asked to take action on a resolution granting the Town Manager approval to execute three documents. Each agreement is summarized below. While it is within the purview of the Town Manager to sign and execute these agreements, we believe a resolution will elevate the importance of settlement proceeds to help address this national epidemic. Funds could be distributed as early as July 2022 and a local government that chooses not to participate or sign onto the Colorado MOU will not receive its local allocation.

1. Colorado Opioids Settlement Memorandum of Understanding (“Colorado MOU”) with Exhibits A through G.

Local governments and the state collaborated and negotiated the allocation and distribution of the settlement proceeds between the state and local governments memorialized in the MOU. The participating local governments will receive a 20% share which is more specifically explained in Exhibit D attached to the MOU. Actual dollar amounts will depend on the number of participating entities, however, Breckenridge is estimated to receive approximately \$78,000. Percentages were developed based on three factors that address critical causes and effects of the opioid crisis: (1) the number of persons suffering opioid use disorder in the county; (2) the number of opioid overdose deaths that occurred in the county; and (3) the amount of opioids distributed within the county. The intracounty allocations in Exhibit E are a default allocation that will apply unless the local governments in a county area enter into a written agreement providing for a different allocation. These allocations are based on a model, developed by health economist experts, which uses data from the state and local government census on past spending relevant to opioid abatement.

2. Subdivision Settlement Participation Form for each of the settlements (the “Big 3” Distributor settlement and the Johnson & Johnson settlement).

This Agreement serves to release the Big 3 Distributors in consideration for the Town’s receipt of its share of the proceeds.

3. Colorado Subdivision Escrow Agreement.

This Agreement will prohibit release of proceeds until 95% participation by local governments has been reached. That 95% participation threshold triggers certain amounts of incentive payments under the settlements.

1 RESOLUTION NO. ____

2
3 Series 2021

4
5 **RESOLUTION APPROVING THE COLORADO OPIOIDS SETTLEMENT**
6 **MEMORANDUM OF UNDERSTANDING**

7 WHEREAS, the Town of Breckenridge, along with other participating Colorado local
8 governments and the state of Colorado (“Plaintiffs”) have reached a settlement agreement with
9 various pharmaceutical manufacturers and distributors regarding the national opioid crisis; and,
10

11 WHEREAS, in anticipation of those settlements, Plaintiffs have negotiated the attached
12 Colorado Opioids Settlement Memorandum of Understanding with Exhibits A through G
13 (hereinafter “MOU”) signed by Colorado Attorney General Philip J. Weiser on August 26, 2021,
14 which governs the allocation, distribution, sharing, and expenditure of any settlement proceeds
15 paid to Plaintiffs in connection with the opioid litigation; and,
16

17 WHEREAS, in order for the Town to receive its share of the proceeds from the
18 settlement, the Town must further enter into a Subdivision Settlement Participation Form
19 releasing claims against the major distributors; and,
20

21 WHEREAS, the Town will further enter into a Colorado Subdivision Escrow Agreement
22 which will govern the authorized release of the funds in accordance with the MOU.
23

24 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN
25 OF BRECKENRIDGE, COLORADO:
26

27 Section 1. That the Town hereby approves the execution of the Colorado Opioids
28 Settlement Memorandum of Understanding and associated agreements.
29

30 Section 2. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to
31 the extent only of such inconsistency. This repealer shall not be construed to revive any such
32 resolution, or part thereof, heretofore repealed.
33

34 Section 3. This resolution is effective upon adoption.
35

36 Section 4. Minor changes to or amendments of the approved agreements may be made by
37 the Town Manager if the Town Attorney certifies in writing that the proposed changes or
38 amendments do not substantially affect the consideration to be received or paid by the Town
39 pursuant to the approved agreements, or the essential elements of the approved agreements.
40

1 RESOLUTION APPROVED AND ADOPTED this ____ day of ____, 2021.

2
3 TOWN OF BRECKENRIDGE

4
5
6
7 By: _____
8 Eric S. Mamula, Mayor

9
10 ATTEST:

11
12
13
14 _____
15 Helen Cospolich, CMC,
16 Town Clerk

17
18 APPROVED IN FORM

19
20
21
22 _____
23 Town Attorney Date

**COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING
("MOU")**

Thursday, August 26, 2021

August 25, 2021 Attorney General version

A. Definitions

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming, and services to abate the opioid epidemic as identified by the terms of any Settlement. If a Settlement is silent on Approved Purpose(s), then Approved Purpose(s) shall mean those forward-looking strategies to abate the opioid epidemic identified in **Exhibit A** or any supplemental forward-looking abatement strategies added to **Exhibit A** by the Abatement Council. Consistent with the terms of any Settlement, "Approved Purposes" shall also include the reasonable administrative costs associated with overseeing and administering Opioid Funds from each of the four (4) Shares described in Section (B)(2). Reimbursement by the State or Local Governments for past expenses are not Approved Purpose(s). "Approved Purposes" shall include attorneys' fees and expenses incurred in the course of the opioid litigation that are paid through the process discussed below.
2. "County Area" shall mean a county in the State of Colorado plus the Local Governments, or portion of any Local Government, within that county.
3. "Effective Date" shall mean the date on which a court of competent jurisdiction, including any bankruptcy court, enters the first Settlement by order or consent decree. The Parties anticipate that more than one Settlement will be administered according to the terms of this MOU, but that the first entered Settlement will trigger the formation of the Abatement Council in Section (C) and the Regional Councils in Section (F)(5).¹
4. "General Abatement Fund Council," or "Abatement Council," shall have the meaning described in Section (C), below.

¹ For the avoidance of doubt, the McKinsey Settlement and any other Settlement that precedes the finalization of drafting this MOU are not considered a trigger for purposes of the calculation of "Effective Date."

5. “Local Government(s)” shall mean all counties in the State of Colorado and the municipalities, towns, and county and city municipal corporations that are listed in **Exhibit B**.
6. “National Opioid Settlement Administrative Fund” shall mean any fund identified by a Settlement for the national distribution of Opioid Funds.
7. “Opioid Funds” shall mean damage awards obtained through a Settlement.
8. “Opioid Settling Defendant” shall mean any person or entity, or its affiliates, that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of licit opioids.
9. “Participating Local Government(s)” shall mean all Local Governments that sign this MOU, and if required under terms of a particular Settlement, who have executed a release of claims with the Opioid Settlement Defendant(s). For the avoidance of doubt, a Local Government must sign this MOU to become a “Participating Local Government.” Local Governments may designate the appropriate individual from their entity to sign the MOU.
10. “Party” or “Parties” shall mean the State and/or Participating Local Government(s).
11. “Qualified Settlement Fund Account,” or “QSF Account,” shall mean an account set up as a qualified settlement fund, 468b fund, as authorized by Treasury Regulations 1.468B-1(c) (26 CFR §1.468B-1).
12. “Regional Council” shall have the meaning described in Section (F)(5), below.
13. “Settlement” shall mean the negotiated resolution of legal or equitable claims against an Opioid Settling Defendant when that resolution has been jointly entered into by the State and the Participating Local Governments, or by any individual Party or collection of Parties that opt to subject their Settlement to this MOU. Unless otherwise directed by an order from a United States Bankruptcy Court, “Settlement” shall also include distributions from any liquidation under Chapter 7 of the United States Bankruptcy Code or confirmed plan under Chapter 11 of the United States Bankruptcy Code that treats the claims of the State and Local Governments against an Opioid Settling Defendant.
14. “The State” shall mean the State of Colorado acting through its Attorney General and the Colorado Department of Law.

B. Allocation of Settlement Proceeds

1. All Opioid Funds shall be held in accordance with the terms of any Settlement. If a Settlement allows Opioid Funds to be held in a National Opioid Settlement Administrative Fund, then Opioid Funds shall be held in such National Opioid Settlement Administrative Fund. If a Settlement does not allow for Opioid Funds

to be held in a National Opioid Settlement Administrative Fund, Opioid Funds shall be held in a Colorado-specific QSF Account or, under the following limited circumstances, in the State's Custodial Account: 1) if at the time of a Settlement, a Colorado-specific QSF Account is not yet established, although in such case, the Opioid Funds shall be transferred to the Colorado-specific QSF Account once it is established or 2) where the Abatement Fund Council determines Opioids Funds cannot be legally held in a Colorado-specific QSF Account. Regardless of whether Opioid Funds are held in a National Administrative Fund, a Colorado-specific QSF Account, or in the State's Custodial Account, the Abatement Council shall appoint one of its members to serve as the point of contact in accordance Section (C)(4)(b)(i), below.

2. All Opioid Funds, at the time of a Settlement or at the time designated in the Settlement documents, shall be divided and distributed as follows:²
 - a. 10% directly to the State ("State Share") for Approved Purposes in accordance with Section (D), below;
 - b. 20% directly to Participating Local Governments ("LG Share") for Approved Purposes in accordance with Section (E), below;
 - c. 60% directly to Regions ("Regional Share") for Approved Purposes in accordance with Section (F), below; and
 - d. 10% to specific abatement infrastructure projects ("Statewide Infrastructure Share") for Approved Purposes in accordance with Section (G), below.
3. Distribution of the Shares in Section B(2)(a) – (d) shall be direct, meaning that funds held in accordance with Section B(1) shall be disbursed directly to the State, Participating Local Governments, Regions, and the Statewide Infrastructure Share according to the terms of this MOU.
4. All Opioid Funds, regardless of allocation, shall be used for Approved Purposes.
5. Participating Local Governments may elect to share, pool, or collaborate with their respective allocation of the LG or Regional Shares in any manner they choose, so long as such sharing, pooling, or collaboration is used for Approved Purposes and complies with the terms of this MOU and any Settlement.

C. General Abatement Fund Council

1. A General Abatement Fund Council (the "Abatement Council"), consisting of representatives appointed by the State and Participating Local Governments, shall

² This MOU treats multi-county health departments as county health departments for purposes of allocation and distribution of abatement proceeds and therefore multi-county health departments shall not receive any Opioid Funds directly. Third-Party Payors ("TPPs") are not Parties to this MOU.

be created to ensure the distribution of Opioid Funds complies with the terms of any Settlement and to provide oversight of the Opioid Funds in accordance with the terms of this MOU.

2. **Membership:** The Abatement Council shall consist of the following thirteen (13) members, who shall serve in their official capacity only.
 - a. **State Members:** Seven (7) members shall be appointed by the State, as authorized volunteers of the State, as follows:
 - (i) A Chair to serve as a non-voting member, except in the event of a tie;
 - (ii) Two (2) members who are licensed professionals with significant experience in substance use disorders;
 - (iii) Three (3) members who are professionals with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or government administration related to substance use disorders; and
 - (iv) One (1) member or family member affected directly by the opioid crisis.
 - b. **Local Government Members:** Six (6) members shall be appointed by the Participating Local Governments. Local Government Members shall be a County Commissioner, Mayor, City or Town Council Member, or a professional with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or governmental administration related to substance use disorders. A Participating Local Government may determine which Local Government Members are eligible (or ineligible) to serve on the General Abatement Fund Council. County Commissioners, City or Town Council Members, and/or Mayors from the Regions identified in **Exhibit C** shall collaborate to appoint Local Government Members as follows:
 - (i) Two (2) Members from Regions 1, 5, 13, 14, 15, 17, 18;
 - (ii) Two (2) Members from Regions 2, 6, 7, 8, 9, 10, 11, 12, 16; and
 - (iii) Two (2) Members from Regions 3, 4, 19.
 - c. **Terms:** The Abatement Council shall be established within ninety (90) days of the Effective Date. In order to do so, within sixty (60) days of the Effective Date, the State shall appoint the State Members in accordance with Section (C)(2)(a), and after conferral with the Local Governments, CCI and CML shall jointly appoint six (6) Local Government Members for an initial term not to exceed one year. Thereafter, Members shall be

appointed in accordance with this Section and Sections (C)(2)(a) and (b) and may serve no more than two (2) consecutive two-year terms, for a total of four (4) consecutive years. Except that, beginning in the second year only, two (2) State Members and two (2) Local Government members shall be appointed for a three-year term and may serve one consecutive two-year term thereafter. The Chair shall have no term but may be replaced at the State's discretion.

- (i) If a State or Local Government Member resigns or is otherwise removed from the Abatement Council prior to the expiration of their term, a replacement Member shall be appointed within sixty (60) days in accordance with Sections (C)(2)(a) and (b).
- (ii) If a Local Government Member vacancy exists for more than sixty (60) days, the State shall appoint a replacement Local Government Member to serve until the vacancy is filled in accordance with Section (C)(2)(b).

3. **Duties:** The Abatement Council is primarily responsible for ensuring that the distribution of Opioid Funds complies with the terms of this MOU. The Abatement Council is also responsible for oversight of Opioid Funds from the Regional Share in accordance with Section (F), below, and for developing processes and procedures for the distribution and oversight of Opioid Funds from the Statewide Infrastructure Share in accordance with Section (G) below.
4. **Governance:** The Abatement Council shall draft its own bylaws or other governing documents, which must include appropriate conflict of interest and dispute resolution provisions, in accordance with the terms of this MOU and the following principles:
 - a. **Authority:** The Abatement Council does not have rulemaking authority. The terms of this MOU and any Settlement, as entered by any court of competent jurisdiction, including any bankruptcy court, control the authority of the Abatement Council and the Abatement Council shall not stray outside the bounds of the authority and power vested by this MOU and any Settlement.
 - b. **Administration:** The Abatement Council shall be responsible for an accounting of all Opioid Funds. The Abatement Council shall be responsible for releasing Opioid Funds in accordance with Section (B)(1) for the Regional and Statewide Infrastructure Shares in Sections (B)(2)(c) and (d) and shall develop policies and procedures for the release and oversight of such funds in accordance with Sections (F) and (G). Should the Abatement Council require assistance with providing an accounting of Opioid Funds, it may seek assistance from the State.

- (i) The Abatement Council shall appoint one of its members to serve as a point of contact for the purpose of communicating with the entity holding Opioid Funds in accordance with Section (B)(1) and in that role shall only act as directed by the Abatement Council.
- c. **Transparency:** The Abatement Council shall operate with all reasonable transparency and operate in a manner consistent with all Colorado laws relating to open records and meetings regardless of whether the Abatement Council is otherwise obligated to comply with them.
 - (i) The Abatement Council shall develop a centralized public dashboard or other repository for the publication of expenditure data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G).
 - (ii) The Abatement Council may also require outcome related data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G) and may publish such outcome related data in the centralized public dashboard or other repository described above. In determining which outcome related data may be required, the Abatement Council shall work with all Parties and Regional Councils to identify appropriate data sets and develop reasonable procedures for collecting such data sets so that the administrative burden does not outweigh the benefit of producing such outcome related data.
 - (iii) For purposes of funding the centralized public dashboard or other repository described above, the Abatement Council shall make good faith efforts to seek funding from outside sources first, otherwise the State shall provide such funding.
- d. **Collaboration:** The Abatement Council shall facilitate collaboration between the State, Participating Local Governments, Regional Councils, and other stakeholders for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.
- e. **Decision Making:** The Abatement Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, unless otherwise required in this MOU, the Abatement Council shall make decisions by a majority vote of its Members. The Chair shall only vote in the event of a tie.
- f. **Due Process:** The Abatement Council shall develop the due process procedures required by Section (G)(3)(d) for Parties to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council

shall also abide by the due process principles required by Section (F)(12)-(13) for Regions to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Regional Share.

- g. **Legal Status:** The Abatement Council shall not constitute a separate legal entity.
- h. **Legal Representation:** To the extent permitted by law, the State shall provide legal counsel to State Members for all legal issues arising from those State Members' work on the Abatement Council. At all times, Local Government Members of the Abatement Council are entitled to receive legal representation from their respective governmental entities. In the event of a conflict, the Abatement Council and its members may retain the services of other legal counsel.
- i. **Compensation:** No member of the Abatement Council shall be compensated for their work related to the Abatement Council.

D. State Share

- 1. In accordance with Sections (B)(1) and (B)(2)(a), and the terms of any Settlement, the State Share shall be paid directly to the State in accordance with the terms of this Section (D).
- 2. The State maintains full discretion over distribution of the State Share anywhere within the State of Colorado, however, the State Share shall be used for Approved Purposes only. The State will work to reduce administrative costs as much as practicable.
- 3. On an annual basis, as determined by the Abatement Council, the State shall provide all expenditure data, including administrative costs, from the State Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require the State to provide additional outcome-related data in accordance with Section (C)(4)(c)(ii) and the State shall comply with such requirements.
- 4. If the State disputes the amount of Opioid Funds it receives from the State Share, the State shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the State's right to seek recoupment of any deficiency in its State Share.

E. LG Share

- 1. In accordance with Sections (B)(1) and (B)(2)(b), and the terms of any Settlement, the LG Share shall be paid directly to Participating Local Governments in accordance with the terms of this Section (E).

2. Allocations to Participating Local Governments from the LG Share shall first be determined using the percentages shown in **Exhibit D**.
3. The LG Share for each County Area shall then be allocated among the county and the other Participating Local Governments within it. **Exhibit E** reflects the default allocation that will apply unless the Participating Local Governments within a County Area enter into a written agreement providing for a different allocation. The Participating Local Governments may elect to modify the allocation for a County Area in **Exhibit E**, but such modification to the allocation in **Exhibit E** shall not change a County Area's total allocation under Section (E)(2).
4. A Local Government that chooses not to become a Participating Local Government will not receive a direct allocation from the LG Share. The portion of the LG Share that would have been allocated to a Local Government that is not a Participating Local Government will instead be re-allocated to the Regional Share for the Region where the Local Government is located, in accordance with Section (F), below.
5. In the event a Participating Local Government dissolves or ceases to exist during the term of any Settlement, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Regional Share for the Region in which the Participating Local Government was located, in accordance with Section (F). If a Participating Local Government merges with another Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the successor Participating Local Government's allocation of the LG Share. If a Participating Local Government merges with a Local Government that is not a Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Region in which the merging Participating Local Government was located, in accordance with Section (F), below.
6. A Participating Local Government may forego its allocation of the LG Share and direct its allocation to the Regional Share for the Region where the Participating Local Government is located, in accordance with Section (F) below, by affirmatively notifying the Abatement Council on an annual basis of its decision to forego its allocation of the LG Share. A Participating Local Government's election to forego its allocation of the LG Share shall carry over to the following year unless the Participating Local Government notifies the Abatement Council otherwise. If a Participating Local Government elects to forego its allocation of the LG Share, the Participating Local Government shall be excused from the reporting requirements required by Section (E)(8).
7. Participating Local Governments maintain full discretion over the distribution of their allocation of the LG Share anywhere within the State of Colorado, however,

all Participating Local Governments shall use their allocation from the LG Share for Approved Purposes only. Reasonable administrative costs for a Participating Local Government to administer its allocation of the LG Share shall not exceed actual costs or 10% of the Participating Local Government's allocation of the LG Share, whichever is less.

8. On an annual basis, as determined by the Abatement Council, all Participating Local Governments shall provide all expenditure data, including administrative costs, from their allocation of the LG Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require Participating Local Governments to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and all Participating Local Governments shall comply with such requirements.
9. If any Participating Local Government disputes the amount of Opioid Funds it receives from its allocation of the LG Share, the Participating Local Government shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Participating Local Government's right to seek recoupment of any deficiency in its LG Share.

F. Regional Share

1. In accordance with Sections (B)(1) and (B)(2)(c), and the terms of any Settlement, the Regional Share shall be paid to the Regions in accordance with the terms of this Section (F).
2. Participating Local Governments shall organize themselves into the Regions depicted in **Exhibit C**. Municipalities located in multiple Regions may join all or some of the Regions in which they are located according to **Exhibit C**.
3. Allocations to Regions will be distributed according to **Exhibit F**. For multi-county Regions, each Region's share listed in **Exhibit F** is calculated by summing the individual percentage shares listed in **Exhibit D** for the counties within that Region. The percentages in **Exhibit F** are based on the assumption that every Local Government in each Region becomes a Participating Local Government.
4. In the event a city, town, or other municipality that is a Participating Local Government merges, dissolves, or ceases to exist during the term of any Settlement, the allocation of the Regional Share owed to the Region in which that Participating Local Government existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with another county within its Region, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with a county in a different Region during the term of

any Settlement, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the Region in which that Participating Local Government merged in accordance with **Exhibit F**.

5. Each Region must create its own Regional Council while giving consideration to the regional governance models illustrated in **Exhibit G**. The Regional Council must be formed by the Participating Local Governments within the Region and each Regional Council shall designate a fiscal agent for the Region. Regional fiscal agents shall be county or municipal governments only. All funds from the Regional Share shall be distributed to the Regional Council's identified fiscal agent for the benefit of the entire Region.
 - a. Subject to this Section F(5), each Region may draft its own intra-regional agreements, bylaws, or other governing documents to determine how the Regional Council will operate. However, each voting member of a Regional Council shall be an employee or elected official of a Participating Local Government within the applicable Region. In the case of Denver, the voting members of its Regional Council shall be appointed by the Mayor. In the case of Broomfield, the voting members of its Regional Council shall be appointed by the Broomfield City and County Manager.
 - b. The Region shall not receive any Opioid Funds from the Regional Share until the Region certifies to the Abatement Council that its Regional Council has been formed and a fiscal agent has been designated. Such certification shall be in a simple form adopted by the Region and may be made via email, so long as it includes the names and affiliations of the Regional Council's members and the designated fiscal agent.
 - c. If a Region does not form and certify its Regional Council and designate its fiscal agent within one-hundred and eighty (180) days of the Effective Date, the Abatement Council shall appoint members to the Region's Regional Council. Regional Council members appointed by the Abatement Council shall serve until the Region certifies the formation of its Regional Council to the Abatement Council.
 - d. A Region shall submit a renewed certification required by Section (F)(5)(b), above, when its membership changes.
 - e. If a membership vacancy exists on a Regional Council for more than ninety (90) days and the Regional Council is unable to fill the vacancy by its regular procedures during that time, the Abatement Council shall appoint a replacement member to serve until the Region fills the vacancy.

6. A Local Government that chooses not to become a Participating Local Government shall not receive any Opioid Funds from the Regional Share or participate in the Regional Councils described in Section (F)(5) above.
7. Each Regional Council shall make requests to the Abatement Council for Opioid Funds from their allocation of the Regional Share. Each Regional Council's request for Opioid Funds from the Regional Share shall be accompanied by a 2-year plan identifying the Approved Purposes for which the requested funds will be used by the Region anywhere within the State of Colorado. A Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of this MOU and any Settlement. Any Regional Council may seek assistance from the Abatement Council for purposes of developing its 2-year plan.
8. Reasonable administrative costs for a Regional Council to administer its Region's allocation of the Regional Share shall not exceed actual costs or 10% of the Region's allocation of the Regional Share, whichever is less.
9. The Abatement Council shall release funds requested by a Regional Council in accordance with Section (B)(1) if the Regional Council's 2-year plan complies with the Approved Purposes, the terms of this MOU, and the terms of any Settlement. The Abatement Council shall not deny any funding request from a Regional Council on the basis that the Abatement Council does not approve or agree with the Approved Purposes for which a Regional Council requests Opioid Funds from the Regional Share. Nor may the Abatement Council hold up, delay, or make unreasonable requests for additional or supporting information of the Regional Council prior to releasing the requested Opioid Funds. The purpose of this MOU is to facilitate Opioid Funds to their intended recipients quickly and efficiently with minimal administrative procedure.
10. On an annual basis, as determined by the Abatement Council, each Regional Council's fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data, including administrative costs, from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan. The Regional Council shall subject itself to an accounting at the Abatement Council's discretion.
 - a. The Abatement Council shall review a Regional Council's expenditure data and certification to ensure compliance with the Regional Council's 2-year plan, the Approved Purposes, and the terms of this MOU and any Settlement.
 - b. The Abatement Council shall publish the Regional Council's expenditure data, including administrative costs, from the Regional Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require Regional Councils to provide additional outcome related data in

accordance with Section (C)(4)(c)(ii) and all Regional Councils shall comply with such requirements.

11. If any Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
12. If the Abatement Council has reason to believe a Region's expenditure of its allocation of the Regional Share did not comply with the Region's 2-year Plan, the Approved Purposes, the terms of this MOU or any Settlement, as described in this Section (F), or that the Region otherwise misused its allocation of the Regional Share, the Abatement Council may take remedial action against the alleged offending Region. Such remedial action is left to the discretion of the Abatement Council and may include but not be limited to, withholding future Opioids Funds owed to the offending Region or requiring the offending Region to reimburse improperly expended Opioid Funds to the Regional Share.
13. Within one hundred and twenty (120) days of the Abatement Council being formed, in accordance with Section (C)(2)(c) above, the Abatement Council shall develop and publish due process procedures for allowing a Region to challenge or dispute any remedial action taken by the Abatement Council, including timelines during which the Region may engage in such a challenge or dispute. Such due process procedures shall reflect, at a minimum, the following principles:
 - a. Upon learning of any conduct that may warrant remedial action against a Region, the Abatement Council shall first provide notice to the Region of the conduct at issue, provide the Region an opportunity to respond, and, if appropriate, cure the alleged offending conduct. If after providing the Region such notice and opportunities to respond and cure, the Abatement Council continues to believe remedial action is warranted, the Abatement Council may take such remedial action.
 - b. If the Abatement Council decides to take remedial action against an alleged offending Region, such action may only occur by a two-thirds supermajority vote of the Abatement Council. Thus, an Abatement Council made up of twelve (12) voting members requires a vote of eight (8) Members prior to taking remedial action against an alleged offending Region.
 - c. Prior to taking any remedial action against an alleged offending Region, the Abatement Council shall first provide notice to the alleged offending Region of the remedial action to be taken and the facts underlying such remedial action. The Abatement Council shall then provide the alleged

offending Region an opportunity to challenge or dispute the remedial action in accordance with, at a minimum, the principles below:

- i. The alleged offending Region may request revisions or modifications to the proposed remedial action;
 - ii. The alleged offending Region may submit a written response to and/or request a hearing before the Abatement Council, or a third-party hearing officer,³ regarding the alleged offending conduct and proposed remedial action; and
 - iii. After such written responses are submitted and reviewed and/or a hearing is conducted, the alleged offending Region may submit an appeal to the Abatement Council of the decision to take remedial action.
- d. Remedial actions taken by the Abatement Council, in accordance with the due process principles detailed above, shall be considered final non-appealable orders and offending Regions may not seek judicial relief from remedial action taken by the Abatement Council, except as provided in Section (H), below.
 - e. Subject to Section (H)(2), below, if any Party(ies) believes the Abatement Council violated the terms of this MOU, such Party(ies) may seek to enforce the terms of this MOU.

14. If the Abatement Council has reason to believe a Region's conduct, or the conduct of any Participating Local Government or individual in that Region, amounts to a violation of any criminal law, the Abatement Council shall refer such matters to the appropriate authorities and may consider such conduct in its determination of any remedial action to be taken.

15. If the Abatement Council has reason to believe that an individual involved in the receipt or administration of Opioid Funds from the Regional Share has violated any applicable ethics rules or codes, the Abatement Council shall not attempt to adjudicate such a violation. In such instances, the Abatement Council shall lodge a complaint with the appropriate forum for handling such ethical matters, such as a local home rule municipality's ethics board.

16. Costs associated with the Abatement Council's distribution and oversight of the Regional Share, as described above in this Section (F), including costs associated with any remedial action by the Abatement Council, shall be paid from the Statewide

³ Only an alleged offending Region may request the appointment of a third-party hearing officer to review any written responses and conduct any requested hearings. If an alleged offending Region makes such a request, the Abatement Council has sole discretion to appoint the third-party hearing officer and the alleged offending Region shall bear the cost of such review and/or hearing by the third-party hearing officer.

Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

G. Statewide Infrastructure Share

1. In accordance with Sections B(1) and (B)(2)(d), and the terms of any Settlement, the Statewide Infrastructure Share shall be paid to any Party or Regional Council in accordance with this Section (G).
2. The purpose of the Statewide Infrastructure Share is to promote capital improvements and provide operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis anywhere within the State of Colorado. The Statewide Infrastructure Share is intended to supplement Opioid Funds received by any Party or Region.
3. Prior to distributing any Opioid Funds from the Statewide Infrastructure Share, the Abatement Council shall establish and publish policies and procedures for the distribution and oversight of the Statewide Infrastructure Share, including processes for Parties or Regions to apply for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council's policies and procedures shall, at a minimum, reflect the following principles:
 - a. Opioid Funds from the Statewide Infrastructure Share shall be used for Approved Purposes only;
 - b. Opioid Funds from the Statewide Infrastructure Share shall be paid directly to the appropriate state agencies (including but not limited to the Colorado Department of Law), Regional fiscal agents, or Participating Local Governments only;
 - c. Distribution and oversight of the Statewide Infrastructure Share shall comply with the terms of this MOU and any Settlement;
 - d. Appropriate processes for remedial action will be taken against Parties or Regions that misuse Opioid Funds from the Statewide Infrastructure Share. Such processes shall include procedures for alleged offending Parties or Regions to challenge or dispute such remedial action; and
 - e. Limitations on administrative costs to be expended by recipients for administering Opioid Funds received from the Statewide Infrastructure Fund, not to exceed actual costs expended by the recipient or 10% of the amount received, whichever is less.
4. The distribution and oversight policies and procedures developed by the Abatement Council, in accordance with Section (G)(3), shall be non-appealable orders and no Party or Region may seek judicial relief related to the distribution and oversight of the Statewide Infrastructure Share.

5. On an annual basis, as determined by the Abatement Council, any Party or Regional Council that receives funds from the Statewide Infrastructure Share shall provide all expenditure data, including administrative costs, related to any Opioid Funds it received from the Statewide Infrastructure Share and subject itself to an accounting as required by the Abatement Council. The Abatement Council shall publish all expenditure data from the Statewide Infrastructure Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require the Parties or Regional Councils that receive funds from the Statewide Infrastructure Share to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and the Parties or Regional Councils shall comply with such requirements.
6. Costs associated with the Abatement Council's distribution and oversight of the Statewide Infrastructure Share, as described in this Section (G), shall be paid for from the Statewide Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

H. General Terms

1. All Parties and Regional Councils shall maintain all records related to the receipt and expenditure of Opioid Funds for no less than five (5) years and shall make such records available for review by the Abatement Council, any other Party or Regional Council, or the public. Records requested by the public shall be produced in accordance with Colorado's open records laws. Records requested by the Abatement Council or another Party or a Regional Council shall be produced within twenty-one (21) days of the date the record request was received. This requirement does not supplant any Party or Regional Council's obligations under Colorado's open records laws.
2. If any Party(ies) believes the Abatement Council has violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU, provided the alleging Party(ies) first provides notice to the Abatement Council of the alleged violation and a reasonable opportunity to cure the alleged violation. In such an enforcement action, the alleging Party(ies) may only seek to enforce the terms of the MOU against the State and the Participating Local Governments from which the Local Government Members of the Abatement Council were appointed and may only seek declaratory and/or injunctive relief. In defense of such an enforcement action, the State's Members of the Abatement Council shall be represented by the State and the Local Government Members shall be represented by the Participating Local Governments from which the Local Government Members were appointed. In the event of a conflict, the Abatement Council and its Members may seek outside representation to defend itself against such an enforcement action.
3. If any Party(ies) believes another Party(ies), not including the Abatement Council, violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU in the court in which any applicable Settlement(s) was entered, provided the alleging Party(ies) first provide the alleged offending Party(ies)

notice of the alleged violation(s) and a reasonable opportunity to cure the alleged violation(s). In such an enforcement action, any alleging Party or alleged offending Party(ies) may be represented by their respective public entity in accordance with Colorado law.

4. Nothing in this MOU shall be interpreted to waive the right of any Party to seek judicial relief for conduct occurring outside the scope of this MOU that violates any Colorado law. In such an action, the alleged offending Party(ies), including the Abatement Council, may be represented by their respective public entities in accordance with Colorado law. In the event of a conflict, any Party, including the Abatement Council and its Members, may seek outside representation to defend itself against such an action.
5. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioids Funds has violated any applicable ethics codes or rules, a complaint shall be lodged with the appropriate forum for handling such matters, such as a local home rule municipality's ethics board.
6. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioid Funds violated any Colorado criminal law, such conduct shall be reported to the appropriate criminal authorities.
7. Venue for any legal action related to this MOU shall be in a court of competent jurisdiction where any applicable Settlement(s) is entered.
8. Because recovery under the terms of different Settlement(s) may vary depending on the number of Parties required to effectuate a Settlement, the Parties may conditionally agree to sign on to the MOU through a letter of intent, resolution or similar written statement, declaration or pronouncement declaring their intent to sign on to the MOU if the threshold for Party participation in a specific Settlement is achieved.⁴
9. This MOU may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this MOU. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Parties agree not to deny the legal effect or enforceability of the MOU solely because it is in electronic form or

⁴ For instance, the July 21, 2021 "Distributor Settlement Agreement" includes a "Subdivision Settlement Agreement Form" that, once filled out and executed, is meant to indicate that Local Government's (or Subdivision's) election to participate in that Distributor Settlement and also, to require that Local Government to take steps to formally release any claim it may have against the Settling Distributors. With regard to the Distributor Settlement Agreement or any other Settlements that include a form similar to the Subdivision Settlement Agreement Form, the Parties may still conditionally agree to sign on to the MOU if, for instance, the threshold for Party participation in a specific Settlement is achieved.

because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the MOU in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

10. Each party represents that all procedures necessary to authorize such Party's execution of this MOU have been performed and that the person signing for such Party has been authorized to execute the MOU.

I. Payment of Counsel and Litigation Expenses Through a Back-Stop Fund

1. Some Settlements, including the McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation ("Distributor") and Johnson & Johnson/Janssen ("J&J") settlements, may provide for the payment of all or a portion of the fees and litigation expenses owed by Participating Local Governments to counsel specifically retained to file suit in the opioid litigation. If any Settlement is insufficient to cover the fee obligations of the Participating Local Governments (as discussed and modified by Judge Polster's Order of August 6 regarding fees for the Distributor and J&J settlements), the deficiencies will be covered as set forth in further detail below.
2. The Parties also recognize that, as in the Distributor and J&J settlements, certain Opioid Settling Defendants may offer premiums benefiting the entire state of Colorado when Participating Local Governments agree to the Settlement(s), thereby settling their claims in their on-going lawsuits. For example, below is the chart illustrating how Incentive Payment B (a 25% premium to the entire state) works in the Distributor Settlement at Section IV.F.2.b (p. 20):

Percentage of Litigating Subdivision Population that is Incentive B Eligible Subdivision Population⁵	Incentive Payment B Eligibility Percentage
Up to 85%	0%
85%+	30%
86+	40%
91+	50%
95+	60%
99%+	95%
100%	100%

3. If the court in *In Re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio), or if a Settlement establishes a common benefit fund or similar device to compensate attorneys for services rendered and expenses incurred that have benefited plaintiffs generally in the litigation (the "Common Benefit Fund"),

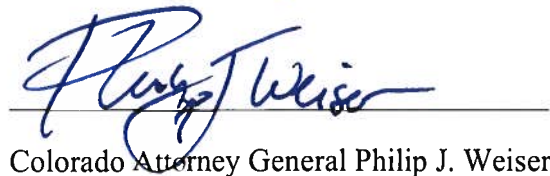
and/or requires certain governmental plaintiffs to pay a share of their recoveries from defendants into the Common Benefit Fund (“Court-Ordered Common Benefit Fund Assessment”), then the Participating Local Governments shall be required to first seek to have their attorneys’ fees and expenses paid through the Common Benefit Fund.

4. For the Distributor and J&J settlements only, counsel for Participating Local Governments shall have their expenses otherwise recoverable from Colorado Participating Local Governments compensated only through the Common Benefit Fund(s) established in those settlement(s). For the avoidance of doubt, counsel for Participating Local Governments may recover their attorneys’ fees through the Distributor and J&J settlements and through the other applicable provisions of this Section (I).
5. In addition, as a means of covering any deficiencies in paying counsel for Participating Local Governments, a supplemental Colorado Attorney Fee Back-Stop Fund shall be established. The Colorado Attorney Fee Back-Stop Fund is to be used to compensate counsel for Participating Local Governments that filed an initial complaint in the opioid litigation by September 1, 2020 (“Litigating Participating Local Governments”).
6. Payments out of the Colorado Attorney Fee Back-Stop Fund shall be determined by a committee (the “Opioid Fee and Expense Committee”). The Opioid Fee and Expense Committee shall consist of the following five (5) members:
 - a. One (1) member appointed by CCI from a litigating county or from a litigating county and city municipal corporation;
 - b. One (1) member appointed by CML from a litigating city;
 - c. One (1) member appointed jointly by CCI and CML from a non-litigating county or city;
 - d. One (1) member appointed by the Attorney General’s Office; and
 - e. One (1) neutral member jointly appointed by all of the other members listed above.
7. The Colorado Attorney Fee Back-Stop Fund shall be funded as follows from any Settlement, excluding settlements involving McKinsey and payments resulting from the Purdue or Mallinckrodt bankruptcy. For purposes only of calculating the funding of the Colorado Attorney Fee Back-Stop Fund, the Parties deem 58% of the total LG Share and Regional Share to be attributable to the Litigating Local Governments. The Colorado Attorney Fee Back-Stop Fund shall be funded by 8.7% of the total LG Share and 4.35% of the total Regional Share at the time such funds are actually received. No funds deposited into the Colorado Attorney Fee Back-Stop Fund will be taken from the Statewide Infrastructure Share or State Share.

8. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund only after applying to the Common Benefit Fund.
9. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund for only a shortfall – that is, the difference between what their fee agreements would entitle them to (as limited by this Section (I)) minus what they have already collected from the Common Benefit Fund (including both the “common benefit” and “contingency fee” calculations, if any). If they receive fees/costs for common benefit work in the national fee fund, these fees/costs will be allocated proportionately across all their local government opioid clients based on the allocation model used in the Negotiation Class website to allocate the appropriate portion to Colorado clients.
10. Counsel for Litigating Participating Local Governments are limited to being paid, at most, and assuming adequate funds are available in any Common Benefit Fund and Colorado Attorney Fee Back-Stop Fund, fees in an amount equal to 15% of the LG Share and 7.5% of the Regional Share attributable to their Colorado clients.
11. Any funds remaining in the Colorado Attorney Fee Back-Stop Fund in excess of the amounts needed to cover the fees and litigation expenses owed by Litigating Participating Local Governments to their respective counsel shall revert to the Participating Local Governments according to the allocations described in Sections (E) and (F). Every two years, the Opioid Fee and Expense Committee shall assess the amount remaining in the Colorado Attorney Fee Back-Stop Fund to determine if it is overfunded.
12. Despite the fact that a litigating entity bonus benefits the entire state, no portion of the State Share shall be used to fund the Colorado Attorney Fee Back-Stop Fund or in any other way to fund any Participating Local Government’s attorneys’ fees and expenses. Because the state did not hire outside counsel, any funds for attorneys fees that the state receives from the J&J and Distributor settlement will be deposited into the State Share.
13. To participate in the Colorado Attorney Fee Back-Stop Fund, counsel must follow the requirements of C.R.S. § 13-17-304.

This **Colorado Opioids Settlement Memorandum of Understanding** is signed

this 26 day of August, 2021 by:


Colorado Attorney General Philip J. Weiser

This **Colorado Opioids Settlement Memorandum of Understanding** is signed
this ____ day of _____, ____ by:

Name & Title _____

On behalf of _____

Exhibit A

POTENTIAL OPIOID ABATEMENT APPROVED PURPOSES

I. TREATMENT

A. TREATMENT OF OPIOID USE DISORDER AND ITS EFFECTS

1. Expand availability of treatment, including Medication-Assisted Treatment (MAT), for Opioid Use Disorder (OUD) and any co-occurring substance use or mental health issues.
2. Supportive housing, all forms of FDA-approved MAT, counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it.
3. Treatment of mental health trauma issues that resulted from the traumatic experiences of the opioid user (e.g., violence, sexual assault, human trafficking) and for family members (e.g., surviving family members after an overdose or overdose fatality).
4. Expand telehealth to increase access to OUD treatment, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
5. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
6. Scholarships for certified addiction counselors.
7. Clinicians to obtain training and a waiver under the federal Drug Addiction Treatment Act to prescribe MAT for OUD.
8. Training for health care providers, students, and other supporting professionals, such as peer recovery coaches/recovery outreach specialists, including but not limited to training relating to MAT and harm reduction.
9. Dissemination of accredited web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
10. Development and dissemination of new accredited curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service Medication-Assisted Treatment.
11. Development of a multistate/nationally accessible database whereby health care providers can list currently available in-patient and out-patient OUD treatment services that are accessible on a real-time basis.

12. Support and reimburse services that include the full American Society of Addiction Medicine (ASAM) continuum of care for OUD.
13. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-informed practices such as adequate methadone dosing.

B. INTERVENTION

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer, if necessary) a patient for OUD treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorder.
3. Training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on the late adolescence and young adulthood when transition from misuse to opioid disorder is most common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management and/or support services.
6. Support work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
7. Create school-based contacts whom parents can engage to seek immediate treatment services for their child.
8. Develop best practices on addressing OUD in the workplace.
9. Support assistance programs for health care providers with OUD.
10. Engage non-profits and faith community as a system to support outreach for treatment.

C. CRIMINAL-JUSTICE-INVOLVED PERSONS

1. Address the needs of persons involved in the criminal justice system who have OUD and any co-occurring substance use disorders or mental health (SUD/MH) issues.

2. Support pre-arrest diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH issues, including established strategies such as:
 - a. Self-referral strategies such as Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
 - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
 - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received Naloxone to reverse the effects of an overdose are then linked to treatment programs;
 - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model; or
 - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network.
3. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH issues to evidence-informed treatment, including MAT, and related services.
4. Support treatment and recovery courts for persons with OUD and any co-occurring SUD/MH issues, but only if they provide referrals to evidence-informed treatment, including MAT.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH issues who are incarcerated, on probation, or on parole.
6. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate re-entry services to individuals with OUD and any co-occurring SUD/MH issues who are leaving jail or prison or who have recently left jail or prison.
7. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

D. WOMEN WHO ARE OR MAY BECOME PREGNANT

1. Evidence-informed treatment, including MAT, recovery, and prevention services for pregnant women or women who could become pregnant and have OUD.
2. Training for obstetricians and other healthcare personnel that work with pregnant women and their families regarding OUD treatment.

3. Other measures to address Neonatal Abstinence Syndrome, including prevention, care for addiction and education programs.
4. Child and family supports for parenting women with OUD.
5. Enhanced family supports and child care services for parents receiving treatment for OUD.

E. PEOPLE IN TREATMENT AND RECOVERY

1. The full continuum of care of recovery services for OUD and any co-occurring substance use or mental health issues, including supportive housing, residential treatment, medical detox services, peer support services and counseling, community navigators, case management, and connections to community-based services.
2. Identifying successful recovery programs such as physician, pilot, and college recovery programs, and providing support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
3. Training and development of procedures for government staff to appropriately interact and provide social and other services to current and recovering opioid users, including reducing stigma.
4. Community-wide stigma reduction regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
5. Engaging non-profits and faith community as a system to support family members in their efforts to help the opioid user in the family.

II. PREVENTION

F. PRESCRIBING PRACTICES

1. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
2. Academic counter-detailing.
3. Continuing Medical Education (CME) on prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Fund development of a multistate/national prescription drug monitoring program (PDMP) that permits information sharing while providing appropriate safeguards on sharing of private information, including but not limited to:

- a. Integration of PDMP data with electronic health records, overdose episodes, and decision support tools for health care providers relating to OUD.
 - b. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database.
6. Educating dispensers on appropriate opioid dispensing.

G. MISUSE OF OPIOIDS

1. Corrective advertising/affirmative public education campaigns.
2. Public education relating to drug disposal.
3. Drug take-back disposal or destruction programs.
4. Fund community anti-drug coalitions that engage in drug-abuse prevention efforts.
5. School-based programs that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, or training of coalitions in evidence-informed implementation.
7. School and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
8. Engaging non-profits and faith community as a system to support prevention.

H. OVERDOSE DEATHS AND OTHER HARMS

1. Increasing availability and distribution of naloxone and other drugs that treat overdoses to first responders, overdose patients, opioid users, families and friends of opioid users, schools, community navigators and outreach workers, drug offenders upon release from jail/prison, and other members of the general public.
2. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, and other members of the general public.

3. Developing data tracking software and applications for overdoses/naloxone revivals.
4. Public education relating to emergency responses to overdoses.
5. Free naloxone for anyone in the community.
6. Public education relating to immunity and Good Samaritan laws.
7. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
8. Syringe service programs, including supplies, staffing, space, peer support services, and the full range of harm reduction and treatment services provided by these programs.
9. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

III. ADDITIONAL AREAS

I. SERVICES FOR CHILDREN

1. Support for children's services: Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

J. FIRST RESPONDERS

1. Law enforcement expenditures relating to the opioid epidemic.
2. Educating first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
3. Increase electronic prescribing to prevent diversion and forgery.

K. COMMUNITY LEADERSHIP

1. Regional planning to identify goals for opioid reduction and support efforts or to identify areas and populations with the greatest needs for treatment intervention services.
2. Government dashboard to track key opioid-related indicators and supports as identified through collaborative community processes.

L. STAFFING AND TRAINING

1. Funding for programs and services regarding staff training and networking to improve staff capability to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-systems coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD (e.g., health care, primary care, pharmacies, PDMPs, etc.).

M. RESEARCH

1. Funding opioid abatement research.
2. Research improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to OUD.
3. Support research for novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
4. Support for innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
5. Expanded research for swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
6. Research expanded modalities such as prescription methadone that can expand access to MAT.

N. OTHER

1. Administrative costs for any of the approved purposes on this list.

Exhibit B

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Adams County	Adams	County	
Arvada	Adams	City	2 counties
Aurora	Adams	City	3 counties
Bennett	Adams	City	2 counties
Brighton	Adams	City	2 counties
Commerce City	Adams	City	
Federal Heights	Adams	City	
Lochbuie	Adams	City	2 counties
Northglenn	Adams	City	2 counties
Thornton	Adams	City	2 counties
Westminster	Adams	City	2 counties
Alamosa County	Alamosa	County	
Alamosa	Alamosa	City	
Hooper	Alamosa	City	
Arapahoe County	Arapahoe	County	
Aurora	Arapahoe	City	3 counties
Bennett	Arapahoe	City	2 counties
Bow Mar	Arapahoe	City	2 counties
Centennial	Arapahoe	City	
Cherry Hills Village	Arapahoe	City	
Columbine Valley	Arapahoe	City	
Deer Trail	Arapahoe	City	
Englewood	Arapahoe	City	
Foxfield	Arapahoe	City	
Glendale	Arapahoe	City	
Greenwood Village	Arapahoe	City	
Littleton	Arapahoe	City	3 counties
Sheridan	Arapahoe	City	
Archuleta County	Archuleta	County	
Pagosa Springs	Archuleta	City	
Baca County	Baca	County	
Campo	Baca	City	
Pritchett	Baca	City	
Springfield	Baca	City	
Two Buttes	Baca	City	
Vilas	Baca	City	
Walsh	Baca	City	
Bent County	Bent	County	
Las Animas	Bent	City	
Boulder County	Boulder	County	
Boulder	Boulder	City	
Erie	Boulder	City	2 counties
Jamestown	Boulder	City	
Lafayette	Boulder	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Longmont	Boulder	City	2 counties
Louisville	Boulder	City	
Lyons	Boulder	City	
Nederland	Boulder	City	
Superior	Boulder	City	2 counties
Ward	Boulder	City	
Broomfield	Broomfield	City/County	
Chaffee County	Chaffee	County	
Buena Vista	Chaffee	City	
Poncha Springs	Chaffee	City	
Salida	Chaffee	City	
Cheyenne County	Cheyenne	County	
Cheyenne Wells	Cheyenne	City	
Kit Carson	Cheyenne	City	
Clear Creek County	Clear Creek	County	
Central City	Clear Creek	City	2 counties
Empire	Clear Creek	City	
Georgetown	Clear Creek	City	
Idaho Springs	Clear Creek	City	
Silver Plume	Clear Creek	City	
Conejos County	Conejos	County	
Antonito	Conejos	City	
La Jara	Conejos	City	
Manassa	Conejos	City	
Romeo	Conejos	City	
Sanford	Conejos	City	
Costilla County	Costilla	County	
Blanca	Costilla	City	
San Luis	Costilla	City	
Crowley County	Crowley	County	
Crowley	Crowley	City	
Olney Springs	Crowley	City	
Ordway	Crowley	City	
Sugar City	Crowley	City	
Custer County	Custer	County	
Silver Cliff	Custer	City	
Westcliffe	Custer	City	
Delta County	Delta	County	
Cedaredge	Delta	City	
Crawford	Delta	City	
Delta	Delta	City	
Hotchkiss	Delta	City	
Orchard City	Delta	City	
Paonia	Delta	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Denver	Denver	City/County	
Dolores County	Dolores	County	
Dove Creek	Dolores	City	
Rico	Dolores	City	
Douglas County	Douglas	County	
Aurora	Douglas	City	3 counties
Castle Pines	Douglas	City	
Castle Rock	Douglas	City	
Larkspur	Douglas	City	
Littleton	Douglas	City	3 counties
Lone Tree	Douglas	City	
Parker	Douglas	City	
Eagle County	Eagle	County	
Avon	Eagle	City	
Basalt	Eagle	City	2 counties
Eagle	Eagle	City	
Gypsum	Eagle	City	
Minturn	Eagle	City	
Red Cliff	Eagle	City	
Vail	Eagle	City	
El Paso County	El Paso	County	
Calhan	El Paso	City	
Colorado Springs	El Paso	City	
Fountain	El Paso	City	
Green Mountain Falls	El Paso	City	2 counties
Manitou Springs	El Paso	City	
Monument	El Paso	City	
Palmer Lake	El Paso	City	
Ramah	El Paso	City	
Elbert County	Elbert	County	
Elizabeth	Elbert	City	
Kiowa	Elbert	City	
Simla	Elbert	City	
Fremont County	Fremont	County	
Brookside	Fremont	City	
Cañon City	Fremont	City	
Coal Creek	Fremont	City	
Florence	Fremont	City	
Rockvale	Fremont	City	
Williamsburg	Fremont	City	
Garfield County	Garfield	County	
Carbondale	Garfield	City	
Glenwood Springs	Garfield	City	
New Castle	Garfield	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Parachute	Garfield	City	
Rifle	Garfield	City	
Silt	Garfield	City	
Gilpin County	Gilpin	County	
Black Hawk	Gilpin	City	
Central City	Gilpin	City	2 counties
Grand County	Grand	County	
Fraser	Grand	City	
Granby	Grand	City	
Grand Lake	Grand	City	
Hot Sulphur Springs	Grand	City	
Kremmling	Grand	City	
Winter Park	Grand	City	
Gunnison County	Gunnison	County	
Crested Butte	Gunnison	City	
Gunnison	Gunnison	City	
Marble	Gunnison	City	
Mount Crested Butte	Gunnison	City	
Pitkin	Gunnison	City	
Hinsdale County	Hinsdale	County	
Lake City	Hinsdale	City	
Huerfano County	Huerfano	County	
La Veta	Huerfano	City	
Walsenburg	Huerfano	City	
Jackson County	Jackson	County	
Walden	Jackson	City	
Jefferson County	Jefferson	County	
Arvada	Jefferson	City	2 counties
Bow Mar	Jefferson	City	2 counties
Edgewater	Jefferson	City	
Golden	Jefferson	City	
Lakeside	Jefferson	City	
Lakewood	Jefferson	City	
Littleton	Jefferson	City	3 counties
Morrison	Jefferson	City	
Mountain View	Jefferson	City	
Superior	Jefferson	City	2 counties
Westminster	Jefferson	City	2 counties
Wheat Ridge	Jefferson	City	
Kiowa County	Kiowa	County	
Eads	Kiowa	City	
Haswell	Kiowa	City	
Sheridan Lake	Kiowa	City	
Kit Carson County	Kit Carson	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Bethune	Kit Carson	City	
Burlington	Kit Carson	City	
Flagler	Kit Carson	City	
Seibert	Kit Carson	City	
Stratton	Kit Carson	City	
Vona	Kit Carson	City	
La Plata County	La Plata	County	
Bayfield	La Plata	City	
Durango	La Plata	City	
Ignacio	La Plata	City	
Lake County	Lake	County	
Leadville	Lake	City	
Larimer County	Larimer	County	
Berthoud	Larimer	City	2 counties
Estes Park	Larimer	City	
Fort Collins	Larimer	City	
Johnstown	Larimer	City	2 counties
Loveland	Larimer	City	
Timnath	Larimer	City	2 counties
Wellington	Larimer	City	
Windsor	Larimer	City	2 counties
Las Animas County	Las Animas	County	
Aguilar	Las Animas	City	
Branson	Las Animas	City	
Cokedale	Las Animas	City	
Kim	Las Animas	City	
Starkville	Las Animas	City	
Trinidad	Las Animas	City	
Lincoln County	Lincoln	County	
Arriba	Lincoln	City	
Genoa	Lincoln	City	
Hugo	Lincoln	City	
Limon	Lincoln	City	
Logan County	Logan	County	
Crook	Logan	City	
Fleming	Logan	City	
Iliff	Logan	City	
Merino	Logan	City	
Peetz	Logan	City	
Sterling	Logan	City	
Mesa County	Mesa	County	
Collbran	Mesa	City	
De Beque	Mesa	City	
Fruita	Mesa	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Grand Junction	Mesa	City	
Palisade	Mesa	City	
Mineral County	Mineral	County	
City of Creede	Mineral	City	
Moffat County	Moffat	County	
Craig	Moffat	City	
Dinosaur	Moffat	City	
Montezuma County	Montezuma	County	
Cortez	Montezuma	City	
Dolores	Montezuma	City	
Mancos	Montezuma	City	
Montrose County	Montrose	County	
Montrose	Montrose	City	
Naturita	Montrose	City	
Nucla	Montrose	City	
Olathe	Montrose	City	
Morgan County	Morgan	County	
Brush	Morgan	City	
Fort Morgan	Morgan	City	
Hillrose	Morgan	City	
Log Lane Village	Morgan	City	
Wiggins	Morgan	City	
Otero County	Otero	County	
Cheraw	Otero	City	
Fowler	Otero	City	
La Junta	Otero	City	
Manzanola	Otero	City	
Rocky Ford	Otero	City	
Swink	Otero	City	
Ouray County	Ouray	County	
Ouray	Ouray	City	
Ridgway	Ouray	City	
Park County	Park	County	
Alma	Park	City	
Fairplay	Park	City	
Phillips County	Phillips	County	
Haxtun	Phillips	City	
Holyoke	Phillips	City	
Paoli	Phillips	City	
Pitkin County	Pitkin	County	
Aspen	Pitkin	City	
Basalt	Pitkin	City	2 counties
Snowmass Village	Pitkin	City	
Prowers County	Prowers	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Granada	Prowers	City	
Hartman	Prowers	City	
Holly	Prowers	City	
Lamar	Prowers	City	
Wiley	Prowers	City	
Pueblo County	Pueblo	County	
Boone	Pueblo	City	
Pueblo	Pueblo	City	
Rye	Pueblo	City	
Rio Blanco County	Rio Blanco	County	
Meeker	Rio Blanco	City	
Rangely	Rio Blanco	City	
Rio Grande County	Rio Grande	County	
Center	Rio Grande	City	2 counties
Del Norte	Rio Grande	City	
Monte Vista	Rio Grande	City	
South Fork	Rio Grande	City	
Routt County	Routt	County	
Hayden	Routt	City	
Oak Creek	Routt	City	
Steamboat Springs	Routt	City	
Yampa	Routt	City	
Saguache County	Saguache	County	
Bonanza	Saguache	City	
Center	Saguache	City	2 counties
Crestone	Saguache	City	
Moffat	Saguache	City	
Saguache	Saguache	City	
San Juan County	San Juan	County	
Silverton	San Juan	City	
San Miguel County	San Miguel	County	
Mountain Village	San Miguel	City	
Norwood	San Miguel	City	
Ophir	San Miguel	City	
Sawpit	San Miguel	City	
Telluride	San Miguel	City	
Sedgwick County	Sedgwick	County	
Julesburg	Sedgwick	City	
Ovid	Sedgwick	City	
Sedgwick	Sedgwick	City	
Summit County	Summit	County	
Blue River	Summit	City	
Breckenridge	Summit	City	
Dillon	Summit	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Frisco	Summit	City	
Montezuma	Summit	City	
Silverthorne	Summit	City	
Teller County	Teller	County	
Cripple Creek	Teller	City	
Green Mountain Falls	Teller	City	2 counties
Victor	Teller	City	
Woodland Park	Teller	City	
Washington County	Washington	County	
Akron	Washington	City	
Otis	Washington	City	
Weld County	Weld	County	
Ault	Weld	City	
Berthoud	Weld	City	2 counties
Brighton	Weld	City	2 counties
Dacono	Weld	City	
Eaton	Weld	City	
Erie	Weld	City	2 counties
Evans	Weld	City	
Firestone	Weld	City	
Fort Lupton	Weld	City	
Frederick	Weld	City	
Garden City	Weld	City	
Gilcrest	Weld	City	
Greeley	Weld	City	
Grover	Weld	City	
Hudson	Weld	City	
Johnstown	Weld	City	2 counties
Keenesburg	Weld	City	
Kersey	Weld	City	
La Salle	Weld	City	
Lochbuie	Weld	City	2 counties
Longmont	Weld	City	2 counties
Mead	Weld	City	
Milliken	Weld	City	
Northglenn	Weld	City	2 counties
Nunn	Weld	City	
Pierce	Weld	City	
Platteville	Weld	City	
Raymer (New Raymer)	Weld	City	
Severance	Weld	City	
Thornton	Weld	City	2 counties
Timnath	Weld	City	2 counties
Windsor	Weld	City	2 counties

Colorado Local Governments*

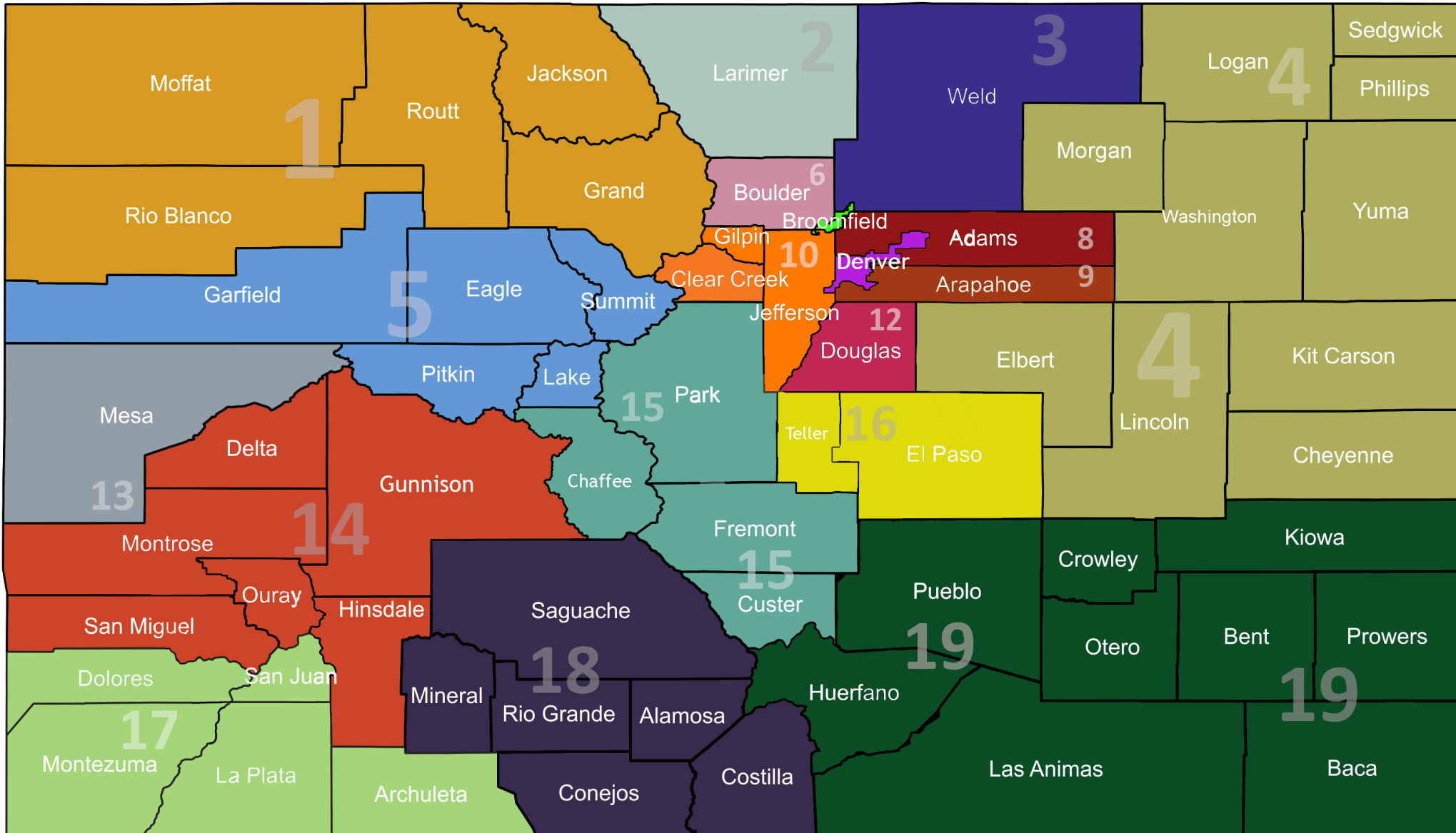
Government Name	County	Gov't Type	Multi-County
Yuma County	Yuma	County	
Eckley	Yuma	City	
Wray	Yuma	City	
Yuma	Yuma	City	

*This list includes all 64 Colorado counties and all 271 municipalities listed in the 2019 Census. Cities located in multiple counties are listed under each corresponding county subheading. City and County of Denver and City and County of Broomfield are counted in both the city and county totals. The City of Carbonate is not included in this list, as there was no population in the 2019 Census data.

This list will be reconciled as necessary to be consistent with the terms of Settlement(s) with Opioid Settling Defendant(s)

Exhibit C

Regions for the distribution of opioid settlement funds



Region 1	Region 5	Region 9	Region 13	Region 17
Region 2	Region 6	Region 10	Region 14	Region 18
Region 3	Region 7 (Broomfield)	Region 11 (Denver)	Region 15	Region 19
Region 4	Region 8	Region 12	Region 16	

Exhibit D

Exhibit D - Allocations to Colorado County Areas

County	Percentage of LG Share
Adams	9.4247%
Alamosa	0.5081%
Arapahoe	10.8071%
Archuleta	0.1370%
Baca	0.0592%
Bent	0.1133%
Boulder	5.7936%
Broomfield	1.0014%
Chaffee	0.3604%
Cheyenne	0.0159%
Clear Creek	0.1380%
Conejos	0.2108%
Costilla	0.0552%
Crowley	0.0934%
Custer	0.0412%
Delta	0.5440%
Denver	15.0042%
Dolores	0.0352%
Douglas	3.6696%
Eagle	0.6187%
El Paso	11.9897%
Elbert	0.2804%
Fremont	0.9937%
Garfield	0.8376%
Gilpin	0.0561%
Grand	0.2037%
Gunnison	0.1913%
Hinsdale	0.0112%
Huerfano	0.2505%
Jackson	0.0310%
Jefferson	10.5173%
Kiowa	0.0142%
Kit Carson	0.0940%
La Plata	0.8127%
Lake	0.0990%
Larimer	6.5211%
Las Animas	0.6304%
Lincoln	0.0819%
Logan	0.3815%
Mesa	2.8911%
Mineral	0.0039%
Moffat	0.2326%
Montezuma	0.4429%

Montrose	0.5695%
Morgan	0.4677%
Otero	0.4486%
Ouray	0.0535%
Park	0.1674%
Phillips	0.0714%
Pitkin	0.1747%
Prowers	0.1727%
Pueblo	5.6757%
Rio Blanco	0.1013%
Rio Grande	0.2526%
Routt	0.3837%
Saguache	0.0666%
San Juan	0.0097%
San Miguel	0.1005%
Sedgwick	0.0618%
Summit	0.3761%
Teller	0.6219%
Washington	0.0357%
Weld	3.8908%
Yuma	0.0992%
TOTAL	100.0000%

Exhibit E

Exhibit E - Intracounty Allocations^{1,2}

The below chart depicts the default percentage that each Local Government will receive from the LG Share amount attributed to its County Area, as described in Section (E)(3) of the MOU. The chart assumes full participation by all Local Governments

Government Name	Intracounty Share
Adams County	68.3372%
Arvada (2 Counties)	0.2632%
Aurora (3 Counties)	4.6336%
Bennett (2 Counties)	0.1670%
Brighton (2 Counties)	1.4527%
Commerce City	4.7314%
Federal Heights	1.1457%
Lochbuie (2 Counties)	0.0001%
Northglenn (2 Counties)	2.0913%
Thornton (2 Counties)	10.6435%
Westminster (2 Counties)	6.5342%

Alamosa County	85.3075%
Alamosa	14.6818%
Hooper	0.0108%

Arapahoe County	42.7003%
Aurora (3 Counties)	35.5997%
Bennett (2 Counties)	0.0324%
Bow Mar (2 Counties)	0.0159%
Centennial	0.4411%
Cherry Hills Village	0.6685%
Columbine Valley	0.1601%
Deer Trail	0.0003%
Englewood	5.5850%
Foxfield	0.0372%
Glendale	1.2289%
Greenwood Village	2.8305%
Littleton (3 Counties)	8.5654%
Sheridan	2.1347%

Archuleta County	90.0864%
Pagosa Springs	9.9136%

Baca County	85.9800%
Campo	2.4443%
Pritchett	1.5680%
Springfield	7.0100%

Government Name	Intracounty Share
Two Buttes	0.4766%
Vilas	0.9070%
Walsh	1.6141%

Bent County	80.9608%
Las Animas	19.0392%

Boulder County	47.6311%
Boulder	31.7629%
Erie (2 Counties)	0.3634%
Jamestown	0.0086%
Lafayette	3.3203%
Longmont (2 Counties)	14.6833%
Louisville	1.4455%
Lyons	0.5916%
Nederland	0.1646%
Superior (2 Counties)	0.0258%
Ward	0.0030%

Broomfield County/City	100.0000%
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Chaffee County	74.8440%
Buena Vista	5.8841%
Poncha Springs	4.2369%
Salida	15.0350%

Cheyenne County	66.8002%
Cheyenne Wells	0.8586%
Kit Carson	32.3412%

Clear Creek County	92.2164%
Central City (2 Counties)	0.0000%
Empire	0.3364%
Georgetown	1.9063%
Idaho Springs	4.7625%
Silver Plume	0.7784%

Conejos County	77.1204%
Antonito	4.6338%
La Jara	2.4313%
Manassa	1.0062%
Romeo	2.4270%
Sanford	12.3812%

Government Name	Intracounty Share
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Costilla County	97.3454%
Blanca	1.2036%
San Luis	1.4509%

Crowley County	80.7081%
Crowley	4.3597%
Olney Springs	8.3683%
Ordway	0.1853%
Sugar City	6.3786%

Custer County	96.6858%
Silver Cliff	0.7954%
Westcliffe	2.5188%

Delta County	76.3512%
Cedaredge	3.6221%
Crawford	0.4938%
Delta	16.2658%
Hotchkiss	1.0963%
Orchard City	0.1473%
Paonia	2.0236%

Denver County/City	100.0000%
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Dolores County	76.3307%
Dove Creek	17.3127%
Rico	6.3566%

Douglas County	71.8404%
Aurora (3 Counties)	0.2099%
Castle Pines	0.2007%
Castle Rock	13.5204%
Larkspur	0.0856%
Littleton (3 Counties)	0.0156%
Lone Tree	5.2786%
Parker	8.8487%

Eagle County	60.8236%
Avon	7.6631%
Basalt (2 Counties)	2.2311%
Eagle	3.1376%
Gypsum	1.7469%
Minturn	0.7771%

Government Name	Intracounty Share
Red Cliff	0.0957%
Vail	23.5250%

El Paso County	18.4181%
Calhan	0.0228%
Colorado Springs	80.1161%
Fountain	0.9892%
Green Mountain Falls (2 Counties)	0.0149%
Manitou Springs	0.2411%
Monument	0.1492%
Palmer Lake	0.0455%
Ramah	0.0033%

Elbert County	86.5840%
Elizabeth	10.2633%
Kiowa	1.5455%
Simla	1.6072%

Fremont County	60.7882%
Brookside	0.0348%
Cañon City	30.9017%
Coal Creek	0.0476%
Florence	8.0681%
Rockvale	0.0687%
Williamsburg	0.0907%

Garfield County	76.3371%
Carbondale	2.4698%
Glenwood Springs	11.8141%
New Castle	1.4295%
Parachute	1.0653%
Rifle	5.2733%
Silt	1.6110%

Gilpin County	46.8613%
Black Hawk	46.3909%
Central City (2 Counties)	6.7478%

Grand County	80.1046%
Fraser	2.4903%
Granby	5.4008%
Grand Lake	0.3174%
Hot Sulphur Springs	0.1431%
Kremmling	2.9284%

Government Name	Intracounty Share
Winter Park	8.6154%

Gunnison County	88.9185%
Crested Butte	2.3562%
Gunnison	5.9501%
Marble	0.1714%
Mount Crested Butte	2.5657%
Pitkin	0.0381%

Hinsdale County	76.0940%
Lake City	23.9060%

Huerfano County	68.2709%
La Veta	11.0719%
Walsenburg	20.6572%

Jackson County	61.5339%
Walden	38.4661%

Jefferson County	58.2140%
Arvada (2 Counties)	11.9733%
Bow Mar (2 Counties)	0.0087%
Edgewater	0.6604%
Golden	3.4815%
Lakeside	0.0030%
Lakewood	15.9399%
Littleton (3 Counties)	0.6176%
Morrison	0.2205%
Mountain View	0.1344%
Superior (2 Counties)	0.0000%
Westminster (2 Counties)	5.4779%
Wheat Ridge	3.2689%

Kiowa County	93.2138%
Eads	5.3777%
Haswell	0.6402%
Sheridan Lake	0.7682%

Kit Carson County	86.3178%
Bethune	0.1841%
Burlington	12.0640%
Flagler	0.4264%
Seibert	0.0291%
Stratton	0.9012%

Government Name	Intracounty Share
Vona	0.0775%

La Plata County	66.8874%
Bayfield	1.6292%
Durango	29.2985%
Ignacio	2.1849%

Lake County	73.4523%
Leadville	26.5477%

Larimer County	56.0589%
Berthoud (2 Counties)	0.4139%
Estes Park	0.3502%
Fort Collins	18.5702%
Johnstown (2 Counties)	0.0711%
Loveland	23.4493%
Timnath (2 Counties)	0.2964%
Wellington	0.3653%
Windsor (2 Counties)	0.4248%

Las Animas County	77.8076%
Aguilar	0.0751%
Branson	0.0101%
Cokedale	0.0188%
Kim	0.0101%
Starkville	0.0087%
Trinidad	22.0696%

Lincoln County	91.3222%
Arriba	0.3444%
Genoa	0.2222%
Hugo	1.4778%
Limon	6.6333%

Logan County	72.7982%
Crook	0.0931%
Fleming	0.3413%
Iliff	0.0095%
Merino	0.4702%
Peetz	0.2029%
Sterling	26.0848%

Mesa County	60.8549%
Collbran	0.0920%

Government Name	Intracounty Share
De Beque	0.0123%
Fruita	1.6696%
Grand Junction	37.1505%
Palisade	0.2208%

Mineral County	87.6744%
City of Creede	12.3256%

Moffat County	91.7981%
Craig	8.1862%
Dinosaur	0.0157%

Montezuma County	79.6682%
Cortez	18.6459%
Dolores	0.6106%
Mancos	1.0753%

Montrose County	92.8648%
Montrose	6.5980%
Naturita	0.1551%
Nucla	0.0703%
Olathe	0.3118%

Morgan County	61.6991%
Brush	8.5522%
Fort Morgan	27.8214%
Hillrose	0.1986%
Log Lane Village	0.6424%
Wiggins	1.0863%

Otero County	60.8168%
Cheraw	0.1888%
Fowler	1.0413%
La Junta	25.9225%
Manzanola	0.6983%
Rocky Ford	8.8215%
Swink	2.5109%

Ouray County	76.0810%
Ouray	17.6541%
Ridgway	6.2649%

Park County	96.3983%
Alma	0.7780%

Government Name	Intracounty Share
Fairplay	2.8237%

Phillips County	52.3463%
Haxtun	13.9505%
Holyoke	33.1803%
Paoli	0.5228%

Pitkin County	47.1379%
Aspen	42.0707%
Basalt (2 Counties)	1.1156%
Snowmass Village	9.6757%

Prowers County	70.4524%
Granada	0.9965%
Hartman	0.3164%
Holly	4.9826%
Lamar	21.5860%
Wiley	1.6661%

Pueblo County	54.6622%
Boone	0.0019%
Pueblo	45.3350%
Rye	0.0008%

Rio Blanco County	78.2831%
Meeker	9.1326%
Rangely	12.5843%

Rio Grande County	68.0724%
Center (2 Counties)	0.7713%
Del Norte	6.7762%
Monte Vista	20.4513%
South Fork	3.9288%

Routt County	58.5353%
Hayden	1.0679%
Oak Creek	0.6360%
Steamboat Springs	39.4499%
Yampa	0.3109%

Saguache County	92.8796%
Bonanza	0.1367%
Center (2 Counties)	6.3687%
Crestone	0.0137%

Government Name	Intracounty Share
Moffat	0.3553%
Saguache	0.2460%

San Juan County	87.0423%
Silverton	12.9577%

San Miguel County	48.7493%
Mountain Village	25.7930%
Norwood	0.4078%
Ophir	0.0816%
Sawpit	0.0272%
Telluride	24.9411%

Sedgwick County	98.7331%
Julesburg	0.3830%
Ovid	0.0295%
Sedgwick	0.8544%

Summit County	57.0567%
Blue River	0.5011%
Breckenridge	26.1112%
Dillon	4.1421%
Frisco	6.5096%
Montezuma	0.0169%
Silverthorne	5.6623%

Teller County	66.1557%
Cripple Creek	17.2992%
Green Mountain Falls (2 Counties)	0.0322%
Victor	3.1685%
Woodland Park	13.3445%

Washington County	99.1320%
Akron	0.7659%
Otis	0.1021%

Weld County	51.9387%
Ault	0.3202%
Berthoud (2 Counties)	0.0061%
Brighton (2 Counties)	0.0927%
Dacono	0.6104%
Eaton	0.4573%
Erie (2 Counties)	0.8591%
Evans	4.5121%

Government Name	Intracounty Share
Firestone	1.4648%
Fort Lupton	0.8502%
Frederick	1.2228%
Garden City	0.1514%
Gilcrest	0.1580%
Greeley	30.6922%
Grover	0.0852%
Hudson	0.0066%
Johnstown (2 Counties)	1.5416%
Keenesburg	0.0215%
Kersey	0.1378%
La Salle	0.4128%
Lochbuie (2 Counties)	0.4004%
Longmont (2 Counties)	0.0154%
Mead	0.0941%
Milliken	1.5373%
Northglenn (2 Counties)	0.0030%
Nunn	0.2558%
Pierce	0.0948%
Platteville	0.3712%
Raymer (New Raymer)	0.0597%
Severance	0.0403%
Thornton (2 Counties)	0.0000%
Timnath (2 Counties)	0.0000%
Windsor (2 Counties)	1.5865%

Yuma County	75.5598%
Eckley	2.5422%
Wray	10.2148%
Yuma	11.6832%

¹These allocations are based on the allocation model used in the Negotiation Class website. The allocation model is the product of prolonged and intensive research, analysis, and discussion by and among members of the court-appointed Plaintiffs' Executive Committee and Settlement Committee and their retained public health and health economics experts, as well as a series of meetings with scores of cities, counties and subdivisions. Additional information about the allocation model is available on the Negotiation Class website.

The allocations in the Negotiation Class website use two different methodologies:

County-Level Allocation

The allocation model uses three factors, based on reliable, detailed, and objective data collected and reported by the federal government, to determine the share of a settlement fund that each county will receive. The three factors are: (1) the amount of opioids shipped to the county, (2) the number of opioid deaths in that county, and (3) the number of people who suffer opioid use disorder in that county.

County/Municipal-Level Allocation

The county/municipal-level allocation is a default allocation to be used if another agreement is not reached between the county and its constituent cities. The formula uses U.S. Census Bureau data on local government spending. This data covers cities and counties for 98% of the U.S. population. If a jurisdiction lacked this data, it was extrapolated based on available data.

²The municipalities of Bow Mar, Johnstown, and Timnath were not reflected as being in multiple counties in the Negotiation Class website. The estimated allocations to those cities are based on the same methodology used in the website, in consultation with the expert. For cities in multiple counties, please see each county in which that city lies.

Exhibit F

Regional Allocations		
Region Number	Region Description	Total State Share
1	Northwest	0.9522%
2	Larimer	6.5211%
3	Weld	3.8908%
4	Logan	1.5896%
5	North Central	2.1061%
6	Boulder	5.7936%
7	Broomfield	1.0014%
8	Adams	9.4247%
9	Arapahoe	10.8071%
10	Jefferson	10.7114%
11	Denver	15.0042%
12	Douglas	3.6696%
13	Mesa	2.8911%
14	Southwest	1.4700%
15	Central	1.5627%
16	El Paso/Teller	12.6116%
17	Southwest Corner	1.4375%
18	South Central	1.0973%
19	Southeast	7.4580%
Total		100.0000%

Exhibit G

Regional Governance Models

A. Membership Structure

Single-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 or 2 representatives appointed by the county (can be commissioners)
 - 1 representative appointed from the public health department
 - 1 representative from the county human services department
 - 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative appointed from a municipal or county court system within region
 - 1-3 representatives (total) appointed by the cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors)
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional but strongly encouraged)
 - Representatives from behavioral health providers
 - Representatives from health care providers
 - Recovery/treatment experts
 - Other county or city representatives
 - A representative from the Attorney General's Office
 - Community representative(s), preferably those with lived experience with the opioid crisis
 - Harm reduction experts

Multi-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 representative appointed by each county (can be commissioners)
 - 1 representative appointed by a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors)
 - 1 representative from each public health department within the region
 - 1 representative from a county human services department
 - At least 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative from a municipal or county court system within region
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional)
 - Representatives from behavioral health providers

- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts

Single-County Single-City Regions (Denver & Broomfield)

1. Voting Members (Recommended List: Participating Local Government to Decide)¹

- 1 representative appointed by the city and county
- 1 representative appointed from the public health department
- 1 representative from the county human services department
- 1 representative appointed from law enforcement within region (sheriff, police, district attorney, etc.)
- 1 representative appointed from a municipal or county court system within region
- Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)

2. Non-Voting Members (Optional)

- Representatives from behavioral health providers
- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts

B. Member Terms

- Regions may establish terms of appointment for members. Appointment terms may be staggered.

C. Procedures

- Regions will be governed by an intergovernmental agreement (“IGA”) or memorandum of understanding (“MOU”).
- Regions may adopt the Model Colorado Regional Opioid Intergovernmental Agreement, attached here as Exhibit G-1, in its entirety or alter or amend it as they deem appropriate.

¹ In Denver, the Mayor shall make voting member appointments to the Regional Council. In Broomfield, the City and County Manager shall make voting member appointments to the Regional Council.

- Regions may establish their own procedures through adoption of bylaws (model bylaws to be made available).
- Meetings of regional board/committee shall be open to the public and comply with the Colorado Open Meetings Law (including requirement to keep minutes).

D. Financial Responsibility/Controls

- A local government entity shall nominate and designate a fiscal agent for the Region.
- A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado. However, the Regional fiscal agent also can change over time.
- Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.
- Yearly reporting by fiscal agent (using standard form) to the Abatement Council.
- All documents subject to CORA.

E. Conflicts of Interest

- Voting members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

F. Ethics Laws

- Voting members shall abide by applicable state or local ethics laws, as appropriate.

G. Authority

- The Regional Council for each region shall have authority to decide how funds allocated to the region shall be distributed in accordance with the Colorado MOU and shall direct the fiscal agent accordingly.
- Any necessary contracts will be entered into by the fiscal agent, subject to approval by the Regional Council.

H. Legal Status

- The region shall not be considered a separate legal entity, unless the Participating Local Governments decide, through an IGA, to create a separate governmental entity.

Exhibit G-1

MODEL COLORADO REGIONAL OPIOID
INTERGOVERNMENTAL AGREEMENT²

THIS MODEL COLORADO REGIONAL OPIOID INTERGOVERNMENTAL AGREEMENT (the “Regional Agreement”) is made between _____, a Participating Local Government, as defined in the Colorado MOU, in the _____ Region (“_____”) and _____, a Participating Local Government in the _____ Region, (“_____”), individually herein a “Regional PLG” and collectively the “Regional PLGs.””

RECITALS

WHEREAS, the State of Colorado and Participating Local Governments executed the Colorado Opioids Summary Memorandum of Understanding on _____ 2021 (the “Colorado MOU”), establishing the manner in which Opioid Funds shall be divided and distributed within the State of Colorado;

WHEREAS, the Regional Agreement assumes and incorporates the definitions and provisions contained in the Colorado MOU, and the Regional Agreement shall be construed in conformity with the Colorado MOU³;

WHEREAS, all Opioid Funds, regardless of allocation, shall be used for Approved Purposes;

WHEREAS, Participating Local Governments shall organize themselves into Regions, as further depicted in **Exhibit E** to the Colorado MOU;

² This Model Regional Agreement is meant to serve as an example for the various Regions and to facilitate the flow of Opioid Funds to their intended purposes. Regions are free to adopt this Regional Agreement in its entirety or alter or amend it as they deem appropriate.

³ When drafting agreements like this Regional Agreement, Regional PLGs should be conscious of the definitions used therein so as not to confuse such definitions with those used in the Colorado MOU. The Definitions in the Colorado MOU shall supersede any definitions used by Regional PLGs in a Regional Agreement.

WHEREAS, Regions may consist of Single-County Regions, Multi-County Regions, or Single County-Single City Regions (Denver and Broomfield).

WHEREAS, there shall be a 60% direct allocation of Opioid Funds to Regions through a Regional Share;

WHEREAS, each Region shall be eligible to receive a Regional Share according to **Exhibit C** to the Colorado MOU;

WHEREAS, the Colorado MOU establishes the procedures by which each Region shall be entitled to Opioid Funds from the Abatement Council and administer its Regional Share allocation;

WHEREAS, the procedures established by the Colorado MOU include a requirement that each Region shall create its own Regional Council;

WHEREAS, all aspects of the creation, administration, and operation of the Regional Council shall proceed in accordance with the provisions of the Colorado MOU;

WHEREAS, each such Regional Council shall designate a fiscal agent from a county or municipal government within that Region;

WHEREAS, each such Regional Council shall submit a two-year plan to the Abatement Council that identifies the Approved Purposes for which the requested funds will be used, and the Regional Council's fiscal agent shall provide data and a certification to the Abatement Council regarding compliance with its two-year plan on an annual basis;

WHEREAS, the Regional Agreement pertains to the procedures for the Regional PLGs to establish a Regional Council, designate a fiscal agent, and request and administer Opioid Funds in a manner consistent with the Colorado MOU;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Regional PLGs incorporate the recitals set forth above and agree as follows:

1. **DEFINITIONS**. The defined terms used in this Regional Agreement shall have the same meanings as in the Colorado MOU⁴. Capitalized terms used herein and not otherwise defined within the Regional Agreement or in the Colorado MOU shall have the meanings ascribed to them in the body of the Regional Agreement.
2. **OBLIGATIONS OF THE REGIONAL PLGS**. The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.
3. **REGIONAL COUNCIL**.
 - 3.1. **Purpose:** In accordance with the Colorado MOU, a Regional Council, consisting of representatives appointed by the Regional PLGs, shall be created to oversee the procedures by which a Region may request Opioid Funds from the Abatement Council and the procedures by which the allocation of its Region's Share of Opioid Funds are administered.
 - 3.2. **Membership:** The Regional Council of a Multi-County or Single County Region shall consist of the following:
 - a. **Multi-County Region:**
 - (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different counties and cities. No single county or city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 representative appointed by each county (can be commissioners).
 - (2) 1 representative appointed from a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors). A rotating city member shall be selected by majority vote of the cities within each county who do not have a Voting Member currently sitting on the Regional

⁴ See FN 2, *supra*.

Council.

- (3) 1 representative from each public health department within the region.
- (4) 1 representative from a county human services department.
- (5) At least 1 representative appointed from law enforcement within the region (sheriff, police, local city or town district attorney, etc.).
- (6) 1 representative from a municipal or county court system within the region.

b. Single-County Region:

- (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different cities within the region. No single city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 or 2 representatives appointed by the county (can be commissioners)
 - (2) 1 representative appointed from the public health department
 - (3) 1 representative from the county human services department
 - (4) 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - (5) 1 representative appointed from a municipal or county court system within region
 - (6) 1-3 representatives (total) appointed by rotating cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors). Rotating city members shall be selected by majority vote of the cities who do not have a Voting Member currently sitting on the Regional Council.
 - (7) Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of

funds)

- c. **Non-Voting Members.** For both Multi-County and Single County Regions, Non-Voting Members are optional but are strongly encouraged. Non-voting members shall serve in an advisory capacity. Any Non-Voting Members shall be appointed by the Regional PLGs and may be comprised of all or some of the following, not to include potential recipients of funds:
- (i) Representatives from behavioral health providers.
 - (ii) Representatives from health care providers.
 - (iii) Recovery/treatment experts.
 - (iv) Other county or city representatives.
 - (v) A representative from the Attorney General's Office.
 - (vi) Community representative(s), preferably those with lived experience with the opioid crisis.
 - (vii) Harm reduction experts.
- d. **Acting Chair:** The Voting Members for both Multi-County and Single-County Regions shall appoint one member to serve as Acting Chair of the Regional Council. The Acting Chair's primary responsibilities shall be to schedule periodic meetings and votes of the Regional Council as needed and to serve as the point of contact for disputes within the Region. The Acting Chair must be either a Member from a county within a Region, such as a county commissioner or their designee, or a Member from a city or town within a Region, such as a mayor or city or town council member or their designee.
- e. **Non-Participation:** A Local Government that chooses not to become a Participating Local Government in the Colorado MOU shall not receive any Opioid Funds from the Regional Share or participate in the Regional Council.
- f. **Terms:** The Regional Council shall be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court. In order to do so, within sixty (60) days of the first Settlement being entered, CCI and CML shall jointly recommend six (6) Voting Members, and so long as such recommendations comply with the terms of Section 3.2 (a) or (b), the Regional Council shall consist of CCI/CML's recommended Members for

an initial term not to exceed one year.⁵ Thereafter, Voting Members shall be appointed in accordance with Section 3.2 (a) or (b) and shall serve two-year terms. Following the expiration of that two-year term, the Regional PLGs, working in concert, shall reappoint that Voting Member, or appoint a new Voting Member according to Section 3.2 (a) or (b).

- (i) If a Voting Member resigns or is otherwise removed from the Regional Council prior to the expiration of their term, a replacement Voting Member shall be appointed within sixty (60) days in accordance with Section 3.2 (a) or (b) to serve the remainder of the term. If the Regional PLGs are unable to fill a Voting Member vacancy within sixty (60) days, the existing Voting Members of the Regional Council at the time of the vacancy shall work collectively to appoint a replacement Voting Member in accordance with Section 3.2 (a) or (b). At the end of his or her term, the individual serving as that replacement Voting Member may be reappointed by the Regional PLGs to serve a full term consistent with this Section.
- (ii) The purpose of the two-year term is to allow Regional PLGs an increased opportunity to serve on the Regional Council. However, Regional Council members who have already served on the Regional Council may be appointed more than once and may serve consecutive terms if appointed to do so by the Regional Council.

3.3. Duties: The Regional Council is primarily responsible for engaging with the Abatement Council on behalf of its Region and following the procedures outlined in the Colorado MOU for requesting Opioid Funds from the Regional Share, which shall include developing 2-year plans, amending those plans as appropriate, and providing the Abatement Council with data through its fiscal agent regarding Opioid Fund expenditures. Upon request from the Abatement Council, the Regional Council may also be subject to an accounting from the Abatement Council.

3.4. Governance: A Regional Council may establish its own procedures through adoption of bylaws if needed. Any governing documents must be consistent with the other provisions in this section and the Colorado MOU.

3.5. Authority: The terms of the Colorado MOU control the authority of a Regional Council and a Regional Council shall not stray outside the bounds of the authority and power vested by the Colorado MOU. Should a Regional Council require legal assistance in determining its authority,

⁵ Local Governments within Multi-County or Single County Regions may decide to select initial Voting Members of the Regional Council between themselves and without CCI and CML involvement. However, the Regional Council must be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court.

it may seek guidance from the legal counsel of the county or municipal government of the Regional Council's fiscal agent at the time the issue arises.

3.6. Collaboration: The Regional Council shall facilitate collaboration between the State, Participating Local Governments within its Region, the Abatement Council, and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.

3.7. Transparency: The Regional Council shall operate with all reasonable transparency and abide by all Colorado laws relating to open records and meetings. To the extent the Abatement Council requests outcome-related data from the Regional Council, the Regional Council shall provide such data in an effort to determine best methods for abating the opioid crisis in Colorado.

3.8. Conflicts of Interest: Voting Members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

3.9. Ethics Laws: Voting Members shall abide by their local ethics laws or, if no such ethics laws exist, by applicable state ethics laws.

3.10. Decision Making: The Regional Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, the Regional Council shall make decisions by a majority vote of its Members.

4. REGIONAL FISCAL AGENT

4.1. Purpose: According to the Colorado MOU, the Regional Council must designate a fiscal agent for the Region prior to the Region receiving any Opioid funds from the Regional Share. All funds from the Regional Share shall be distributed to the Regional Council's fiscal agent for the benefit of the entire Region.

4.2. Designation: The Regional Council shall nominate and designate a fiscal agent for the Region by majority vote. Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.

4.3. Term: A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado.

4.4. Duties: The Regional fiscal agent shall receive, deposit, and make available Opioid Funds distributed from the Abatement Council and provide expenditure reporting data to the

Abatement Council on an annual basis. In addition, the Regional fiscal agent shall perform certain recordkeeping duties outlined below.

- a. **Opioid Funds:** The Regional fiscal agent shall receive all Opioid Funds as distributed by the Abatement Council. Upon direction by the Regional Council, the Regional fiscal agent shall make any such Opioid Funds available to the Regional Council.
- b. **Reporting:** On an annual basis, as determined by the Abatement Council, the Regional fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan.
- c. **Recordkeeping:** The Regional fiscal agent shall maintain necessary records with regard the Regional Council's meetings, decisions, plans, and expenditure data.

4.5. Authority: The fiscal agent serves at the direction of the Regional Council and in service to the entire Region. The terms of the Colorado MOU control the authority of a Regional Council, and by extension, the Regional fiscal agent. A Regional fiscal agent shall not stray outside the bounds of the authority and power vested by the Colorado MOU.

5. REGIONAL TWO-YEAR PLAN

5.1. Purpose: According to the Colorado MOU, as part of a Regional Council's request to the Abatement Council for Opioid Funds from its Regional Share, the Regional Council must submit a 2-year plan identifying the Approved Purposes for which the requested funds will be used.

5.2 Development of 2-Year Plan: In developing a 2-year plan, the Regional Council shall solicit recommendations and information from all Regional PLGs and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado. At its discretion, a Regional Council may seek assistance from the Abatement Council for purposes of developing a 2-year plan.

5.3 Amendment: At any point, a Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of the Colorado MOU and any Settlement.

6. DISPUTES WITHIN REGION. In the event that any Regional PLG disagrees with a decision of the Regional Council, or there is a dispute regarding the appointment of Voting or Non-Voting Members to the Regional Council, that Regional PLG shall inform the Acting Chair of its dispute at the earliest

possible opportunity. In Response, the Regional Council shall gather any information necessary to resolve the dispute. Within fourteen (14) days of the Regional PLG informing the Acting Chair of its dispute, the Regional Council shall issue a decision with respect to the dispute. In reaching its decision, the Regional Council may hold a vote of Voting Members, with the Acting Chair serving as the tie-breaker, or the Regional Council may devise its own dispute resolution process. However, in any disputes regarding the appointment of a Voting Member, that Voting Member will be recused from voting on the dispute. The decision of the Regional Council is a final decision.

7. **DISPUTES WITH ABATEMENT COUNCIL.** If the Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. However, the failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
8. **RECORDKEEPING.** The acting Regional fiscal agent shall be responsible for maintaining records consistent with the Regional Agreement.
9. **AUTHORIZED REPRESENTATIVES.** Each Regional PLGs' representative designated below shall be the point of contact to coordinate the obligations as provided herein. The Regional PLGs designate their authorized representatives under this Regional Agreement as follows:
 - 9.1. _____ designates the ____ of the _____ or their designee(s).
 - 9.2. _____ designates the ____ of the _____ or their designee(s).
10. **OBLIGATIONS OF THE REGIONAL PLGS.** The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.
11. **TERM.** The Regional Agreement will commence on _____, and shall expire on the date the last action is taken by the Region, consistent with the terms of the Colorado MOU and any Settlement. (the "Term").
12. **INFORMATIONAL OBLIGATIONS.** Each Regional PLG hereto will meet its obligations as set forth in § 29-1-205, C.R.S., as amended, to include information about this Regional Agreement in a filing with the Colorado Division of Local Government; however, failure to do so shall in no way affect the validity of this Regional Agreement or any remedies available to the Regional PLGs hereunder.
13. **CONFIDENTIALITY.** The Regional PLGs, for themselves, their agents, employees and representatives, agree that they will not divulge any confidential or proprietary information they receive from another Regional PLG or otherwise have access to, except as may be required by law. Nothing in this Regional

Agreement shall in any way limit the ability of the Regional PLGs to comply with any laws or legal process concerning disclosures by public entities. The Regional PLGs understand that all materials exchanged under this Regional Agreement, including confidential information or proprietary information, may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S., (the “Act”). In the event of a request to a Regional PLG for disclosure of confidential materials, the Regional PLG shall advise the Regional PLGs of such request in order to give the Regional PLGs the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or confidential. If a Regional PLG objects to disclosure of any of its material, the Regional PLG shall identify the legal basis under the Act for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Regional PLG agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the Regional PLGs may tender all material to the court for judicial determination of the issue of disclosure.

14. GOVERNING LAW; VENUE. This Regional Agreement shall be governed by the laws of the State of Colorado. Venue for any legal action relating solely to this Regional Agreement will be in the applicable District Court of the State of Colorado for the county of the Region’s fiscal agent. Venue for any legal action relating to the Colorado MOU shall be in a court of competent jurisdiction where a Settlement or consent decree was entered, as those terms are described or defined in the Colorado MOU. If a legal action relates to both a Regional Agreement and the Colorado MOU, venue shall also be in a court of competent jurisdiction where a Settlement or consent decree was entered.

15. TERMINATION. The Regional PLGs enter into this Regional Agreement to serve the public interest. If this Regional Agreement ceases to further the public interest, a Regional PLG, in its discretion, may terminate their participation in the Regional Agreement, in whole or in part, upon written notice to the other Regional PLGs. Each Regional PLG also has the right to terminate the Regional Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the other Regional PLGs. A Regional PLG’s decision to terminate this Regional Agreement, with or without cause, shall have no impact on the other Regional PLGs present or future administration of its Opioid Funds and the other procedures outlined in this Regional Agreement. Rather, a Regional PLG’s decision to terminate this Regional Agreement shall have the same effect as non-participation, as outlined in Section 3.2 (e).

16. NOTICES. “Key Notices” under this Regional Agreement are notices regarding default, disputes, or termination of the Regional Agreement. Key Notices shall be given in writing and shall be deemed

received if given by confirmed electronic transmission that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; certified mail, return receipt requested, postage prepaid, three business days after being deposited in the United States mail; or overnight carrier service or personal delivery, when received. For Key Notices, the Regional PLGs will follow up any electronic transmission with a hard copy of the communication by the means described above. All other communications or notices between the Regional PLGs that are not Key Notices may be done via electronic transmission. The Regional PLGs agree that any notice or communication transmitted by electronic transmission shall be treated in all manner and respects as an original written document; any such notice or communication shall be considered to have the same binding and legal effect as an original document. All Key Notices shall include a reference to the Regional Agreement, and Key Notices shall be given to the Regional PLGs at the following addresses:

17. GENERAL TERMS AND CONDITIONS

- 17.1. Independent Entities.** The Regional PLGs enter into this Regional Agreement as separate, independent governmental entities and shall maintain such status throughout.
- 17.2. Assignment.** This Regional Agreement shall not be assigned by any Regional PLG without the prior written consent of all Regional PLGs. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Regional Agreement.
- 17.3. Integration and Amendment.** This Regional Agreement represents the entire agreement between the Regional PLGs and terminates any oral or collateral agreement or understandings. This Regional Agreement may be amended only by a writing signed by the Regional PLGs. If any provision of this Regional Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and the remaining provision of this Regional Agreement shall continue in full force and effect.

- 17.4. No Construction Against Drafting Party.** The Regional PLGs and their respective counsel have had the opportunity to review the Regional Agreement, and the Regional Agreement will not be construed against any Regional PLG merely because any provisions of the Regional Agreement were prepared by a particular Regional PLG.
- 17.5. Captions and References.** The captions and headings in this Regional Agreement are for convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Regional Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.
- 17.6. Statutes, Regulations, and Other Authority.** Any reference in this Regional Agreement to a statute, regulation, policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the execution of this Regional Agreement.
- 17.7. Conflict of Interest.** No Regional PLG shall knowingly perform any act that would conflict in any manner with said Regional PLG's obligations hereunder. Each Regional PLG certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has it any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of its obligations hereunder. No elected or employed member of any Regional PLG shall be paid or receive, directly or indirectly, any share or part of this Regional Agreement or any benefit that may arise therefrom.
- 17.8. Inurement.** The rights and obligations of the Regional PLGs to the Regional Agreement inure to the benefit of and shall be binding upon the Regional PLGs and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Regional Agreement.
- 17.9. Survival.** Notwithstanding anything to the contrary, the Regional PLGs understand and agree that all terms and conditions of this Regional Agreement and any exhibits that require continued performance or compliance beyond the termination or expiration of this Regional Agreement shall survive such termination or expiration and shall be enforceable against a Regional PLG if such Regional PLG fails to perform or comply with such term or condition.
- 17.10. Waiver of Rights and Remedies.** This Regional Agreement or any of its provisions may not be waived except in writing by a Regional PLG's authorized representative. The failure of a

Regional PLG to enforce any right arising under this Regional Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

17.11. No Third-Party Beneficiaries. Enforcement of the terms of the Regional Agreement and all rights of action relating to enforcement are strictly reserved to the Regional PLGs. Nothing contained in the Regional Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the Regional PLGs receiving services or benefits pursuant to the Regional Agreement is an incidental beneficiary only.

17.12. Records Retention. The Regional PLGs shall maintain all records, including working papers, notes, and financial records in accordance with their applicable record retention schedules and policies. Copies of such records shall be furnished to the Parties request.

17.13. Execution by Counterparts; Electronic Signatures and Records. This Regional Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Regional PLGs approve the use of electronic signatures for execution of this Regional Agreement. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Regional PLGs agree not to deny the legal effect or enforceability of the Regional Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Regional PLGs agree not to object to the admissibility of the Regional Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

17.14. Authority to Execute. Each Regional PLG represents that all procedures necessary to authorize such Regional PLG's execution of this Regional Agreement have been performed and that the person signing for such Regional PLG has been authorized to execute the Regional Agreement.

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Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: October 20, 2021
Subject: Planning Commission Decisions of the October 19, 2021 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, October 19, 2021:

CLASS A APPLICATIONS:

1. Breckenridge Grand Vacations Gondola Lots Master Plan, 350, 355, & 415 N. Park Avenue, PL-2021-0052

A proposal for a master plan for the North Gondola Lot, North Gold Rush Lot and South Gold Rush Lot with 143 SFES of density; featuring Condominium, Townhome, Commercial, Duplex, Hotel and Workforce Housing Uses. The master plan will also include roadway and pedestrian improvements, including a roundabout at the intersection of Park Avenue and French Street, a new gondola and a Parking Structure. *Approved, see second memo.*

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS:

1. Breckenridge Family Dental Tesla Solar Roof, 108 N. Ridge Street, PL-2021-0457
A proposal to install a building-integrated Tesla solar array and associated Tesla roofing tiles on a historic structure, on the non-primary (side) elevations. *Called up and approved.*

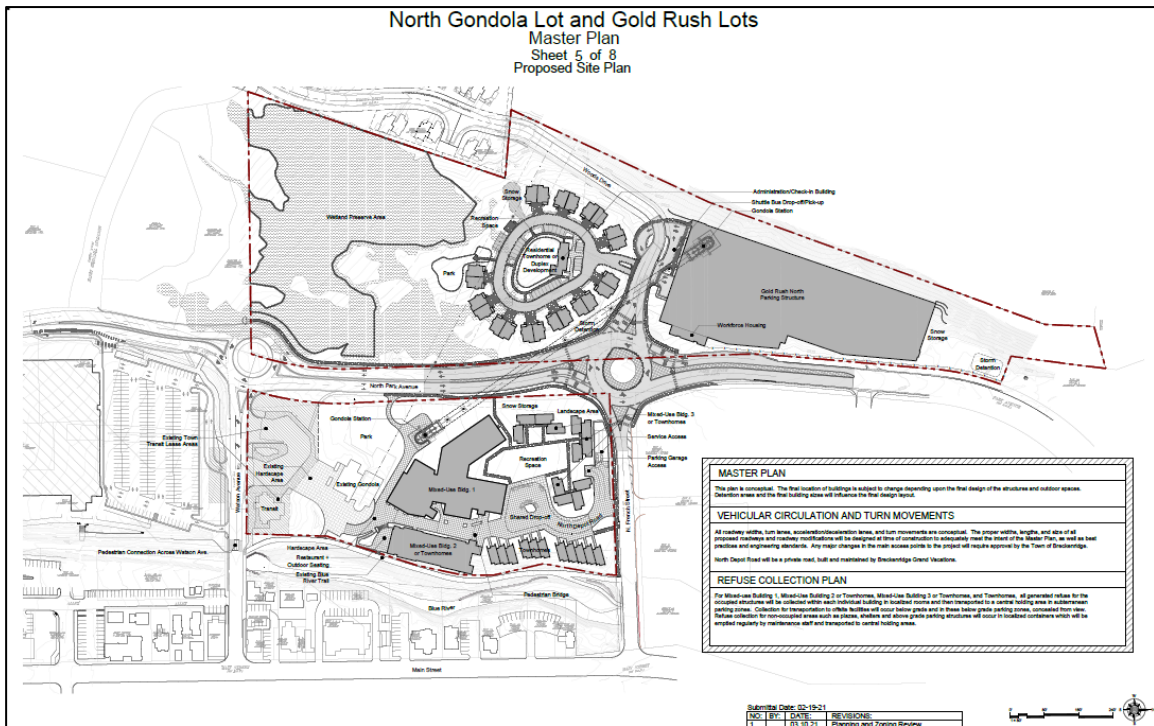
TOWN PROJECT HEARINGS: None.

OTHER: None.

Memo

To: Town Council
 From: Chris Kulick, AICP, Senior Planner
 Date: October 20, 2021 for meeting of October 26, 2021
 Subject: Breckenridge Grand Vacations Gondola Lot Master Plan Class A Planning Commission Approval Summary

A Final Hearing for the Breckenridge Grand Vacations Gondola Lot Master Plan, located at 350, 355, 415 North Park Avenue, was held by the Planning Commission on October 19, 2021. The proposal is a master plan for the North Gondola Lot, North Gold Rush Lot and South Gold Rush Lot with 143 SFES of density, featuring Condominium, Townhome, Commercial, Duplex, Hotel and Workforce Housing Uses. The master plan will also include roadway and pedestrian improvements, including a roundabout at the intersection of Park Avenue and French Street, a public parking structure and a new gondola connecting the new public parking structure to the transportation center across Highway 9.



A Master Plan is required when land under common ownership is proposed to be developed in phases. The main purpose for the creation of this Master Plan is for the developer to have the ability to develop the three parcels of land under common ownership in phases. The master plan has the added benefit of establishing the general character of the proposed development, planning the general configuration of common elements, circulation systems, easements, utilities and roadways. It also provides an opportunity to review other relevant aspects of the proposed development in advance of future site specific development permit reviews of the individual components of the plan. Items that receive points under the master plan, and are approved in the master plan, will not be eligible to receive points under the same

policies at subsequent site specific Development Permit reviews unless noted in the master plan. The vesting of the Master Plan is 3 years from the date of approval.

The Commission approved the application 5-0 and found the proposal complied with all Priority Design Standards and Absolute Policies, and assigned a total cumulative score of positive ten (+10) points under the Relative Policies. A summary of the approved point analysis is listed below.

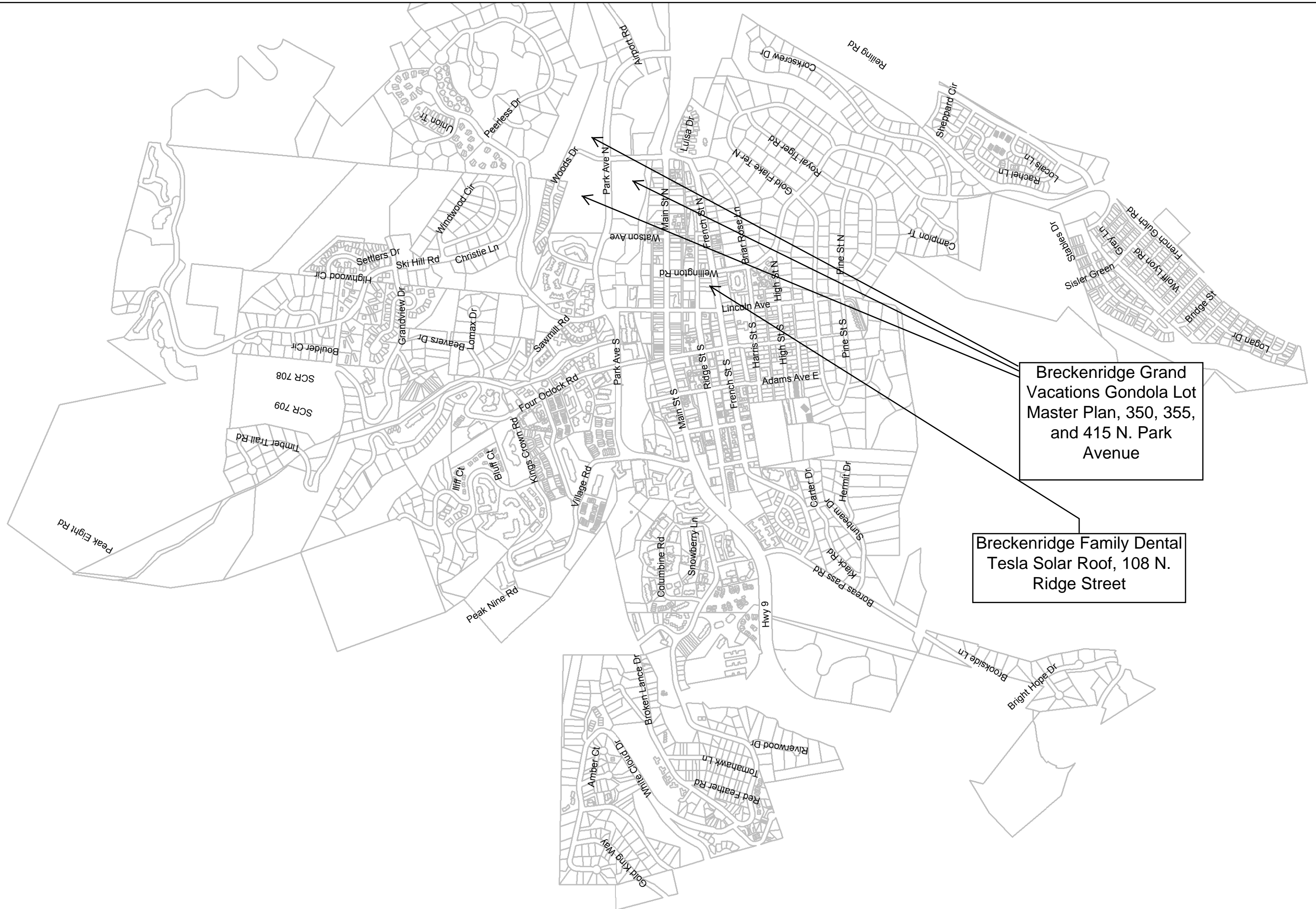
Negative Points (-18)

- Policy 2/R Land Use: Negative eight (-8) points for the public parking structure's conflicts with recommended land uses.
- Policy 6/R Building Height: Negative ten (-10) points, for exceeding the building height recommended in the land use guidelines by one (1) story.

Positive Points (+28)

- Policy 16, Internal Circulation: Positive three (+3) points, for the proposed internal pedestrian circulation improvements.
- Policy 18/R Parking: Positive three (+3) points, for providing around 95% (approximately 1,300 spaces) of the required parking screened in a structure or under buildings and two joint parking facilities.
- Policy 20/R Recreation: Positive three (+3) points, for providing a public park.
- Policy 21/R Open Space: Positive six (+6) points, for a fee simple dedication of the designated wetland area.
- Policy 24/R Social Community: Positive (+3) points, for meeting a Council Goal within three years of being identified in 2018, constructing the French Street Roundabout.
- Policy 25/R Transit: Positive six (+6) points, for installation of a gondola.
- Policy 26/R Infrastructure: Positive four (+4) points, French Street roundabout was identified in the 2019, 5 year Capital Improvements Plan.

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



Breckenridge Grand
Vacations Gondola Lot
Master Plan, 350, 355,
and 415 N. Park
Avenue

Breckenridge Family Dental
Tesla Solar Roof, 108 N.
Ridge Street



NOT TO SCALE

Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 5:32 p.m. by Chair Beckerman.

ROLL CALL

Mike Giller	Jay Beckerman	Mark Leas
Tanya Delahoz (absent)	Steve Gerard	Allen Frechter

APPROVAL OF MINUTES

The October 5, 2021 Planning Commission Minutes were approved with the following changes:

On page 6 of the packet, page 4 of the printed minutes, Steve Gerard, change “What material is being considered for the grading?” to “What material is being considered for the walls?”

APPROVAL OF AGENDA

With no changes, the October 19, 2021 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None

CONSENT CALENDAR:

1. Breckenridge Family Dental Tesla Solar Roof, 108 N. Ridge Street, PL-2021-0457

Mr. Gerard made a motion to call up the Breckenridge Family Dental Solar Roof, seconded by Mr. Frechter. The motion passed 5 to 0 and the project was called up.

Ms. Szrek presented a proposal to install a building integrated Tesla solar array and associated Tesla roofing tiles on an historic structure. The following specific question was asked of the Commission:

1. Does the Commission find that the proposed non-PV tiles on the front of the historic structure comply with priority design standard 146?

Commissioner Questions / Comments:

Mr. Beckerman: Thank you Stafi. This is the first application with these type of tiles.

(Ms. Szrek: I also wanted to point out that these tiles are made of tempered glass). (Mr. Truckey: We were concerned about the glare and reflection shown in the photos so we wanted to bring the material samples. Staff does not believe materials will be as reflective as they are in shown in the rendered marketing photos in the packet.)

Mr. Beckerman: Are all the tiles the same color, the PV tiles, the non-PV tiles, and the flashing?

(Ms. Szrek, Yes, they are all the same color, you can see the PV-tiles have the color on the back but the top is the same color). Thank you, I just wanted to confirm they are all the same color.

Mr. Gerard: These tiles don't appear to be matte finish in my mind. Do they come in another finish that would remove some of the reflectiveness? (Ms. Szrek: I will defer to the applicant to answer that, but I don't believe there are other finishes.)

Mr. Gerard: Is there any State Historic Preservation Office (SHPO) precedent that would comment on how a modern material like this would affect the character of an historic structure? (Ms. Szrek: We did ask that of SHPO, and were told we were the first to ask the question and that they haven't seen any of these re-roofs with solar in the State yet it is a new product. They said that they would refer to us.)

Mr. Truckey: These are proposed on only the historic portion of the building? (Ms. Puester: The non-PV

tiles would cover the whole roof including the historic front portion. The PV tiles are on the non-historic section).

Mr. Beckerman: Is there risk that the SHPO would demote the building's historic character if these tiles are added? (Ms. Puester: It would be unlikely they would say it degrades the building since they are a removable feature that is in favor of retaining historic forms. Roofing is seen as a material that does need to be replaced to protect the historic structure from time to time so historic roof material is extremely rare. This roof material could easily be removed and replaced in the future.)

Mr. Gerard: The home to the South of this is the second example of a mail order home? (Ms. Szrek: Yes, at 106 N. Ridge) and that home has the regular mounted solar panels on the historic and non-historic portions?

Mr. Giller: The Secretary of Interior Standards for Preservation is sympathetic to solar panels but they should minimize impacts to historic structure roof forms by locating them on secondary elevations. I think they would recommend [PV] shingles over solar panels that are mounted onto the roof so this is a step in the right direction; the reflectiveness of these panels which is a concern; the fact that the semi-circular area of the roof gable is not visible from the street helps the situation. If it were a highly visible roof pitch it could be a greater concern. One option would be to maintain a standard asphalt shingle on the historic portion of the roof and transition to the solar panels on the non-historic structure. I doubt the SHPO would have an issue with this as a whole system if they looked at this.

Mr. Gerard: I was also wondering about the preservation of the front of the house and those historic parts that are contributing to the historic character of the house. (Ms. Szrek: It is possible that the glass tiles and PV tiles could only be placed on the non-historic part of the house, but I believe it is not the preferred option by the applicant and the applicant can speak more to that.)

Mr. Leas: The gloss and texture of the glass has to do with the efficiency of the panel. The gloss and smoothness will shed snow more quickly, allowing the panel to work more efficiently in winter. I think the manufacturer is trying to balance reflectiveness and making a sufficient product.

Isaac Fees, Applicant:

Addressing two questions, one concerning glare and one concerning the option of two roofing materials on the historic and non-historic structures. It is a balance between energy production and making a tile that is not extremely reflective. Some dust and debris in the real world will combat some of the reflectiveness of the panels. Tesla Solar has been, installed near airports and the FAA has allowed them to be in proximity to airports. Their reflectiveness has not been a restriction for application near airports.

Commissioner Questions / Comments:

Mr. Gerard: What is the expected lifespan of the tiles? (Mr. Fees: Warranty for the panels is 25 years; as a roof covering we would expect and even longer lifespan; damage to a particular tile that would require replacement is a straightforward process allowing for replacement of a single tile.)

Mr. Gerard: Can you confine the panel only to the non-historic part of the roof? (Mr. Fees: Technically, one could confine solar only to the red faces of the roof of the diagram by joining a non-solar material at the historic gables. From an aesthetic point of view, it would be "odd" and the project may not proceed depending on the owner's preference. It is the owner's preference that the entire roof be covered in the Tesla panels. (Ms. Szrek: The homeowner is also available and would like to comment.)

Tom Rowe, Owner:

The Tesla solar roof panels placed on the entire roof will avoid ice dams from forming were the non-historic

roof joins the historic section. This caused damage to the historic structure and would require heat tape to repair unless the panels are used. Making one cohesive roof material will also give a better aesthetic. This arguably looks better than the solar panels on the County Building to the south of the property. This project could be an example that would allow for a code change to allow solar panels on front facing rooves.

- Mr. Gerard: Renewable energy is proceeding at a rapid pace with some great products and new ideas. This is one of them. I have no objection to this project. I called it up to find out more information. I see the benefit to covering the whole roof. I am in favor of the project. Perhaps this is an option for the historic part of town and a better one than raised panels. This is a tough question because it is not a material we've ever worked with before but I will say "yes" to the question because I want to support the project.
- Mr. Frechter: I will also answer "yes" to the question. I applaud the applicant for this solution. We will be able to see in a year after installation if this distracts from historic character or not.
- Mr. Leas: Yes, it does comply.
- Mr. Giller: Historic preservation and PV really can be compatible if done well. This is well integrated. This is not setting a precedent that we would allow PV panels on a primary elevation, I would like that to be on the record. But I support this project.
- Mr. Beckerman: This is a good project. Hopefully it sets a good precedent going forward.

Mr. Giller made a motion to approve Breckenridge Family Dental Tesla Solar Roof, 108 N. Ridge Street, PL-2021-0457, seconded by Mr. Gerard. Motion passes 5-0.

FINAL HEARINGS:

1. Breckenridge Grand Vacations Gondola Lots Master Plan, 350, 355, & 415 N. Park Avenue, PL-2021-0052

Mr. Kulick presented a proposal for a master plan for the North Gondola Lot, North Gold Rush Lot and South Gold Rush Lot with 143 SFES of density, featuring Condominium, Townhome, Commercial, Duplex, Hotel and Workforce Housing Uses. The master plan will also include roadway and pedestrian improvements, including a roundabout at the intersection of Park Avenue and French Street, a new gondola and a Parking Structure. The new Staff recommendation and point analysis for the project after changes is +10 points. The following specific questions were asked of the Commission:

1. Traffic – Does the Commission support the condition requiring a satisfactory review of the Transportation Operations Report by the Town's appointed third party consultant being completed prior to the submittal of any site specific Development Permit Applications within the Master Plan area?
2. Additional Comments – Does the Commission have any additional questions or comments on the proposed master plan?

Commissioner Questions / Comments:

Mr. Leas: Will the traffic study be approved at the Staff level? (Mr. Kulick: Correct, the traffic study will be approved at the Staff level. On the third party consultant's recommendation the Staff would approve the study. Mr. Frechter asked ahead of the meeting why the roundabout was removed from the CIP at the location of French St. and Hwy 9. The answer given by Rick Holman, Town Manager, was that with the Town's public parking structure now being located at the South Gondola lot shifted the priority for the Town to construct a roundabout one intersection to the South.) Will both roundabouts be completed at the same time to minimize disruption to traffic and to the Town? (Mr. Kulick: I can't confirm that, I will defer to the applicant to answer that. I think that would be desired outcome.) How would the two roundabouts be financed? (Mr. Kulick: The Town will fund the roundabout near the South Gondola lot and the applicant will fund the roundabout covered by this proposed Master Plan.) This will require coordination with the same contractor if possible.

- Mr. Gerard: Would you address the +3 points for social community (24R) and +4 points for infrastructure capital improvement (26R)? Why should both categories receive positive points? (Mr. Kulick: The Town has previously done this for its own projects. There is no provision of the code that allows or disallows awarding positive points under multiple categories for a similar element. An example would be meeting a Town goal. There is precedent for this for previous Town projects, such as the Recreation Center/Tennis Center. It is not often we award points under both categories, but it does tend to be Town projects. There is ample precedent for allowing the multiple points.)
- Mr. Giller: On page 83, Negative points will go from -21 to -18 and bullet two, Architectural Compatibility (5R), will go away? (Mr. Kulick: Yes, the applicant was considering a hybrid approach where they would receive -3 points for Architectural Compatibility upfront and have decided instead to address architectural compatibility at future site-specific development review; removing the -3 points from this master plan application. In some ways this makes review of architectural compatibility more honest because it will be done at the site-specific level.)
- Mr. Beckerman: Looking at 16R, why are there not any negative points associated with the heated sidewalk? (Mr. Kulick: I don't believe a heated sidewalk is proposed at this time. Since it is not stated, it would be reviewed at the site-specific development review. Large heated outdoor surfaces would likely get points assessed. High traffic areas may be eligible to have points waived, sidewalks with average traffic areas likely having points assessed under 33R.) Under joint parking facilities - Which are the joint parking facilities? (Mr. Kulick: Joint parking is consolidated for different uses into two areas. The vast majority of parking is consolidated into two areas to avoid multiple driveways.)
- Ms. Puester: A clarification, heated sidewalks are mentioned within the proposed Master Plans notes. If the applicant doesn't want to take negative points at this Master Plan level, they need to remove that sentence from the notes and a condition of approval should be added by the Commission. Without knowing the amount of heated areas in the note as proposed, the maximum number of negative points (-6) would have to be assessed at this point if that sentence is not removed.

Mike Dudick, Owner of Breckenridge Grand Vacations (BGV), Applicant:

With respect to the roundabout construction, I have met with Rick Holman, Town Manager, and we are committed to completing the roundabouts in a way that is least disruptive to the Town. BGV will strike the heated sidewalk sentence from the Master Plan notes to avoid negative points and deal with that at a site specific level.

Applicant gave a presentation requesting the following additional points and point changes:

- BGV is removing the upfront negative points for brick materials (5R) and will address points for façade materials and architectural compatibility at the site-specific level.
- BGV is asking for an additional +3 points for internal circulation. BGV expressed that the West Park Avenue sidewalk with barrier, the roundabout with pedestrian crossings, the proposed gondola, the connection to the Parkway Center throughput, and new sidewalks on French Street collectively merit the maximum +6 points (not the current +3 points).
- Requesting that the Commission approves the Master Plan at +13 points. The second option is that the Commission approves the Master Plan at the current Staff recommendation of +10 points.

Commissioner Questions / Comments:

- Mr. Leas: No questions.
Mr. Frechter: No questions.

- Mr. Gerard: What do you want to do with these extra positive points? (Mike Dudick, Applicant: I want

the project to pass. We can see the political headwinds that BGV is facing with this project. We are committed to max positive points in our development applications. We think these points are in the Code.)

Mr. Beckerman: We may have already gone through this in previous meetings. The roundabout is mentioned under 26R (+4 points) and under social need (+3 points). How are point allocations for internal circulation and social community not double-dipping? (Mike Dudick, Applicant: Past precedent, as explained to us by Mr. Kulick, warrants these point allocations under both categories. We think past precedent justifies these points. If someone were to argue against this project they could take away four points under Land Use and for capital improvements. We think this should pass as it has been vetted with public comment and work with staff. We want this to be a compelling case to approve this at +13 points.) (Mr. Kulick: French Street Roundabout was a Town goal within the previous 3 years. We noted that much of the improvements are within the Town ROW so we recommended the points of +4. For the capital infrastructure, Town Attorney, Tim Barry indicated that the Code doesn't indicate points can't be awarded for projects not currently in the CIP, but that were in a recent CIP. Regarding Policy 16R, the addition of sidewalks on French Street and West side of Hwy 9 where there currently are none and pedestrian easements throughout the plan warrant positive points. Points are allocated proportionally looking at the totality of improvements made in the Master Plan.) (Mike Dudick, Applicant: If I could add, the majority of the year this additional roundabout will make traffic better in the Town regardless of moving cars into our parking structure. If the proportionality argument for the gondola points is true, proportionality for points for internal circulation should also apply.)

Mr. Beckerman opened the hearing for public comment. There were none and public comment was closed.

Commissioner Questions / Comments:

Mr. Leas: I believe Mike makes a compelling argument about the internal circulation and I support the additional points. Regarding question 1. I do support that. I am comfortable with 5R changing to site-specific.

Mr. Frechter: I support 5R and removing the negative points from the Master Plan. 1. I will defer to Staff and the independent traffic study consultant. I am skeptical of the traffic study looking at the extrapolated line queues, but I don't think this project will contribute significantly to line queues.

Mr. Gerard: All of us look at this project and see a different reason why it should be supported. The BGV product is not in question. A great example is adding more employee housing than is required and setting a great standard. However, I am not in favor of breaking out parts of a Master Plan to find additional points. It is a precedent consideration for me and that is why I am not in favor of adding the additional points. Passing with a score of +10 is a good project when most projects are scrambling to achieve a zero to pass. I agree with removing negative points for 5R at this stage and instead looking at the site-specific level. Maybe someone will be convinced that Bricks are natural materials and it is a good decision to do it this way and assess buildings at the individual level. 1. Add the traffic study. 2. There are a couple places where the Master Plan notes should change including removing the sentence about the heated snow-melt as noted by Ms. Puester. We should add to the very last sentence and paragraph of the Master Plan notes, that the wetlands will be dedicated "in fee simple" to the Town of Breckenridge to emphasize what the town is receiving. I think it is a mistake to permit outdoor decks, by having that language in the roof sections of various buildings within the Master Plan. That was a contested issue with the Council previously and I am uncomfortable approving something that the Council might have issue with down the line. I don't think it deserves a no vote for that, but I don't think it should be a precedent for approving projects.

Mr. Giller: Speaking to the questions, yes on the traffic study, which warrants a consultant review. I think you moved the bar in the September 21 meeting. I am concerned that you are getting points across different policies for the same features of internal circulation. Under policy 5R, I am agreeable to deferring to the site-specific level.

Mr. Beckerman: 1. Support allowing traffic study to be run by a third party consultant. I support changing 5R to site specific. It is obvious the impact that BGV has had on this community and it is critical to understand that the comments here are not a reflection on what BGV has done for the community, but the points reflect a consideration of the application and not the applicant. I want to make sure we set valid precedent because of how important that is in determining values despite the name of the applicant. I support the project at +10 points, without the additional +3 points for circulation.

Mr. Gerard, motions to amend the Breckenridge Grand Vacations Gondola Lots Master Plan, 350, 355, & 415 N. Park Avenue, PL-2021-0052 point analysis to remove -3 points under Policy 5R resulting in an overall +10 point allocation. Seconded by Mr. Giller.

Motion passes 4-1; Mr. Leas votes no. (It is noted that Mr. Leas voted no because he supported a higher positive point total of +13 points.)

Mike Dudick, Applicant: We would ask that our project be approved at +10 points. Hoping to receive unanimous support.

Mr. Gerard, proposed motions to add three conditions: 12. Amend the architectural character policy and compatibility paragraph to add the sentence, "Architectural character within this Master Plan is subject to Policy 5R. Since policy 5R is a relative policy, architectural design standards may be eligible for point assignments during the site-specific development permit review process." 13. Delete from the General Notes under vehicular and bicycle circulation "key pedestrian areas will utilize heated snow-melt systems" 14. Paragraph 14 under General Notes add "in fee simple" to the dedication of Wetlands to the Town of Breckenridge. Seconded by Mr. Giller.

Motion passes 5-0.

Mr. Fretcher makes a motion to rescind the point analysis vote and revote, seconded by Mr. Beckerman. Motion on the floor is to approve the point analysis at Staff recommended +10 points which includes the removal of -3 points under Policy 5R.

Motion passes 5-0. The point analysis is approved by the Commission at +10 points.

Mr. Gerard, made a motion to approve the Breckenridge Grand Vacations Gondola Lots Master Plan, 350, 355, & 415 N. Park Avenue, PL-2021-0052 at a passing score of +10 points and modified conditions of approval previously votes on.

Motion passes 5-0.

OTHER MATTERS:

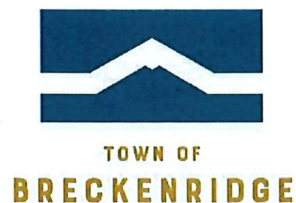
1. Town Council Summary
 - a. First reading on changing the call-up procedures. Some are technical changes; currently under Class-C if there is to be continuance the applicant must approve, that provision has been removed to make Class-C congruent with call-up procedures for Class As and Class Bs. Some of the time limitations for call-ups have also been changed.
 - b. The RMU call-up hearing was held at the October 12, 2021 Town Council meeting. Council

- upheld Planning Commission decision 7-0. No development code related reasons to deny the project. Loud speaker applications are currently with development applications or decided individually at the Staff level. These will likely be changed to a Class-B application. It is still to be discussed whether this will apply to residential or only commercial applications.
- c. New short-term rental task force. A task force made up of realtors, property managers, and at-large representatives will be appointed by the Town Council to refine the Planning Commission's recommendations concerning a Tourism Overlay District for short-term rentals.
 - d. Three finalists were interviewed last week for a new Planning Commissioner. George Swintz, is the finalist recommendation following the interviews which will be forwarded to the Town Council for approval.

ADJOURNMENT:

The meeting was adjourned at 7:20 pm.

Jay Beckerman, Chair



Memo

To: Mayor and Town Council
From: Julia Puester, Assistant Director of Community Development
Date: October 18, 2021 for meeting of October 26, 2021
Subject: Planning Commission Appointment Recommendation

With the recent resignation of Christie Matthews-Leidal from the Planning Commission, a recruitment was held for a replacement. We received five applications and narrowed those down to three finalists to interview. A sub-committee consisting of one Planning Commissioner, Steve Gerard, as well as two staff, Mark Truckey and Julia Puester, interviewed the three applicants.

The appointment for the vacancy will run through the remainder of Ms. Leidal's term, which ends in October 2022. There will be four seats up for re-appointment in October, 2022.

Interviews were conducted with the following applicants:

James Bradley
Brian Peterson
George Swintz

After conducting interviews, the interview panel recommends George Swintz for appointment based on his knowledge of planning principles and development experience.

Staff has attached the letters of interest received from all applicants and will be available at the meeting if there are any questions.

James Bradley

Contact Information

206 Marksberry Way

P.O. Box 4898 Breckenridge, CO 80424

970 453 1408; 970 333 8872

Education

Oklahoma State University BS Mechanical Engineering 1966

University of Oklahoma JD 1973

Work Experience

Schlumberger Ltd - 1966 – 1971 Field Engineer, oil and gas well drilling services in Nigeria, Australia, and Indonesia

Bracewell LLP (and predecessors) - 1974 – 2021 Law practice specializing in patents, trademarks and copyrights

Breckenridge Activities

Moved to current residence in 2009 and live full time in Breckenridge

Worked remotely for Bracewell part time for the past several years

Volunteer in Guest Services for past three years at Breckenridge Ski Area

Ski guide for 50 plus group for past three years

Active member of the local chapter of the Sierra Club

Co-founder of the Summit County Piano Club

Weekly hikes and climbs with the Summit Mountain Goats during summer

Downhill, Nordic and AT ski; weekly snowshoe hikes with our dogs

Brian Peterson

(970) 393-2695

brianjp967@gmail.com

Local contractor with proven track record of completing projects on time and on budget. Organized and self-motivated. Big picture thinker. Performs best in a high paced environment with minimal supervision.

Passionate about the guest experience and success of our locals. Believes that building trust starts with active listening and proactive communication. Seeking community position to grow as an individual and give back.

Peterson Construction 2015- current, Owner

- Small local business owner providing client facing consultations, customized estimates and invoicing.
- Specializing in residential remodels from framing and decking, flooring and trim, doors and windows.
- Work closely with HOA's, design review committees, and building departments on planning, permitting and approval process.
- Strong referral network of realtors and property management companies.

All Phases Plumbing 2014-2015, Carpenter

- Residential remodels specializing in framing, flooring and trim.
- Worked with licensed plumbers on numerous projects.

Gregory Door and Window 2010-2012, Service Manager

- Client consultations regarding door and window needs
- Repair and replace doors and windows.
- Created estimates and sent invoices.

Tiger Run Resort 2012-2014, Maintenance Supervisor

- Led a team of six maintenance staff.
- Worked closely with guests and owners to meet their maintenance needs.
- Managed the daily work required on the chalets and clubhouse including swimming pool, hot tubs, and irrigation system.

Alpine Race Coach 1996-current

- Held full time coaching positions at Park HS (MN), Mounds Park Academy HS (MN), Team Breck and Winter Park.
- Held part time coaching positions for Team Breck, Team Summit and Winter Park.

References

- Kathy Christina, Client and local Realtor – (970) 389-1321
- Fred Horvath, business associate, ski coach and friend – (970) 390-7639
- Jeff Westcott, ski coach and friend – (970) 390-4760
- Abbey Browne, Client and Owner of Woodwinds Property Management Company – (970) 389-4054

George B. Swintz

P.O Box 4471
528 Silver Circle
Breckenridge, Colorado 80424
george@georgeswintz.com
(719)337-3419

Graduate University of Minnesota 1977 BS in Urban Planning with a Minor in Business Administration.

Two years of City Planning Department experience in St. Paul, Minnesota.

Eleven years with two developers in Colorado serving as Vice President of the Schuck Development Corporation - responsible for land development of 1,100+ acres and the building of 700,000 square feet of single story office show room product and two story Class A office buildings. Partner in general partnerships for the development of these projects. Gained experience in Metro Districts. One of the companies owned 13 acres of land where the Breckenridge Inn was located in Breckenridge in 1979.

Fifteen years of commercial brokerage experience in Colorado with Frederick Ross and Grubb & Ellis -specialized in aerospace and defense office space requirements. Developed with a Phoenix developer a four building office development of 200,000 ft.².

Seven year career with Corporate Office Properties Trust as their Asset Manager in Colorado. Built a portfolio of 1,600,000 ft.² through acquisition of 14 buildings and construction of 7 buildings (3 of which were certified LEED Silver) ranging from single-story product to five story Class A product. Entitled 580 acres of office and retail zoned ground. Managed architectural, construction, property management and building engineering staff of 18 people. Responsible for Tax Increment Financing reporting and Owner Associations.

After leaving Corporate Office Properties Trust worked on six multi story senior housing projects in the Assisted Living and Memory Care portion of the senior space in the capacity of design/development services and the sale of these assets.

Started skiing at age 10. Expert skier. Remarried for 23 years. Father of six married children. Grandfather to twelve grandchildren. Permanent resident of Breckenridge. Colorado Resident since 1980. Owner of property in Summit County since 2005.

Retired in December of 2019.



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.

October 2021

Tuesday, October 26th, 2021	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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November 2021

Tuesday, November 9th, 2021	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
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November 11th, 2021	South Gondola Lot	Wake Up Breck	TBD
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November 12th, 2021	Peak 8	Opening Day for Breck Ski Resort	9:00am
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Tuesday, November 23rd, 2021	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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December 2021

December 4th, 2021	Main Street	Lighting of Breckenridge	All Day
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December 8th - 17th, 2021	Main Street	ULLR Festival	All Day
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Tuesday, December 14th, 2021	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
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Other Meetings

October 25th, 2021	Breckenridge Creative Arts	3:00pm
October 26th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
October 27th, 2021	Summit Stage Transit Board Meeting	8:15am
October 28th, 2021	Breckenridge Tourism Office Board Meeting	8:30am
	Northwest CO Council of Governments	10:00am
	RW&B Board Meeting	3:00pm
November 2nd, 2021	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
November 3rd, 2021	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
	Class at CMC attended by BSEAC Members	6:00pm
November 9th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
November 10th, 2021	Breckenridge Heritage Alliance	Noon
November 11th, 2021	I-70 Coalition	9:30am
	Upper Blue Sanitation District	5:30pm
November 15th, 2021	Social Equity Advisory Commission	9:00am
	Breckenridge Creative Arts	1:00pm



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 16th, 2021	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
November 17th, 2021	Summit Combined Housing Authority	9:00am
November 18th, 2021	Transit Advisory Council Meeting	8:00am
November 22nd, 2021	Open Space & Trails Meeting	5:30pm
November 23rd, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
November 24th, 2021	Summit Stage Transit Board Meeting	8:15am
November 25th, 2021	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
December 1st, 2021	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
December 2nd, 2021	Northwest CO Council of Governments	10:00am
December 7th, 2021	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
December 8th, 2021	Breckenridge Heritage Alliance	Noon
December 9th, 2021	I-70 Coalition	10:00am
	Upper Blue Sanitation District	5:30pm
December 14th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
December 16th, 2021	Transit Advisory Council Meeting	8:00am
December 20th, 2021	Social Equity Advisory Commission	9:00am
December 21st, 2021	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
December 27th, 2021	Open Space & Trails Meeting	5:30pm
TBD	Water Task Force Meeting	8:00am
	Art Installation Meeting	2:00pm
	QQ - Quality and Quantity - Water District	1:15pm