



TOWN OF
BRECKENRIDGE

Town Council Regular Meeting

Tuesday, September 27, 2022, 7:00 PM

Town Hall Council Chambers

150 Ski Hill Road

Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS HOLDING HYBRID MEETINGS. THIS MEETING WILL BE HELD IN PERSON AT BRECKENRIDGE TOWN HALL. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. IN PERSON ATTENDEES MUST NOT ACCESS THE VIRTUAL MEETING WHILE IN COUNCIL CHAMBERS.

This meeting will also be broadcast live over Zoom. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. All public comments must be delivered in person in Council Chambers during designated public comment times, by email to mayor@townofbreckenridge.com, or by mailed letter, prior to the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - SEPTEMBER 13, 2022

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

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

V. CONTINUED BUSINESS

- A. SECOND READING OF COUNCIL BILLS, SERIES 2022
 - 1. *COUNCIL BILL NO. 31, SERIES 2022 - AN ORDINANCE DECLINING PARTICIPATION IN THE COLORADO PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM*

VI. NEW BUSINESS

- A. FIRST READING OF COUNCIL BILLS, SERIES 2022
 - 1. *COUNCIL BILL NO. 32, SERIES 2022 - AN ORDINANCE AMENDING POLICY 4 RELATIVE OF THE DEVELOPMENT CODE CONCERNING MASS*
- B. RESOLUTIONS, SERIES 2022
 - 1. *RESOLUTION NO. 17, SERIES 2022 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY FOR THE LOGE PROPERTY*

2. *RESOLUTION NO. 18, SERIES 2022 - A RESOLUTION FINDING A PETITION FOR ANNEXATION OF 1.718 ACRES OF UNDEVELOPED LAND KNOWN AS ENTRADA TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND SETTING A HEARING DATE OF NOVEMBER 8, 2022 FOR THE TOWN OF BRECKENRIDGE TOWN COUNCIL TO CONSIDER THE ANNEXATION OF THE AREA*

C. OTHER

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC (Mayor/Town Manager)

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Mr. Bergeron)

C. BRECKENRIDGE TOURISM OFFICE (Mr. Carleton)

D. BRECKENRIDGE HISTORY (Ms. Saade)

E. BRECKENRIDGE CREATIVE ARTS (Mr. Rankin)

F. BRECKENRIDGE EVENTS COMMITTEE (Ms. Owens)

G. CHILD CARE ADVISORY COMMITTEE (Mr. Beckerman)

H. WORKFORCE HOUSING COMMITTEE (Mr. Carleton/Mr. Rankin)

I. SOCIAL EQUITY ADVISORY COMMISSION (Ms. Saade)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR SEPTEMBER, OCTOBER AND NOVEMBER

XII. ADJOURNMENT

D) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of September 13, 2022 to order at 7:00pm. The following members answered roll call: Mr. Bergeron, Mr. Rankin, Ms. Saade, Mr. Carleton, Ms. Owens, Mr. Beckerman and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – AUGUST 23, 2022 AND STR BEDROOM COUNT HEARING MINUTES – AUGUST 9, 2022

With no changes or corrections to the meeting minutes of August 23, 2022 and August 9, 2022 Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

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

IV) COMMUNICATIONS TO COUNCIL

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

Mayor Mamula opened Public Comment.

There were no comments and Public Comment was closed.

B) ECLIPSE THEATER UPDATE BY BRECK FILM

Mr. Gary Martinez, representing the Breckenridge Film Festival, stated he is here to speak about the Eclipse Theater and Breckenridge Film Festival. He further stated board members Marty Ferris, Meg Lass and Cynthia Gordon were also in attendance, as well as Steve Moos, the new Executive Director of the Festival. Mr. Martinez reviewed the festival events for this year, and the theater progress since they took over operations, including a business update. Mr. Martinez stated the theater has been slow, but they are optimistic and things are trending up. He further stated they have a YTD operating deficit of \$26,000 and a \$30,000 expense for upgrades. He stated the organization has submitted an annual grant request and added to that with an extra ask to help cover the deficit.

Mr. Bergeron asked for clarity about the financial ask and Mayor Mamula asked about upcoming films. Ms. Gordon and Mr. Martinez stated they know they need to work on the website. Ms. Saade stated the partnership events have been positive, especially with Mountain Dreamers and Building Hope.

V) CONTINUED BUSINESS

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

1) COUNCIL BILL NO. 30, SERIES 2022 - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE FUND, APPROVING A LOAN FROM THE COLORADO WATER CONSERVATION BOARD; AUTHORIZING THE FORM AND EXECUTION OF THE LOAN CONTRACT, PROMISSORY NOTE TO EVIDENCE SUCH LOAN, AND SECURITY AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH

Mayor Mamula read the title into the minutes. Mr. James Phelps stated there were no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 30, SERIES 2022 - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE FUND, APPROVING A LOAN FROM THE COLORADO WATER CONSERVATION BOARD; AUTHORIZING THE FORM AND EXECUTION OF THE LOAN CONTRACT, PROMISSORY NOTE TO EVIDENCE SUCH LOAN, AND SECURITY AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO AND PRESCRIBING

OTHER DETAILS IN CONNECTION THEREWITH. Mr. Beckerman seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2022

1) COUNCIL BILL NO. 31, SERIES 2022 - AN ORDINANCE DECLINING PARTICIPATION IN THE COLORADO PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

Mayor Mamula read the title into the minutes. Ms. Dana Laverdiere stated this ordinance would decline the Town's participation in the Colorado Paid Family and Medical Leave Insurance Program. She further stated more information is in the memo in the packet.

Mayor Mamula opened the public hearing. There were no public comments and Citizen's Comment was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 31, SERIES 2022 - AN ORDINANCE DECLINING PARTICIPATION IN THE COLORADO PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM. Mr. Rankin seconded the motion.

The motion passed 7-0.

B) RESOLUTIONS, SERIES 2022

1) RESOLUTION NO. 16, SERIES 2022 - A RESOLUTION ADOPTING THE "SUSTAINABLEBRECK PLAN UPDATE, SEPTEMBER 2022"

Mayor Mamula read the title into the minutes. Mr. Matt Hulsey stated this resolution would adopt the updated SustainableBreck Plan.

Mayor Mamula opened the public hearing. There were no public comments and Citizen's Comment was closed.

Mr. Bergeron moved to approve RESOLUTION NO. 16, SERIES 2022 - A RESOLUTION ADOPTING THE "SUSTAINABLEBRECK PLAN UPDATE, SEPTEMBER 2022". Mr. Rankin seconded the motion.

The motion passed 7-0.

C) OTHER

VII) PLANNING MATTERS

A) PLANNING COMMISSION DECISIONS

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

VIII) REPORT OF TOWN MANAGER AND STAFF

Ms. Shannon Haynes stated we are moving forward with a letter encouraging the BOCC to approve the Pay As You Throw program in Summit County.

Mr. Holman asked Council if they would like to support the Film Festival with additional funding, as noted by Mr. Martinez's ask earlier in the meeting. Council agreed to support the festival by agreeing to the additional funding.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC

No report.

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE

No report.

C. BRECKENRIDGE TOURISM OFFICE

No report.

D. BRECKENRIDGE HISTORY

Ms. Saade stated the Sallie Barber project is nearly complete and they expect to host an open house in the future.

E. BRECKENRIDGE CREATIVE ARTS

Mayor Mamula asked about the art on Moonstone and Iowa Hill trails for the Trail Mix installation that is still there, but the event is over. Ms. Haynes explained it was left up for the MT2030 conference next week.

F. BRECKENRIDGE EVENTS COMMITTEE

No report.

G. CHILD CARE ADVISORY COMMITTEE

Mr. Beckerman stated he reached out to center directors about staffing challenges and the increase in pay has helped to stabilize the centers and it has been a positive change.

H. WORKFORCE HOUSING COMMITTEE

No report.

I. SOCIAL EQUITY ADVISORY COMMISSION

No report.

X) OTHER MATTERS

Mr. Bergeron stated he came upon an unattended campfire in Lincoln Meadow and wildfire is again an issue so hopefully we can keep communicating that message. Mayor Mamula stated maybe the USFS could put a sign by the road in that area that says fire danger is high.

Mayor Mamula stated he had a meeting with the regional director of Health and Human Services. He stated she had some potential funding information for projects.

Mr. Carleton stated he met with a local business owner after Coffee Talk about signage and enforcement and he feels some of our small businesses are hidden from Main Street and he would like to see if Council would be open to discussing options that would help these small businesses that are off the beaten path. Mr. Bergeron stated he would support that kind of conversation. Ms. Owens stated she supports it as well. Mayor Mamula stated he would like to see more permanent signage and not necessarily sandwich boards. He further stated there are other businesses that would feel the same way. Mr. Holman stated staff will look at this issue again and bring it back to Council.

XI) SCHEDULED MEETINGS

A) SCHEDULED MEETINGS FOR SEPTEMBER, OCTOBER AND NOVEMBER

XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:31pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor



Memo

To: Breckenridge Town Council Members
From: Dana Laverdiere, Director Human Resources
Date: 9/20/2022
Subject: Second Reading of Council Bill, Paid Family and Medical Leave Insurance Act (FAMLI)

There are no changes from first reading of Council Bill regarding Paid Family and Medical Leave Insurance Act (FAMLI), regarding a decision on whether the Town of Breckenridge should participate in FAMLI, or opt out of FAMLI. As detailed in the attached Exhibit, the standard hearing to be conducted during the regular meeting, will serve as the employee hearing required by the FAMLI legislation. Employees have been notified of the hearing date and time.

Background

The State of Colorado Paid Family Medical Leave Insurance (FAMLI) program, approved by voters in November 2020, provides employees up to 12 weeks of (partially) paid leave to take care of themselves or a family member during life events like injury, serious illness, or pregnancy. An additional four weeks of leave is allowed for pregnancy complications or childbirth complications. Participating employers and employees will both contribute to premiums for FAMLI (50/50 split). Employers are to start collecting and remitting premiums January 1, 2023, and benefits would be available to employees starting January 1, 2024. The decision for local governments to opt-out must occur in 2022.

Premiums are equal to .9% of each employee's regular weekly wage. Half of the .9% (or .45%) is to be paid by the employee, and the other half is to be paid by the employer. The employer is responsible for collecting employee premiums via payroll deduction, and for remitting all premiums to the State on a quarterly basis. Premiums would be mandatory for all full-time, part-time, seasonal and temporary employees whether they ever utilize the benefit or not. Colorado employees become eligible to take paid leave after they have earned at least \$2,500 in wages within the State, over a period of a year.

Past 2025, the premium rate will be set each year by the FAMLI Division Director, at the Department of Labor and Employment, and is based on a formula based on the funds balance and usage rates. The premium rate amount is statutorily capped at 1.2% of wages.

Benefits during a state approved FAMLI leave, will pay employees between 37% and 90% of their wages, capped at \$1,100 per week. Employees earning about \$1,500 per week will receive approximately 68% of their weekly wage, or \$1,018 per week while on FAMLI. The chart below demonstrates the benefit available to employees based on their weekly wage.

| Weekly Wage | Weekly Benefit | Maximum Annual Benefit | Percent of Weekly Wage |
|-------------|----------------|------------------------|------------------------|
| \$500 | \$450 | \$5,400 | 90% |
| \$1,000 | \$768 | \$9,216 | 77% |
| \$1,500 | \$1,018 | \$12,216 | 68% |
| \$2,000 | \$1,100 | \$13,200 | 55% |
| \$3,000 | \$1,100 | \$13,200 | 37% |

While all municipalities are included in FAML I by default, a municipality may opt out and avoid the employer and employee portion of premiums by a vote of a governing body. The municipality must give prior notice of the vote in the same manner it notices other public business, must provide special notice to employees, and must take testimony before voting. Declination by a municipality allows employees to individually opt in to the FAML I program at their same employee only cost if they so desire. Employees may still individually opt-in to the program, and submit premiums to have FAML I coverage, at no increased cost.

State law requires participation in FAML I unless the municipality's governing body votes to opt out of the program by December 31, 2022.

Financial Considerations:

The Town's financial burden in the first year of the FAML I program of .45% of wages is expected to be approximately \$76,000. In addition, employees would bear the same equivalent financial contribution of .45%. The program cost may increase up to 33% in 2025 to 1.2% of wages, split between the employer and employee.

Benefit Comparisons

The Town currently provides FTYR employees with the following leave benefits at no cost to the employee:

- **Short term disability**, at no cost to the employee. The Town's short term disability plan provides 60% to 70% of pay while on leave. FTYR employees are eligible after 90 days of employment. Benefits are payable once all accrued paid leave benefits have been exhausted, or after 30 days, whichever is later.
- **Long term disability**, at no cost to the employee. The Town's long term disability plan provides 60% of an employee's earnings. Disability payments begin after a 90 day waiting period of a covered disability.
- **Sick Leave**, at no cost to the employee. The Town also has a sick leave policy for FTYR employees that accrues at 3.69 hour a pay period, and may be carried over year to year, with a max balance of 480 hours, or the equivalent of 12 weeks fully paid with the use of sick leave.
- **FMLA** is provided leave for employees with job protection and time away from work in the event of illness or injury to themselves or to attend to various needs relating to their families. The Town's FML is compliant with the Family and Medical Leave Act of 1993. Employees may use sick, personal, comp and annual leave while on the Town's existing Family Medical Leave. All TOB employees are eligible for this leave if they have worked for the Town for at least 12 months, and at least 1,250 hours over the past 12 months.

Benefits for Part time and Seasonal employees:

- **Paid Time Off (PTO) Bank for Part time and Seasonal Employees.** PTO accrues at 1 hour for every 30 hours worked. This leave policy complies with the Colorado Healthy Families and Workplace Act which guarantees workers the right to earn paid sick time.
- **FMLA** All TOB employees are eligible for this leave if they have worked for the Town for at least 12 months, and at least 1,250 hours over the past 12 months.

STAFF RECOMMENDATION

The staff recommendation is to opt out of the state-run FAML I program, and “Decline ALL Participation”.

Opting out of the state-run FAML I program would allow the Town to avoid having to pay costly premiums to the State, save our employees from having to pay the state premiums (unless individually desired), while still providing our employees with the protection of a paid leave program to care for themselves or a family member in the event of a serious illness or injury. The FAML I program is a “social insurance” and would look similar to unemployment insurance, where the employee would file a claim on their own with the State of Colorado for payment. The State of Colorado pays the employee (the claimant) a portion of their weekly wages directly through a debit card or direct deposit. With the plans the Town has in place, Human Resources is able to monitor and assist employees with short term disability, long term disability, and sick leave.

If an employee desires participation in FAML I, the option exists to opt-in to the program as an individual participant.

The State website is: <https://famli.colorado.gov/>

Included in the packet, is a Council Bill for second reading. Staff will be available to answer any questions.

AN ORDINANCE DECLINING PARTICIPATION IN THE COLORADO PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.

WHEREAS, the Town of Breckenridge provides more generous benefits than required by Colorado Healthy Families and Workplaces set forth in C.R.S. § 8-13.3-401 et seq., the differences between the state and Town benefits are more fully described in the attached Exhibit A; and,

WHEREAS, state law, C.R.S. § 8-13.3-52, provides that a local government may decline participation in the FAMLI program by an affirmative vote of the governing body; and,

WHEREAS, the Town has given all Town Employees 30 days advance written notice that this matter is being heard by Town Council and Employees have been informed as to the process as well as the opportunity to submit comments to the Town Council about this proposed decision; and,

WHEREAS, the Town Council believes it is in the best interests of the employees of the Town of Breckenridge to decline participation in the FAMLI program.

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

Section 1. The Town Council of the Town of Breckenridge hereby declines participation in the Colorado Paid Family and Medical Leave Insurance Program.

Section 2. Notice of the declination of coverage under state law must be made to Town Employees in writing both posted and concerning the declination of coverage. Such notice will comply with all of the requirements set forth under 7 CCR 1107-2 F.

Section 3. Notice of this declination along with the date of this decision shall be provided in writing to the Colorado Division of Labor and Employment.

Section 4. Pursuant to 7 CCR 1107-2, the decision of Town Council to opt out of FAMLI shall be reconsidered on or before eight years from the passage of this ordinance. The Town must provide the same notice of the decision in writing to the Colorado Division of Labor and Employment.

Section 5. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity,

1 and improve the order, comfort and convenience of the Town of Breckenridge and the
2 inhabitants thereof.

3 **Section 6.** The Town Council hereby finds, determines and declares that it has the
4 power to adopt this ordinance pursuant to the authority granted to home rule municipalities by
5 Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town
6 Charter.

7 **Section 7.** This ordinance shall be published and become effective as provided by
8 Section 5.9 of the Breckenridge Town Charter.

9 INTRODUCED, READ ON SECOND READING, APPROVED AND ORDERED
10 PUBLISHED IN FULL this 27th day of September, 2022. A Public Hearing shall be held at the
11 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 27 day of
12 September, 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
13 Town.

14
15 TOWN OF BRECKENRIDGE, a Colorado
16 municipal corporation
17

18
19
20 By: _____
21 Eric S. Mamula, Mayor
22

23 ATTEST:
24 _____
25 Helen Cospolich, CMC,
26 Town Clerk



Memorandum

To: All Town of Breckenridge Employees
From: Dana Laverdiere, Director Human Resources
Date: August 25, 2022
Subject: EXHIBIT A, FAMLI Notice of Public Hearing, Town Council

Notice of a public hearing to consider whether Town of Breckenridge will participate in the Colorado Paid Family and Medical Leave Insurance Program.

The Town of Breckenridge Town Council, of Breckenridge Colorado will hold a public hearing at a regularly scheduled meeting to be held on Tuesday September 27, 2022, located in the Town of Breckenridge Council Chambers, 150 Ski Hill Road, Breckenridge, CO for the purpose of considering whether Town of Breckenridge will or will not participate in the Colorado Paid Family and Medical Leave Insurance ("FAMLI") Program, for Town of Breckenridge employees. First reading of the council bill will be on Tuesday September 13th, and the public hearing and second reading of the council bill will be on September 27th.

All comments regarding whether the Town of Breckenridge should participate, or decline to participate in the FAMLI Program may be made at the public hearing in person, or may be made in writing prior to the public hearing by submitting such comments to the Mayor and Town Council c/o Peyton Rogers at Mayor@townofbreckenridge.com, or P.O. Box 168, Breckenridge, CO 80424. An employee may request the comment be anonymous, if preferred.

For additional information or questions please contact Dana Laverdiere, Town of Breckenridge Human Resources Director at DanaL@townofbreckenridge.com or 970.547.3159

Summary

In November, 2020 Colorado voters approved Proposition 118, a ballot initiative establishing a paid family and medical leave program. The new law, known as the "Paid Family and Medical Leave Insurance Act," (FAMLI Act) at C.R.S. §§ 8.13.3.401-424, provides for 12 weeks of paid family and medical leave funded through a payroll tax and paid by employers and employees in a 50/50 split. Although the program is not effective until 2024, premiums from employees and employers would begin in January 2023. The decision for local governments to opt-out, must occur in 2022.

Background

The State of Colorado Paid Family Medical Leave Insurance (FAMLI) program provides employees up to 12 weeks of (partially) paid leave to take care of themselves or a family member during life events like injury, serious illness, or pregnancy. An additional four weeks of leave is allowed for pregnancy complications or childbirth complications. Participating employers and employees will both contribute to

premiums for FAML. Employers are to start collecting and remitting premiums January 1, 2023, and benefits would be available to employees starting January 1, 2024.

Premiums are equal to .9% of each employee’s regular weekly wage. Half of the .9% (or .45%) is to be paid by the employee, and the other half is to be paid by the employer. The employer is responsible for collecting employee premiums via payroll deduction, and for remitting all premiums to the State on a quarterly basis. Premiums would be mandatory for all full-time, part-time, seasonal and temporary employees whether they ever utilize the benefit or not. Colorado employees become eligible to take paid leave after they have earned at least \$2,500 in wages within the State, over a period of a year.

Past 2025, the premium rate will be set each year by the FAML Division Director, at the Department of Labor and Employment, and is based on a formula based on the funds balance and usage rates. The premium rate amount is statutorily capped at 1.2% of wages.

Benefits during a state approved FAML leave, will pay employees between 37% and 90% of their wages, capped at \$1,100 per week. Employees earning about \$1,500 per week will receive approximately 68% of their weekly wage, or \$1,018 per week while on FAML. The chart below demonstrates the benefit available to employees based on their weekly wage.

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State law requires participation in FAML unless the municipality’s governing body votes to opt out of the program by December 31, 2022.

Financial Considerations:

The Town’s financial burden in the first year of the FAML program of .45% of wages is expected to be approximately \$76,000. In addition, employees would bear the same equivalent financial contribution of .45%. The program cost may increase up to 33% in 2025 to 1.2% of wages, split between the employer and employee.

FAML Premium Example:

- (annual income x .009) / 2 = employer share

- $(\text{annual income} \times .009) / 2 = \text{employee share}$
- FTYR Employee making \$28/hr., would pay \$262.08 annually in premiums | Employer Premiums would be \$262.08 annually.
- FTYR Employee making \$35/hr. would pay \$327.60 annually in premiums | Employer Premiums would be \$327.60 annually.
- Employees would pay premiums, regardless if they access the insurance or not.

Benefit Comparisons

The Town currently provides FTYR employees with the following leave benefits at no cost to the employee:

- **Short term disability**, at no cost to the employee. The Town's short term disability plan provides 60% to 70% of pay while on leave. FTYR employees are eligible after 90 days of employment. Benefits are payable once all accrued paid leave benefits have been exhausted, or after 30 days, whichever is later.
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Benefits for Part time and Seasonal employees:

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- **FMLA** All TOB employees are eligible for this leave if they have worked for the Town for at least 12 months, and at least 1,250 hours over the past 12 months.

STAFF RECOMMENDATION

The staff recommendation is to opt out of the state-run FAML I program, and "Decline ALL Participation". Opting out of the state-run FAML I program would allow the Town to avoid having to pay costly premiums to the State, save our employees from having to pay the state premiums (unless individually desired), while still providing our employees with the protection of a paid leave program to care for themselves or a family member in the event of a serious illness or injury. The FAML I program is a "social insurance" and would look similar to unemployment insurance, where the employee would file a claim on their own with the State of Colorado for payment. The State of Colorado pays the employee (the claimant) a portion of their weekly wages directly through a debit card or direct deposit. With the plans the Town has in place, Human Resources is able assist employees with short term disability, long term disability, and sick leave.

If an employee desires participation in FAML I, the option exists to opt-in to the program as an individual participant.

The State website is: <https://famli.colorado.gov/>

Human Resources will notify employees of a decision within 30 days of the Town Council vote.

Memo



To: Town Council
 From: Stefi Szrek, Planner II
 Date: September 21, 2022 (for meeting of September 27, 2022)
 Subject: First Reading: Policy 4R Amendments- Mass Bonus for Condos, Inns, and Lodges

The Town Council has requested that staff consider policy changes related to mass bonuses for condominiums, hotels, inns and lodges due to the impacts created by allowing for additional mass for common areas. The concern is whether or not the existing mass bonus allowed per code is reasonable or if condominiums, hotels, inns, and lodges could result in a much larger size than what is appropriate for the site with the mass bonus.

The existing code allows for a 30% mass bonus. The bonus is allowed for areas such as lobbies, common areas, hallways and amenity space. The Planning Commission has reviewed this topic and discussed going to a 15% mass bonus, as most large resort-type buildings account for approximately 15% of hallways and common areas. The Commission felt that 15% was reasonable for providing common area space and that allowing a higher percentage mass bonus (e.g., 25%) would result in over-programming of development sites, creating projects that are out of scale with the Town’s character.

The Town Council recently reviewed this topic at a work session, and unanimously recommend to not allow for any mass bonus for amenities and common areas, meaning that any common space or amenities would need to fit within the Code’s existing mass/density allocation. The proposed bill showing no mass bonus is attached.

During the work session, staff was asked to provide information on similar, mature resort communities in regard to their limitations on massing. In comparison to these other communities, this code change would result in Breckenridge having the least allowance of buildable square footage compared to other mature mountain towns researched by staff. Below is a comparison of select Breckenridge development areas to similar development areas in other mature resort communities.

| | SFEs | Allowed FAR | Common Area | Notes |
|--------------------------|-------|-------------|--|--|
| Peak 7 Base | 185.2 | 0.34 | 30% Mass Bonus above allowed density for common uses. Minimum of 1 sf amenity or conference space per 35 sq. ft. | Fully built-out. FAR for listed Breckenridge projects is calculated based on Density and Mass. |
| Peak 8 Base | 431.9 | 0.67 | | Includes unbuilt East Peak 8 Hotel. |
| Gondola Lots Master Plan | 143 | 0.19 | | Potential build-out per approved master plan. |

| | | | | |
|---|---|---|---|---|
| Vail Village Design Area | N/A | Vail does not use FAR, uses UPA. 50 UPA allowed for accommodation units, or 25 UPA for dwellings. | Common area counts against UPA, 20% of interior space is required to be common areas. | No square footage limits or maximum size for units. No required setbacks. |
| Aspen (Residential Multi-Family-A) | | 1.5 FAR (Maximum unit size ranges from 2,000 -2,500 sq. ft.) | Common area counts against FAR, no minimum requirement for common areas. | The purpose of the Residential Multi-Family-A (RMFA) Zone District for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses within walking distance to the center of Town. |
| Park City (Base Area Lot Redevelopment) Any Residential or Hotel project with ten (10) or more Residential Unit Equivalents (20,000 square feet) requires a Master Plan. | 261.6 Unit Equivalents proposed. UE= 2,000 sq. ft. | 0.72 FAR Allowed 0.59 FAR Proposed. | Common area counts against UPA, no minimum requirement for common areas. | 1. Retail/commercial uses other than Support Commercial or Accessory uses require a proportionate reduction in the square footage that is allocated for the other uses. 2. Building square footage does not include Resort Accessory Uses, mechanical, maintenance or storage space that may be located below grade or parking. 3. Underground public convention and meeting space is allowed in addition to the total Parcel square footage allowance. |
| Summit County | Per PUD | Per PUD | Common areas are excluded from floor area calculations. | |

Per this research, Park City is identified as the most similar in terms of scale and how large projects are reviewed through a master planning process. Aspen and Vail were developed as denser communities with taller buildings, therefore their more generous UPA and FAR allotments make sense from a historic perspective.

Additionally, staff wanted to make note that if the council decides to remove the Mass Bonus, any meeting rooms or recreation leisure amenities will be required to use allotted density in order to meet the requirement of one (1) square foot for every thirty-five (35) square feet of gross floor area per Policy 24R: A. *Meeting And Conference Rooms: All condominium/hotels, hotels, lodges, and inns shall provide meeting areas or recreation and leisure amenities, at a ratio of one square foot of meeting or recreation and leisure amenity area for every thirty five (35) square feet of gross dwelling area.*

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

AN ORDINANCE AMENDING POLICY 4 RELATIVE OF THE DEVELOPMENT CODE CONCERNING MASS.

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

Section 1. That section 9-1-19-4R: entitled Policy 4 (Relative) Mass be amended by deleting the language stricken and adding the language underlined to read as follows:

9-1-19-4R: POLICY 4 (RELATIVE) MASS:

A. Additional aboveground square footage may be allowed over and above the intensity/density calculation based on the following formulas for accessory uses ~~such as~~ including, but not limited to, garages, meeting rooms, lobbies, hallways, recreational areas, common areas. etc.:

1. Single-Family, Duplexes, Bed And Breakfasts, And Townhouses Outside The Conservation District And New Construction On Properties That Do Not Have Existing Primary Historic Structures Within the Conservation District: Single-family, duplex, bed and breakfast, and townhouse developments may be allowed an additional twenty percent (20%) of aboveground floor area as specified in section 9-1-19-3A, "Policy 3 (Absolute) Density/Intensity", subsection H, of this chapter and section 9-1-19-3R, "Policy 3 (Relative) Compliance With Density/Intensity Guidelines", subsection B, of this chapter for the provision of garages, common amenity areas, and common storage areas. This mass bonus does not apply to single-family or duplex structures listed in section 9-1-19-4A, "Policy 4 (Absolute) Mass" subsection A, of this chapter.

2. Single-Family, Duplexes, Bed And Breakfasts, And Townhouses Within The Conservation District: The character of the Conservation District can be altered when overall massing of structures is not consistent with the massing associated with surviving historic structures. Up to an additional fifteen percent (15%) aboveground floor area may be allowed for the provision of garages, common amenity areas, and common storage areas, based on the following assignments of negative points and criteria:

| % Mass Bonus | Point Deductions |
|--------------|------------------|
| 0.1 - 10% | 2 |
| 10.01- 15% | 4 |

1 Mass bonuses may only be allowed if the massing is located on the property in a manner that is
2 not highly visible from the street. Methods to achieve this include:

- 3 1. Placing the massing to the rear of the structure or addition; or
- 4 2. Limiting the extension of sidewalls of the addition beyond the sidewalls of the principal
5 historic structure so that the side yards are kept open. Landscaping should be used to further
6 provide screening, but should not be the only measure used to reduce visibility.
- 7 3. Apartments And Boarding Houses: Apartment and boarding house developments may be
8 allowed an additional fifteen percent (15%) of aboveground floor area for the provision of
9 amenities and/or common areas.
- 10 4. Condominiums, Hotels, Inns, And Lodges: Condominiums, hotels, inns, lodges, and other
11 similar uses ~~may be allowed an additional twenty five percent (25%) of aboveground floor area~~
12 ~~for the provision of amenities and/or common areas. Space that is utilized for a recreation and~~
13 ~~leisure amenity club may be included in this additional twenty five percent (25%) of~~
14 ~~aboveground floor area, provided there is any remaining space after all common areas have~~
15 ~~been counted~~ do not have an additional mass bonus for the provision of amenities and/or
16 common areas. Any additional common area space ~~above this additional twenty five percent~~
17 ~~(25%)~~ shall be counted as ~~commercial~~ density as specified in section 9-1-19-3A, "Policy 3
18 (Absolute) Density/Intensity," of this chapter.

19 Compliance with the aboveground square footage recommendations as set forth here is
20 encouraged. Mass is the total aboveground square footage of a project (density + common
21 areas). Deviations in excess of the maximum allowed total square footage shall only be allowed
22 through density transfers pursuant to section 9-1-17-12 of this chapter and shall be assessed
23 negative points according to the following schedule:

24 The following formula shall be utilized to determine any deviations from these guidelines:

| 25 | % Deviation Up From Guidelines | Point Deductions |
|----|--------------------------------|------------------|
| 26 | 5 x (point deduction) 0.1 - 5% | 2* |
| 27 | 5.01 - 10% | 3 |
| 28 | 10.01 - 15% | 4 |
| 29 | 15.01 - 20% | 5 |
| 30 | 20.01 - 30% | 6 |
| 31 | 30.01 - 40% | 7 |
| 32 | 40.01 - 50% | 8 |
| 33 | 50.01% and above | 20 |

1 * Excess mass is exempt from a 2 point deduction if the density is transferred pursuant to
2 subsection 9-1-17-12B of this chapter and if the total excess mass for the project does not
3 exceed 5 percent of the maximum mass allowed. This exemption does not apply to any
4 transfers of density/mass into the Historic District.

5 5. Accessory structures, such as carports, parking garages, and trash enclosures are not
6 considered mass and do not count towards mass calculations if they are not fully enclosed.
7 Structures that have a minimum of 18 inches of two or more wall planes open aired, including
8 mesh or grating, are not considered fully enclosed structures.

9 B. In a land use district where density is calculated by a floor area ratio only, residential and
10 mixed use projects shall not be allowed additional square footage for accessory uses, and the
11 total mass of the building shall be that allowed by the floor area ratio of the specific districts. No
12 additional mass shall be allowed for a commercial use.

13 C. The mass of property located in Land Use District 1 which is proposed to be used as an
14 interpretative building in a public park shall not be counted under this policy if the Planning
15 Commission finds that the proposed use is appropriate for the site based upon good planning
16 practices as reflected by the other absolute and relative development policies of this chapter.

17
18 **Section 2.** The Town Council hereby finds, determines and declares that this ordinance
19 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
20 and improve the order, comfort and convenience of the Town of Breckenridge and the
21 inhabitants thereof.

22
23 **Section 3.** This ordinance shall be published and become effective as provided by
24 Section 5.9 of the Breckenridge Town Charter.

25
26 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
27 PUBLISHED IN FULL this 27th day of September, 2022. A Public Hearing shall be held at the
28 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
29 ____, 2022.

30 TOWN OF BRECKENRIDGE, a Colorado
31 municipal corporation
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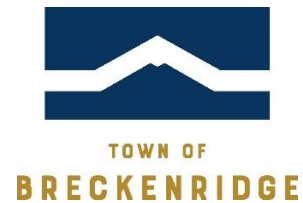
By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney



To: Breckenridge Town Council
From: Melanie Leas – Housing Project Manager
Date: 9/21/2022 (for 9/27/2022)
Subject: A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO CONCERNING THE LOGE HOTEL CONVERSION

Staff has been working with Summit County on a collaboration to convert the Loge Camps Hotel off Tiger Road (Wayside Inn) to workforce housing. On September 14, 2022, the Town and County acquired the property, and staff has drafted an Intergovernmental Agreement (IGA) outlining the terms of this collaboration. This IGA was approved by the Board of County Commissioners on September 13, 2022. The key elements of the IGA include:

- The Parties agree to take all action reasonably necessary and to cooperate on the acquisition, operation, improvement, redevelopment, and management of the project;
- The Parties agree to split the cost, with each Party paying one half of the costs for the acquisition, operation, improvement, redevelopment, and management of the project;
- The Parties will agree upon a qualified person to manage the day to day operations;
- The Parties will agree on tenant qualifications, rents, and number of units reserved for each Party's use;
- The Parties will agree to convey the Project to a jointly operated multi-jurisdictional Authority (such Authority may own multiple County/Town properties, including Huron Landing and COTO Flat);
- Any decision to move forward with the project redevelopment is contingent on the Parties reaching agreement on the final design and final cost of the project; and
- The Parties agree to share all net operating revenue.

The immediate plans for the property are to perform some minor repairs and to make units available as transitional housing for Town of Breckenridge and Summit County employees this winter. Town and County staff anticipate that we can continue to utilize the property for transitional housing under the current County zoning and current County building approval. In order to qualify as transitional housing the employee leases will be 30 day renewable leases. This eliminates the need to rezone or reclassify the property. Our goal is to have the units available the end of October or early November. The 38 residential units are furnished, but do not include cooking facilities. There is a communal kitchen that will be available to the residents. Town and County staff are working to:

- Execute a Property Management Agreement and establish property policies-no smoking, deposits, pets OK, etc;
- Evaluate the condition of each unit and identifying specific immediate repairs (specifically checking fire alarm, security system, primary boiler, and individual gas fired furnaces);
- Coordinate with electrical and mechanical subcontractors on minor repairs;
- Coordinate with builder on minor roof repair/demo;
- Coordinate security system/keys and codes;
- Contract for property wide WIFI and other utilities; and
- Coordinate with Human Resource Department on lease up of Town units (assume 15-18 Town units) to be priced at \$800 per month.

Staff will provide regular updates to Town Council as the project proceeds. Although the IGA provides for redevelopment in the future, we are not anticipating any significant redevelopment in the immediate future. For budget purposes, it should be noted that we have included the acquisition and minor repairs in the 2022 housing program expenses and approximately \$500,000 in 2024 for utilities (water/sewer upgrades). After the initial lease up, Staff will initiate the process for annexation to the sanitation district and to the Town of Breckenridge.

Staff supports the IGA and recommends approval of the Resolution. Please note that there are some minor non-substantive edits that we are recommending to the County prior to execution. They are highlighted in the attached draft. Staff will be happy to answer questions and discuss this in more detail at your meeting on September 27th.

Recommended Motion:

I move to approve Resolution (insert number), A resolution approving an intergovernmental agreement with the Board of County Commissioners of Summit County, Colorado concerning the Loge Hotel conversion.

1
2 A RESOLUTION

3
4 SERIES 2022

5
6 **A RESOLUTION APPROVING AN INTERGOVERNMENTAL**
7 **AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND**
8 **SUMMIT COUNTY, COLORADO TO ACQUIRE THE LOGE HOTEL**
9 **FOR WORKFORCE HOUSING.**

10
11 WHEREAS, the Town Council of the Town of Breckenridge (“Town”) and the Board of
12 County Commissioners of Summit County, Colorado (hereinafter “Parties”) desire to enter into
13 this Intergovernmental Agreement (“IGA”) attached hereto as Exhibit A;

14
15 WHEREAS, the Parties shall split evenly the cost of the acquisition, ownership,
16 operation, and redevelopment of the LOGE Hotel to be used for workforce housing;

17
18 WHEREAS, governmental entities are authorized by Article XIV of the Colorado
19 Constitution and Part 2 of Article 1 of Title 29, C.R.S., to co-operate and contract with one
20 another to provide any function, service, or facility lawfully authorized to each of the co-
21 operating or contracting governmental entities; and

22
23 WHEREAS, the Town Council has reviewed the proposed IGA, and finds and determines
24 that it would be in the best interest of the Town to enter into such agreement.

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

28
29 Section 1. The proposed Intergovernmental Agreement between the Town of
30 Breckenridge and Summit County is hereby approved and the Town Manager is hereby
31 authorized, empowered and directed to execute such agreement for and on behalf of the Town of
32 Breckenridge. In the event it is deemed necessary, the Town Manager in consultation with the
33 Town Attorney, may make minor modifications to the Intergovernmental Agreement.

34
35 Section 2. This resolution shall become effective upon its adoption.

36
37 RESOLUTION APPROVED AND ADOPTED this ___ day of September 27, 2022.
38

TOWN OF BRECKENRIDGE

ATTEST:

By _____
Eric Mamula, Mayor

Helen Cospolich, Town Clerk

APPROVED IN FORM

Town Attorney Date

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1
2 INTERGOVERNMENTAL AGREEMENT
3 (LOGE Workforce Housing Project)
4

5 This Intergovernmental Agreement (this “**Agreement**”) is dated _____,
6 2022 (the “**Effective Date**”) and is between the TOWN OF BRECKENRIDGE, a Colorado
7 municipal corporation (the “**Town**”) and SUMMIT COUNTY, COLORADO, acting by and
8 through the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO
9 (the “**County**”). The Town and the County are sometimes referred to individually as a “**Party**,”
10 and together as the “**Parties**.”
11

12 **Background**
13

14 The Parties have been working cooperatively to analyze, evaluate, and plan for the joint
15 acquisition and operation of an affordable workforce housing project, on real property located in
16 unincorporated Summit County, Colorado, and as more particularly described on the attached
17 **Exhibit “A”** (the “**Property**”). Such project does not yet have an agreed upon name and has
18 been generally referred to as the “Loge-Wayside Inn Project”, and will be referred to in this
19 Agreement as the “**Project**.” There are currently 38 hotel rooms located in two buildings on the
20 site.
21

22 The Parties have evaluated the acquisition of this property and believe there is public
23 benefit in acquiring this property for workforce housing in its existing condition, and in addition
24 there is potential for annexation and or redevelopment of the property to serve as workforce
25 housing. The Parties are in agreement that each will pay one half of the costs of acquisition,
26 ownership, operation, and redevelopment will be shared ~~50-50~~. This Agreement is executed for
27 the purpose of providing specific details, terms, and conditions regarding the Parties
28 collaboration on the Project.
29

30 This Agreement is entered into pursuant to the authority granted by Article XIV, Section
31 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29, C.R.S.
32

33 **Agreement**
34

35 For and in consideration of the mutual promises and covenants contained herein, and intending
36 to be legally bound, the Parties agree as follows:
37

- 38 1. Term. The term of this Agreement commences as of the Effective Date of this
39 Agreement and will continue in perpetuity unless the Parties mutually agree to terminate
40 the Agreement.
- 41 2. Agreement to Cooperate. The Parties agree to take all action reasonably necessary for the
42 acquisition, operation, improvement, redevelopment, and management of the Project and
43 will not unreasonably delay the Project, and agree to cooperate with each other fairly and
44 in good faith with respect to all aspects of the acquisition, operation, improvement,

1 redevelopment, and management of the Project.

2 3. Mutual Agreement Required. Unless otherwise specified in this Agreement, all
3 substantial decisions concerning the acquisition, operation, improvement, redevelopment,
4 and management of the Project requires the mutual written agreement of the Town and
5 the County.

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

9 A. the final design of the redevelopment of the Project;

10 B. the estimated final cost of the redevelopment of the Project, and the
11 guaranteed maximum price (“GMP”) of constructing the redeveloped Project,
12 if there should be one;

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

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

18
19 5. Cost of the Project.

20 A. Subject to the adjustments provided for in this Section, and as otherwise
21 provided in this Agreement, the Parties agree to each pay one-half of the total
22 cost of acquiring, operating, redeveloping, managing, and maintaining the
23 Project throughout the term of this Agreement.

24 B. As used in this Section, the “cost of acquiring, operating, redeveloping,
25 managing, and maintaining the Project” means all out-of-pocket costs incurred
26 by the Parties in connection with the Project.

27 C. It is anticipated that each of the Parties may provide certain agreed upon “in
28 kind” services or benefits related to the acquisition, operation, redevelopment,
29 management, and maintenance of the Project. Subject to mutual agreement,
30 these in kind contributions may not be subject to the provisions of Subsection
31 A of this Section. It is agreed that the amount of in kind contributions by the
32 Parties need not be equal in number or value.

33 D. Notwithstanding anything contained in this Agreement to the contrary, it is
34 agreed that any unanticipated cost of acquisition, operation, redevelopment,
35 management, and maintenance of the Project will be paid equally by the
36 Parties; provided, however, if such unanticipated cost arises solely from the

INTERGOVERNMENTAL AGREEMENT

1 action or inaction of one of the Parties, such Party will be solely responsible
2 for the payment of such cost. As used in this Subsection D, “unanticipated
3 cost of acquisition, operation, redevelopment, management, and maintenance
4 of the Project” means any cost that is not the subject to the Parties’ agreed
5 budget for the development, construction, operation, management, and
6 maintenance of the Project.

7 E. Project Financing for the Project. The Parties anticipate to each contribute
8 approximately \$3,000,000 in cash for the acquisition of the Project.

9 6. Revenue of the Project. The Parties agree to share all net operating revenue. “Net
10 Operating Revenue” means the total of all income received by the Parties from the
11 operation of the Project, less all expenses incurred and paid by the Parties in connection
12 with the operation of the Project.

13 7. Management of the Project. The Parties will agree upon a qualified person to manage the
14 day-to-day operations of the Project on their behalf. The form and substance of the
15 management contract, if any, and all related documents will be subject to the reasonable
16 approval of both Parties and their respective attorneys.

17 8. Tenant Qualifications, Rents, and Other Matters. Upon acquisition of the Project, the
18 Parties will agree upon:

19 A. the initial leasing rates for the rental units in the Project;

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

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

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

24 E. the final number of units to be reserved for each Parties’ use; ~~;~~

25 F. Conveyance of the Project to a jointly operated multi-jurisdictional Authority
26 created for the purposes of owning, developing, managing, operating and
27 renting affordable workforce housing projects.

28 9. Meet and Confer Obligation. At least once monthly, or more frequently if necessary or
29 desirable, the Parties agree to meet to discuss matters related to the design development
30 of the Project.

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

- 1 11. Books and Records. Within 60 days after the Effective Date of this Agreement the Parties
2 will agree upon how, where, and by whom the books of account for the Project will be
3 maintained. Each Party will have the right, at its sole cost and expense, at all reasonable
4 times during usual business hours to audit, examine, and copy the books of account of the
5 Project. Such right may be exercised through any agent or employee of such Party.
- 6 12. Waiver of Right to Partition. Neither the Town nor the County have any right to partition
7 the Property or any of the Parties' jointly owned assets exclusively used or associated
8 with the Project, and both the Town and the County hereby irrevocably waive any and all
9 rights that they might have to maintain any action for partition of the Property and such
10 jointly owned assets.
- 11 13. Insurance.
- 12 A. Required Insurance. Throughout the term of this Agreement the Town and the
13 County will each procure and maintain the following minimum insurance
14 coverages:
- 15 i. workers' compensation insurance to cover obligations imposed by
16 applicable laws for any employee of the Town or the County (as
17 applicable).
- 18 ii. commercial general liability insurance with limits of liability not less than
19 the limits of liability established from time to time by the Colorado
20 Governmental Immunity Act, Article 10 of Title 24, C.R.S., as amended
21 from time to time ("**Act**"). The policy must include coverage for bodily
22 injury, broad form property damage (including complete operations),
23 personal injury (including coverage for contractual and employee's acts),
24 blanket contractual, products, and completed operations.
- 25 Such coverages will be procured and maintained with forms and insurers
26 reasonably acceptable to the other Party. All coverage will be continuously
27 maintained until this Agreement has been terminated in accordance with the
28 requirements of this Agreement. In the case of any claims-made policy, the
29 necessary retroactive dates and extended reporting periods will be procured to
30 maintain such continuous coverage.
- 31
- 32 B. Deductibles. The Town and the County are each solely responsible for any
33 deductible amounts required to be paid under their own required insurance
34 policies described in Subsection A of this Section.
- 35 C. Insurance Certificate. Each Party will provide the other Party with a certificate
36 of insurance evidencing that policies providing the required coverages,
37 conditions, and minimum limits are in full force and effect, and listing the
38 other Party as an additional insured. Such certificates will be provided within
39 30 days of the Effective Date of this Agreement, and on each renewal or

INTERGOVERNMENTAL AGREEMENT

1 replacement of the required insurance policies throughout the term of this
2 Agreement. The completed insurance certificates will be sent to the Parties at
3 the addresses provided in Section 19.

4 14. Mutual Indemnification.

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

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

37 C. Indemnity Subject To Applicable Law. To the extent permissible by law, the
38 obligation of a Party to indemnify and defend the other Party pursuant to this
39 Section is expressly subject to any applicable limitation or provision of the
40 Act, or any other law providing similar limitations or protections. Neither
41 Party waives the right to assert that its obligation to indemnify and defend the

1 other Party is barred by any applicable provision of the Colorado Constitution
2 that prohibits one Party from indemnifying the other Party.

3 D. Indemnity For Worker's Compensation Claims.

- 4 i. The Town will indemnify and defend the County with respect to any
5 claim, damage, or loss arising out of any worker's compensation claim of
6 any employee of the Town.
- 7 ii. The County will indemnify and defend the Town with respect to any
8 claim, damage, or loss arising out of any worker's compensation claim of
9 any employee of the County.

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

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

16 A. As provided in Sections 4 of this Agreement;

17 B. For default as provided in Section ~~167~~; ~~or~~

18 C. For non-appropriation as provided in Section ~~201~~;

19
20 16. Default; Resolution Of Disputes.

21 A. Default. A default exists under this Agreement if any Party violates any
22 covenant, condition, or obligation required to be performed under this
23 Agreement. As used in this Section, a Party violating any covenant, condition,
24 or obligation required to be performed under this Agreement is the
25 "**Defaulting Party**," and the other Party is the "**Non-Defaulting Party**." If a
26 Defaulting Party fails to cure such default within 30 business days after the
27 other Non-Defaulting Party gives written notice of the default to the
28 Defaulting Party then, at the Non-Defaulting Party's option, the Non-
29 Defaulting Party may terminate this Agreement, subject to the provisions of
30 Section ~~176~~ of this Agreement concerning the disposition of the Project and
31 the Parties' property upon termination of this Agreement. If a default is not
32 capable of being cured within 30 business days, a Defaulting Party will not be
33 in default if it commences curing the default within 30 business days after
34 receipt of written notice of default from the Non-Defaulting Party, and
35 thereafter cures such default with due diligence and in good faith.
36 Notwithstanding any Party's right to terminate this Agreement for an uncured

1 default, this Agreement is subject to the rights of any Party to invoke the
2 remaining provisions of this Section.

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

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

19 D. Judicial Action. Any dispute arising out of or relating to this Agreement or
20 the breach, termination, or validity hereof, which has not been resolved by the
21 methods set forth above within 30 days of the initiation of mediation, may be
22 finally resolved by appropriate judicial action commenced in a court of
23 competent jurisdiction. The Parties agree to venue in the courts of Summit
24 County, Colorado with respect to any dispute arising out of or relating to this
25 Agreement. The Parties hereby waive the right to a jury trial in any action to
26 enforce, interpret, or construe this Agreement.

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

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

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

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

6 17. Disposition of Project and Property Upon Termination. Upon the lawful termination of
7 this Agreement pursuant to Section 15, the Parties will promptly and in good faith
8 attempt to agree upon a fair and equitable disposition of the Property, the Parties' jointly
9 owned assets exclusively used or associated with the Project, and all other remaining
10 Project assets, income, and liabilities. For this purpose, authorized representatives of the
11 Parties will meet not later than 15 business days after the effective date of termination at
12 a mutually acceptable time and place, and thereafter as often as they reasonably deem
13 necessary, to exchange relevant information and to attempt to resolve all issues related to
14 the disposition of the Property and all remaining Project assets, income, and liabilities. If
15 the matter has not been resolved within 60 business days of the effective date of
16 termination of this Agreement, the Property, together with all of the Parties' jointly
17 owned assets exclusively used or associated with the Project, will be offered for sale for
18 cash at their then fair market value. The "**Fair Market Value**" of the Property and the
19 Parties' jointly owned assets will be determined by an appraiser mutually acceptable to
20 the Parties. The appraiser will be a licensed Colorado real estate broker with no less than
21 10 years' experience in appraising real property in Summit County, Colorado. If the
22 Parties are unable to agree upon a mutually acceptable appraiser, they each may appoint a
23 neutral third party to agree on an appraiser. The appraiser's determination will be binding
24 on the Parties. The cost of the appraisal will be paid equally by the Parties. Either Party
25 may be the purchaser of the other Party's right, title, and interest in the Property and the
26 Parties' jointly owned assets exclusively used or associated with the Project. The net sale
27 proceeds of the Property and the Parties' jointly owned assets exclusively used or
28 associated with the Project, will be used to pay the balance of the Debt Service for the
29 Project, and any balance of such proceeds will then be divided equally between the Town
30 and the County. The provisions of this Section control over the dispute resolution
31 provisions of Section 16.

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

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

42 If intended for the Town to:

1
2 Town of Breckenridge
3 P.O. Box 168
4 150 Ski Hill Road
5 Breckenridge, Colorado 80424
6 Attn: Rick G. Holman, Town Manager
7 Telecopier number: (970)547-3104
8 Telephone number: (970)453-2251
9

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

11
12 Kirsten Crawford
13 Town Attorney
14

15 If intended for the County, to:

16
17 Board of the County Commissioners
18 P.O. Box 68
19 Breckenridge, Colorado 80424
20 County Manager's Office
21 Telephone number: (970)453-3401
22 Telecopier number: (970)453-3535
23

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

25
26 Jeffrey L. Huntley, Esq.
27 Summit County Attorney
28 P.O. Box 68
29 Breckenridge, Colorado 80424
30 Telephone number: (970)453-3407
31 Telecopier number: (970)454-3535
32

33 Any notice delivered by mail in accordance with this Section is effective on the third
34 business day after being deposited in any post office or postal box regularly maintained
35 by the United States Postal Service. Any notice delivered by telecopier in accordance
36 with this Section is effective upon receipt if concurrently with sending by telecopier
37 receipt is confirmed orally by telephone and a copy of said notice is sent by certified
38 mail, return receipt requested, on the same day to that intended recipient. Any notice
39 delivered by hand or commercial carrier is effective upon actual receipt. Either Party, by
40 notice given as above, may change the address to which future notices may be sent. E-
41 mail is not a valid method for the giving of notice under this Agreement.
42

43 20. Annual Appropriation.

- 1 A. Financial obligations of the Town under this Agreement payable after the
2 current fiscal year in which this Agreement is executed are contingent upon
3 funds for that purpose being appropriated, budgeted, and otherwise made
4 available by the Town Council of the Town of Breckenridge, Colorado.
- 5 B. Financial obligations of the County under this Agreement payable after the
6 current fiscal year in which this Agreement is executed are contingent upon
7 funds for that purpose being appropriated, budgeted, and otherwise made
8 available by the Board of County Commissioners of Summit County,
9 Colorado.
- 10 C. If the governing body of the either Party (the “**Non-Appropriating Party**”)
11 fails to appropriate and budget sufficient funds to pay the financial obligations
12 of the Non-Appropriating Party under this Agreement, this Agreement may be
13 terminated by either Party without penalty.
- 14 D. In the event of non-appropriation the Non-Appropriating Party will, upon
15 request of the other Party, execute, acknowledge, and deliver to the other
16 Party a deed conveying to the other Party all of the Non-Appropriating Party’s
17 right, title, and interest, of whatever kind or nature, in and to the Property. The
18 conveyance of the Property pursuant to this Subsection D will not be a waiver
19 of the Non-Appropriating Party’s rights under this Agreement. The provisions
20 of this Section D are specifically enforceable, and both Parties irrevocably
21 waive the right to challenge the enforceability of such specific performance
22 remedy.
- 23 E. Neither the Town’s nor the County’s obligations under this Agreement will
24 constitute a general obligation indebtedness or multiple year direct or indirect
25 debt or other financial obligation whatsoever within the meaning of the
26 Constitution or laws of the State of Colorado.
- 27 21. Governmental Immunity. The Parties are each relying on, and do not waive or intend to
28 waive by any provision of this Agreement, the monetary limitations of the Act, which
29 limitations are as of the date of this Agreement \$424,000 per person and \$1,195,000 per
30 occurrence, or any other limitation, right, immunity, defense or protection otherwise
31 available to the Town and the County, and their respective officers, representatives,
32 agents and employees.
- 33 22. Third Parties. This Agreement does not confer upon or grant to any third party any right
34 to claim damages or to bring suit, action, or other proceeding against either the Town or
35 the County because of any breach of this Agreement, or because of any of the terms,
36 covenants, agreements, and conditions contained in this Agreement.
- 37 23. Waiver. The failure of either Party to exercise any of its rights under this Agreement is
38 not a waiver of those rights. A Party waives only those rights specified in writing and
39 signed by either Party waiving its rights.

INTERGOVERNMENTAL AGREEMENT

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

4 25.24. Applicable Law. This Agreement is to be interpreted in all respects in accordance with
5 the laws of the State of Colorado.

6 26.25. Entire Agreement. This Agreement constitutes the entire agreement and understanding
7 between the Parties as to the subject matter of this Agreement, and supersedes any prior
8 agreement or understanding relating thereto.

9 27.26. Amendment. This Agreement may be modified or amended only by a duly authorized
10 written instrument executed by the Parties. No oral amendment or modification of this
11 Agreement is allowed.

12 28.27. Severability. If any of the provisions of this Agreement are declared by a final, non-
13 appealable judgment court of competent jurisdiction to be invalid, illegal, or
14 unenforceable in any respect, the validity, legality, and enforceability of the remaining
15 provisions of this Agreement will not in any way be affected or impaired thereby.

16 29.28. "Day" Defined. Unless specifically indicated to be a business day, the term "day" when
17 used in this Agreement means a calendar day. A "business day" is a day when the banks
18 in the Town of Breckenridge, Colorado are open for business.

19 30.29. Section Headings. Section and subsection headings are inserted for convenience only
20 and in no way limit or define the interpretation to be placed upon this Agreement.

21 31.30. Authority. The individuals executing this Agreement on behalf of each of the Parties
22 represent to the other Party that they have all requisite powers and authority to cause the
23 Party for whom they have signed to enter into this Agreement, and to bind such Party to
24 fully perform its obligations as set forth in this Agreement.

25 32.31. No Adverse Construction. Both Parties acknowledge having had the opportunity to
26 participate in the drafting of this Agreement. This Agreement is not to be construed
27 against either Party based upon authorship.

28 33.32. Incorporation of Exhibits. All exhibits referred to in this Agreement are attached to and
29 incorporated into this Agreement by reference.

30 34.33. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the Parties
31 and their respective successor governing boards.

32 35.34. Approval By Governing Boards or Other Authority. In accordance with Section 29-1-
33 203(1), C.R.S., this Agreement will not become effective unless and until it has been
34 approved by the governing bodies of both the Town and the County, or by such persons
35 as has the power to approve this Agreement on behalf of the Town and the County.

INTERGOVERNMENTAL AGREEMENT

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich
Town Clerk

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By: _____
Tamara Pogue, Chair

ATTEST:

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

EXHIBIT "A"
TO
INTERGOVERNMENTAL AGREEMENT
(LOGE-Wayside Inn)

Legal Description of the Property

A portion of land in Section 18, Township 6 South, Range 77 West of the 6th PM, Mining Claims containing approximately 1.81 acres, Braddock Placer M.S. # 13465, together with the well site and all appurtenant easements within the Riley Placer, M.S. #4713, Section 18, T. 6S. R. 77 W.; Lot 20 Ten Mile Vista Filing No. 2; and other lands all as described in Exhibit A, attached and incorporated herein.

Also known as: 0165 High Tor Road, Summit County, Colorado



Memo

To: Town Council

From: Town Attorney

Date: September 27, 2022

Subject: Resolution Finding the Annexation Petition for the Entrada Property is in Substantial Compliance with C.R.S. § 31-12-107 and Setting a Public Hearing on November 8, 2022 for the Purpose of Considering Annexation into the Town of Breckenridge

The applicant, Breckenridge Grand Vacations (“BGV”), proposes to annex and zone tracts of land in unincorporated Summit County Colorado known as the “Entrada” property due to its proximity to the entrance to the Town of Breckenridge. BGV has acquired the property in order to develop workforce housing residential units. The Entrada property is approximately 1.415 acres of currently undeveloped land. The entire land area proposed for annexation is 1.718 acres which is comprised of both Entrada property as well as Town and County owned property that will be needed for future Town right of way.

The Town has identified the property as appropriate for potential annexation within the municipality through the annual Three-Mile Plan. The applicant submitted an Annexation Petition with the Town Clerk on August 29, 2022, attached to the Resolution. The applicant has submitted the Annexation Petition in accordance with the provisions of the Municipal Annexation Act of 1965 (“the Act”), Title 31, Article 12, Part 1, C.R.S., for annexation of the subject property into the Town as described in the Petition. On September 13, 2022, the Town Clerk referred the Annexation Petition to the Town Council as a communication as provided by C.R.S. § 31-12-107(1)(f).

Staff recommends that the Town Council find and determine that the Annexation Petition is in substantial compliance with C.R.S. § 31-12-107(1) and approve the Resolution. Staff further recommends that Town Council set the public hearing date to be held on November 8, 2022 to consider the eligibility of the unincorporated land described in the Annexation Petition to be annexed into the Town, as provided by the state law.

1 RESOLUTION

2
3 SERIES 2022

4
5 **A RESOLUTION FINDING A PETITION FOR ANNEXATION OF 1.718 ACRES**
6 **OF UNDEVELOPED LAND KNOWN AS ENTRADA TO BE IN SUBSTANTIAL**
7 **COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND SETTING A**
8 **HEARING DATE OF NOVEMBER 8, 2022 FOR THE TOWN OF**
9 **BRECKENRIDGE TOWN COUNCIL TO CONSIDER THE ANNEXATION OF**
10 **THE AREA.**

11 WHEREAS, a Petition for Annexation of the hereinafter described real property has been
12 filed with the Town Clerk of the Town of Breckenridge, Colorado and is attached hereto as
13 **Exhibit A**; and

14 WHEREAS, the Petition has been referred to the Town Council of the Town of
15 Breckenridge, Colorado, for a determination of substantial compliance with the requirements of
16 Section 31-12-107(1), C.R.S.; and

17 WHEREAS, the Town Council has been advised by the staff, and has taken official
18 notice of all maps, records and other information and other materials on file with the Town of
19 Breckenridge, Colorado, regarding said petition.

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

22 **Section 1.** That the Town Council finds the Petition for Annexation, **Exhibit A** hereto, to
23 be in substantial compliance with Section 31-12-107(1), C.R.S.

24 **Section 2.** The Town Council hereby sets a public hearing on the Petition for
25 Annexation for November 8, 2022 at 7:00 P.M. or as soon thereafter as agenda permits, at the
26 Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado, for the purposes of
27 determining and finding whether the area proposed to be annexed meets the applicable
28 requirements of Sections 31-12-104 and 31-12-105, C.R.S., or such parts thereof and Section
29 30 of Article II of the Colorado Constitution, to determine the eligibility of the area for annexation
30 and to determine whether the area should be annexed to the Town of Breckenridge.

31 **Section 3.** The Town Clerk shall publish a Notice of Public Hearing once a week for
32 four successive weeks in a newspaper of general circulation in the area proposed to be
33 annexed, with the first publication of such notice to be at least thirty days prior to the date of the
34 hearing. The Town Clerk shall further provide notice to the Clerk of the Board of County
35 Commissioners of Summit County, the Summit County Attorney, and to any special district or
36 school district having territory within the area proposed to be annexed, in the manner and within
37 the time provided in Section 31-12-108(2), C.R.S.

38 **Section 4.** This resolution shall become effective upon its adoption.
39

40
41 RESOLUTION APPROVED AND ADOPTED THIS 27th DAY OF September 2022.
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ATTEST:

TOWN OF BRECKENRIDGE

Helen Cospolich, Town Clerk

Eric Mamula, Mayor

APPROVED IN FORM

Town Attorney

Date



AUG 29 2022

RECEIVED
Municipal Services

**ANNEXATION PETITION
TRACT A2, ENTRADA AT BRECKENRIDGE**

TO: THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO

The undersigned ("Petitioner"), in accordance with the Municipal Annexation Act of 1965 as set forth in C.R.S. § 31-12-101, *et seq.*, as amended and as in effect on the submission date set forth below (the "Annexation Act"), hereby petitions the Town Council of the Town of Breckenridge, Colorado (the "Council") to annex to the Town of Breckenridge (the "Town") certain unincorporated real property located in the County of Summit, State of Colorado, which property is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

As part of this petition, the Petitioner states to the Council that:

1. It is desirable and necessary that the Property be annexed to the Town.
2. The requirements of Sections 31-12-104 and 31-12-105 of the Annexation Act exist or have been met in that:
 - a. Not less than one-sixth of the perimeter of the Property proposed to be annexed is contiguous with the Town;
 - b. A community of interest exists between the Property and the Town;
 - c. The Property is urban or will be urbanized in the near future;
 - d. The Property is integrated with or is capable of being integrated with the Town;
 - e. In establishing the boundaries of the Property, no land which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - (i) is being divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a dedicated street, road, or other public way;
 - (ii) comprises twenty acres or more (which, together with the buildings and improvements situated thereon, has an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation), and has been included within the Property to be annexed without the written consent of the landowner or landowners;

- f. No annexation proceedings have been commenced for any portion of the Property for the annexation of such Property to another municipality;
 - g. The annexation of the Property will not result in the detachment of area from any school district;
 - h. The annexation of the Property will not have the effect of extending the boundary of the Town more than three miles in any direction from any point of the boundary of the Town in any one year;
 - i. The Property is approximately 1.718 acres in total area;
 - j. Pursuant to Section 31-12-105(1)(e) of the Annexation Act, prior to completion of the annexation of the Property, a plan will be in place that generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the Town; and the proposed land uses for the area; such plan to be updated at least once annually;
 - k. In establishing the boundary of the Property, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the Property to be annexed, and reasonable access will not be denied to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town, but is not bounded on both sides by the Town; and
 - l. The proposed annexation is less than ten acres, and therefore an annexation impact report is not required pursuant to Section 31-12-108.5 of the Annexation Act.
3. Petitioner comprises more than fifty percent (50%) of the landowners in the Property and owns more than fifty percent (50%) of the Property, exclusive of public streets and alleys and any land owned by the Town, and has signed this petition and hereby petitions for annexation of such Property to the Town. The legal description of the portion of the Property owned by each Petitioner is set forth on Exhibit B attached hereto and incorporated herein by reference.
 4. The Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for incorporation or annexation of an area that is part or all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition.

5. Accompanying this petition are four copies of an annexation map containing the following information:
 - a. A written legal description of the boundaries of the Property;
 - b. A map showing the boundary of the Property;
 - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and
 - d. Next to the boundary of the Property, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the Property, and a showing of the dimensions of such contiguous boundaries.

6. Upon the annexation ordinance becoming effective, all of the Property will become subject to all ordinances, resolutions, rules, and regulations of the Town, except for general property taxes of the Town, which shall become effective on January 1 of the next succeeding year following adoption of the annexation ordinance.

7. Petitioner has filed this petition subject to, and the consent to annexation of the Property to the Town is conditioned upon, satisfaction of the following conditions, any one or more of which may be waived by Petitioner in Petitioner's sole discretion:
 - a. Concurrently with the Town's approval of annexation of the Property, Petitioner requests that the Town (i) approve zoning for the Property that is substantially consistent with the request for zoning that Petitioner submits in connection with this petition; and (ii) execute an annexation agreement on terms and conditions mutually acceptable to Petitioner and the Town (the "Annexation Agreement") which establishes the terms and conditions under which Petitioner has agreed to annex the Property to the Town, which further shall include vested rights for the Property for a term specified in the Annexation Agreement, pursuant to C.R.S. § 24-68-101, *et seq.*, as amended.

 - b. Petitioner hereby reserves for itself the sole, exclusive and unilateral right to withdraw this petition by so notifying the Clerk of the Town in writing at any point prior to the latest to occur of: (i) the latest final, non-appealable approval of the final ordinance(s) or other final approval(s) approving (A) annexation of the Property; (B) zoning of the Property; and (C) the Annexation Agreement as requested by this petition; (ii) final, non-appealable resolution of any "Legal Challenge" (defined below); or (iii) any later date as may be set forth in the Annexation Agreement. For purposes of this petition, "Legal Challenge" means either: (i) any third party commences any legal proceeding or other action that directly or indirectly challenges the annexation of the Property, the Annexation Agreement, the

approved zoning of the Property or any of the Town's ordinances, resolutions or other approvals approving any of the foregoing; or (ii) any third party submits a petition for a referendum seeking to reverse or nullify any of such ordinances.


- c. Prior to expiration of the period described in the foregoing subparagraph (b) without Petitioner having withdrawn the petition, neither Petitioner nor the Town shall cause or permit the occurrence of the conditions to effectiveness of the annexation as set forth in CRS 31-12-113(2)(b).

THEREFORE, Petitioner requests that the Council complete and approve the annexation of the Property to the Town pursuant to the provisions of the Annexation Act.

Respectfully submitted this 29 day of AUGUST, 2022.

PETITIONER:

BGV Partners Entrada LLC,
a Colorado limited liability company

By: 

Name: Michael A. Dudick

Title: Manager

Date of Signature: August 26, 2022

Address:

100 S. Main Street, Breckenridge, CO 80424
Street Number, Street Name, City, State and Zip Code

Is Petitioner a resident of the Property?: No.

NOTARY CERTIFICATE

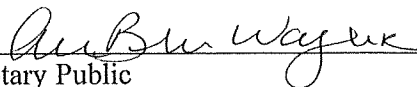
STATE OF Colorado)
) ss.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 26 day of August, 2022 by Michael A. Dudick as Manager of BGV Partners Entrada LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires on: 4/22/2026

(SEAL)


Notary Public

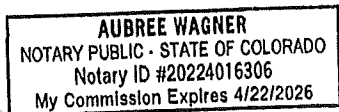


EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

TRACT A2, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781.

CONTAINING A TOTAL OF 61,655 SQUARE FEET OR 1.415 ACRES.

TRACT D, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781.

CONTAINING A TOTAL OF 255 SQUARE FEET OR 0.006 ACRE.

A PORTION OF TRACT C, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S21°49'20"W A DISTANCE OF 14.17 FEET; THENCE N77°04'50"W A DISTANCE OF 211.57 FEET; THENCE 25.30 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 14.00 FEET, A CENTRAL ANGLE OF 103°32'57" AND A CHORD WHICH BEARS N51°08'42"E 22.00 FEET DISTANT; THENCE S77°04'50"E A DISTANCE OF 149.62 FEET; THENCE 12.24 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 62.00 FEET, A CENTRAL ANGLE OF 11°18'36". AND A CHORD WHICH BEARS S71°25'32"E 12.22 FEET DISTANT; THENCE S65°46'14"E A DISTANCE OF 19.70 FEET; THENCE 9.61 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A CENTRAL ANGLE OF 11°28'05" AND A CHORD WHICH BEARS S71°30'16"E 9.59 FEET DISTANT; THENCE S77°04'50"E A DISTANCE OF 20.77 FEET TO THE POINT OF BEGINNING, CONTAINING 4,047 SQUARE FEET, OR 0.093 ACRE MORE OR LESS.

A PORTION OF HURON ROAD, CO. RD. NO. 450, SUMMIT COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S21°49'20"W A DISTANCE OF 14.17 FEET TO THE POINT OF BEGINNING; THENCE S21°49'20"W A DISTANCE OF 43.73 FEET; THENCE N77°04'50"W A DISTANCE OF 189.05 FEET; THENCE N18°50'53"W A DISTANCE OF 50.82 FEET; THENCE N77°04'50"W A DISTANCE OF 211.57 FEET TO THE POINT OF BEGINNING, CONTAINING 8,891 SQUARE FEET OR 0.204 ACRE MORE OR LESS.

EXHIBIT B
LEGAL DESCRIPTION OF THE PROPERTY OWNED BY PETITIONER

TRACT A2, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C,
ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE
PLAT RECORDED UNDER RECEPTION NO. 1146781.

CONTAINING A TOTAL OF 61,655 SQUARE FEET OR 1.415 ACRES.

AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and says:

That he was the circulator of the foregoing Annexation Petition of lands to the Town of Breckenridge, Colorado, consisting of 7 pages, including this page and that each signature thereon was witnessed by your affiant and is the true signature of the person whose name it purports to be.

Samuel Thomas Dudick

Samuel Thomas Dudick, Circulator

ACKNOWLEDGMENT

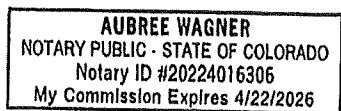
STATE OF Colorado)
) ss.
COUNTY OF Summit)

The above and foregoing Affidavit of Circulator was subscribed and sworn to before me this 26 day of August, 2022.

Witness my hand and official seal.

My commission expires on: 4/22/2026

(SEAL)



Aubree Wagner
Notary Public

100 S. Main Street
Address

Breckenridge, CO 80424

Affidavit of Circulator of
Annexation Petition

SPECIAL WARRANTY DEED

Recording requested by
and when recorded please return to:

BGV Partners Entrada LLC
P.O. Box 6879 Breckenridge, CO 80424
Attention: Graham Frank

THIS SPECIAL WARRANTY DEED is made this 13th day of April, 2022, by SPRING CREEK INTEREST, LLC, a Colorado limited liability company ("Grantor"), in favor of BGV PARTNERS ENTRADA LLC, a Colorado limited liability company ("Grantee"), which has an office at 100 S. Main Street, Breckenridge, CO 80424.

WITNESSETH, that Grantor, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, its successors and assigns forever, all the real property, together with improvements, located in the County of Summit, State of Colorado, more particularly described on Exhibit 1, attached hereto and incorporated herein by this reference (the "Property");

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of Grantor, either in law or equity, of, in and to the Property, including, without limitation, the coal, oil, gas and related rights, mineral and mineral rights, ditch and ditch rights, drain and drainage rights, and reservoir and reservoir rights, if any, but excluding water, water rights, well and well rights owned by Seller, if any;

The Grantor shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof BY, THROUGH OR UNDER Grantor, subject only to the "Statutory Exceptions" as defined in §38-30-113(5)(a), C.R.S.

[Signature Page Immediately Follows]

Exhibit 1 to Deed

LEGAL DESCRIPTION

TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE,
ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781,
COUNTY OF SUMMIT, STATE OF COLORADO.

IN WITNESS WHEREOF, Grantor has caused its name to be hereunto subscribed on the day and year first above written.

GRANTOR:

SPRING CREEK INTEREST, LLC, a
Colorado limited liability company

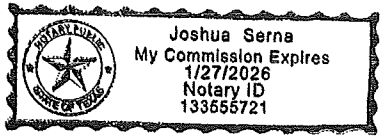
By: *Martin V. Getz*
Martin V. Getz, Manager

STATE OF Texas)
COUNTY OF Montgomery) ss.

The foregoing instrument was acknowledged before me this 11th day of April, 2022, by Martin V. Getz, as Manager of Spring Creek Interest, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.
My commission expires: 1/27/2026

Joshua Serna
Notary Public



GRANT OF EASEMENTS AND COVENANTS

THIS GRANT OF EASEMENTS AND COVENANTS (“Grant”) is made this 13th day of April, 2022 by and between BGV PARTNERS ENTRADA LLC, a Colorado limited liability company (“Grantor”) and CR 450 HOLDINGS, LLC, a Colorado limited liability company (“Grantee”).

RECITALS

A. Grantor is the sole owner in fee simple of certain real property in Summit County, Colorado described as:

TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE, ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781, COUNTY OF SUMMIT, STATE OF COLORADO,

hereinafter “Tract A2” or the “Burdened Property.”

B. Grantee is the sole owner in fee simple of certain real property in Summit County, Colorado described as:

TRACT B2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE, ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781, COUNTY OF SUMMIT, STATE OF COLORADO,

hereinafter “Tract B2” or the “Benefitted Property.”

C. Grantor purchased Tract A2 from Spring Creek Interest, LLC, a Colorado limited liability company (“Spring Creek”), an entity affiliated with Grantee, under the terms of the Purchase and Sale Agreement dated March 14, 2022, by and between Spring Creek, as Seller, and Grantor, as Buyer, and as part of the consideration given to Spring Creek for the purchase, agreed to grant certain easements and covenants for the benefit of Tract B2.

D. The Subdivision Exemption Plat of a Replat of Tracts A1 and B1 and C, Entrada at Breckenridge, recorded on July 24, 2017 at Reception No. 1146781 with the Summit County Clerk and Recorder shall hereinafter be referred to as the “Plat.”

AGREEMENT

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants, and restrictions are made:

EASEMENTS

1. Grant of Easements. The Grantor hereby grants to the Grantee, its successors and assigns, the following perpetual easements:

(a) Sign Utility Easement. A non-exclusive twenty (20) foot easement for the operation, maintenance, repair, and replacement of existing water lines and utilities from Tract B2 to the "10' x 20' Sign Easement" on Tract A2 as reflected on the Plat (the "Existing Sign Easement") and surrounding landscaping to and for the benefit of Tract B2 in the same location as the twenty (20) foot private sewer easement crossing Tract A2 as reflected on the Plat (the "Sign Utility Easement");

(b) Sign Landscaping Easement. An exclusive easement surrounding the Existing Sign Easement to maintain and replace, if necessary, the landscaping currently existing thereon, as depicted on **Exhibit A**, attached and incorporated herein by reference, and to plant new or additional landscaping of a similar nature and type, as agreed upon by Grantor and Grantee, or as otherwise mandated by any governmental entity (the "Sign Landscaping Easement"). Specifically, the Sign Landscaping Easement shall be as large as required to maintain landscaping around the sign within the Existing Sign Easement (the "Sign") under the Entrada at Breckenridge Planned Unit Development Designation (the "Entrada PUD") or the Entrada at Breckenridge Planned Unit Development (PUD) Sign Program (the "Entrada PUD Sign Program") and any future modifications to these documents by the Grantor or Grantee, or as otherwise mandated by any government authority to ensure that Grantee is in compliance with all requirements but shall, at a minimum, extend ten (10) feet beyond the Existing Sign Easement in all directions;

(c) Sign Access Easement. A non-exclusive easement for access from Tract B2 over, through and across Tract A2 to the Existing Sign Easement, the Sign Utility Easement and the Sign Landscaping Easement for maintenance and landscaping purposes, including, but not limited to, pedestrian and vehicular easement necessary to maintain or replace signage, irrigation, lighting or other utility systems, and/or landscaping as reasonably determined by Grantee and/or as required by any government entity, under the Entrada PUD Sign Program or the Entrada PUD, and/or the Summit County sign permit for the Tenant Directory Sign located on or near the Existing Sign Easement (the "Sign Access Easement");

(d) Gate Easement. An exclusive easement to operate, maintain, repair and replace the existing metal gate and associated keypad for the southwestern entrance to Tract B2, the location of which is depicted on **Exhibit A** attached hereto, and the electrical power lines necessary for the gate (collectively, the "Gate Easement"). The Gate Easement shall include the right by Grantee at its sole discretion to replace the existing gate with a new gate of similar size and character and the right to place on the Burdened Property any keypad or other access or security devices needed to operate the gate, which devices shall be located in a manner as to minimize the impact on the Burdened Property while maintaining functionality for Grantee.

Grantor hereby acknowledges that the Gate Easement may not be relocated without prior approval of Grantee; and

(e) Access Easement. Grantee shall have a non-exclusive general vehicular easement over, across and through Tract A2 that follows the flow of traffic established under Grantor's development plan for Tract B2 such that the Benefitted Property has access across Tract A to Colorado State Highway No. 9 and Huron Road, County Road No. 450, from both the northwest corner of Tract B2 and the southwest corner of Tract B2.

(f) Fence Access Easement. A non-exclusive easement for access over, through and across Tract A2 to the wood fence on the property line between Tracts A2 and Tract B2 shown on attached **Exhibit A** (the "Fence") for maintenance purposes, including, but not limited to, pedestrian and vehicular access as necessary to maintain, repair or replace the Fence, with all costs to be borne by Grantee, with vehicular access to be limited to paved areas once Tract A2 is developed.

GRANTOR COVENANTS

2. Covenants of Grantor. Grantor hereby agrees to be bound by the following representations and covenants for the benefit of Tract B2:

(a) Noninterference with Use and Rights of the Benefitted Property. Development of Tract A2, modifications to the Entrada PUD Sign Program or CDOT Access Permit and any related improvements or agreements, or any other modifications to existing and future agreements affecting both Tract A2 and Tract B2, and the future annexation and development agreements with the Town of Breckenridge, or any other use of Tract A2 shall not affect the use or rights of Tract B2 as they currently exist as of the date of this Grant;

(b) Modification of Grantee's Sewer Connection and Easement. In conjunction with the development of Tract A2, Grantor shall provide a new connection for Grantee's sewer line serving Tract B2 that meets all governmental requirements, with all costs to be borne by Grantor. Grantor further agrees that any sewer line connection work shall be undertaken in an expeditious manner and in such a way as to minimize the inconvenience to and interruption of sewer services for Grantee. If the location of the connection and/or Grantee's sewer line as relocated lies outside of the twenty (20) foot private sewer easement crossing Tract A2 as shown on the Plat (the "Sewer Easement"), Grantor will provide a new or expanded sewer easement for the sewer line connection and line to Tract B2 that meets governmental requirements and bear all costs associated with such obligation;

(c) Government Mandated Modification or Alteration of the Easements. In the event any governmental authority requires the relocation or modification of any of the easements granted herein or reflected on the Plat and for the benefit of the Benefitted Property (collectively, the "Easements") or relocation of the bus stop, by, among other means, condemning a portion of the Burdened Property or through any approval process, including without limitation modification of the existing agreements with the Town of Breckenridge

concerning the Burdened Property or any existing approvals or permits issued by Summit County Government, Grantor shall, at its sole cost, provide substitute easements of same size and quality and as close to the location of the Easements as they currently exist, reconnect any and all utilities, water, and sewer for the Benefitted Property and the Sign and landscaping affected by this relocation or modification in as expeditious a manner as possible, ensure the Sign has the same visibility from both directions of Highway 9 and is not blocked by new landscaping, improvements or other conditions, and will install the Sign in its new location and replace any landscaping surrounding the Sign as required for Grantee to meet the requirements of the Entrada PUD Sign Program. Any responsibility for and costs associated with government mandated modification of the Entrada PUD Sign Program or any other existing agreements governing the sign as a result of development of the Burdened Property shall be borne by the Grantor.

(d) Landscaping and Lighting between Properties. Grantor shall remove the landscaping and lighting existing along the eastern border of Tract A2 as shown on attached **Exhibit A**, and associated irrigation and power lines, within 90 days of the date of this Grant.

FURTHER, the parties hereto mutually covenant and agree as follows:

3. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Burdened Property, including, without limitation, the right to engage in or permit or invite others to engage in all uses of the Burdened Property that are not expressly prohibited herein and are not inconsistent with the purposes of this Grant.

4. Enforcement. Grantee shall have the right to prevent and correct or require correction of violations of the terms of this Grant. Grantee may enter the Burdened Property for the purpose of inspecting for violations. If Grantee finds what it believes is a violation, Grantee shall immediately notify Grantor in writing of the nature of the alleged violation. Upon receipt of such written notice, Grantor shall either (a) restore the Burdened Premises to its condition prior to the violation or (b) provide a written explanation to Grantee of the reason why the alleged violation should be permitted. If the condition described in clause (b) above occurs, both parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity which could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute within forty-five (45) days, Grantee may, at its discretion, take appropriate legal action. Notwithstanding any agreement to meet or mediate hereunder, when, in Grantee's opinion, an ongoing or imminent violation could irreversibly diminish or impair Grantee's rights, Grantee may, at its discretion take appropriate legal action. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may get an injunction to stop it, temporarily or permanently. A court may also issue an injunction to require Grantor to restore the Burdened Premises to its condition prior to the violation.

5. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Grant against Grantor, including, without limitation, costs of suit and attorneys' fees, and

any costs of restoration necessitated by Grantor's violation of the terms of this Grant shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Grant, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

6. Grantee's Discretion. Enforcement of the terms of this Grant shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Grant, in the event of any breach of any term of this Grant by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Grant or of any of Grantee's rights under this Grant. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor, shall impair such right or remedy or be construed as a waiver.

7. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

8. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Burdened Property, including the maintenance of adequate comprehensive general liability insurance coverage.

9. Subsequent Transfers. Grantor agrees to incorporate by reference the terms of this Grant in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Burdened Property, including, without limitation, a leasehold interest. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Grant or limit its enforceability in any way.

10. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and must be provided by one of the following methods: (i) certified mail in the United States mail, postage prepaid, return receipt requested, or Federal Express to the address of Grantor or Grantee set forth below; (ii) by hand or other in-person delivery to the Grantor or Grantee; or (iii) via email to the email address(es) set forth below. Notice via email shall be deemed to have been received when the recipient, by an email, acknowledges having received or otherwise responds to the notice email. Notice shall be provided as follows:

To Grantor:

BGV Partners Entrada LLC
 100 S. Main Street
 P.O. Box 6879 Breckenridge, CO 80424
 Attention: Graham Frank and Nick Doran
 Telephone: (303) 517-0419
 Email: gfrank@breckenridgegrandvacations.com
ndoran@breckenridgegrandvacations.com

To Grantee:

CR 450 Holdings, LLC
 137 Lake View Circle
 Montgomery, TX 77356-9028
 Attn: Martin V. Getz
 Email: mvgetz@yahoo.com

or to such other address as either party from time to time shall designate by written notice to the other.

11. Recordation. This Grant shall be recorded by Grantor in the records of the Summit County, Colorado Clerk and Recorder within five (5) days of the date of execution by all parties.

12. Plat Easements. Nothing in this Grant affects, restricts or modifies the easements and rights established for the benefit of Tract B2 by the dedications on the Plat over, under, through, and across Tract A2, which easements and rights (the "Plat Easements") cannot be changed without the consent of the owner of Tract B2. The Easements granted hereunder provide additional rights for the Benefitted Property beyond than those established by the Plat. For ease of reference only, and without having any bearing on the easements as established by the Plat, the Plat Easements are shown on **Exhibit A**.

13. General Provisions.

(a) Controlling Law. The interpretation and performance of this Grant shall be governed by the laws of the State of Colorado.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Grant shall be liberally construed to effect the purpose of this Grant. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Grant that would render the provision valid shall be favored over any interpretation that would render it invalid. Both parties acknowledge having had the opportunity to participate in the drafting of this Grant and, therefore, this Grant shall not be construed against either party based upon authorship.

(c) Severability. If any provision of this Grant, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Grant, or the application of such provision to persons or circumstances other than those as to which it found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This Grant sets forth the entire agreement of the parties with respect to the matters addressed herein and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Grant, all of which are merged herein.

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors. The covenants, terms, conditions, and restrictions of this Grant shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Burdened Property in favor of the Benefitted Property.

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

(h) Amendment. If the circumstances arise under which an amendment to or modification of this instrument would be appropriate, Grantor and Grantee are free to jointly amend this Grant, provided that any amendment must be in writing, signed by both parties and recorded in the records of the Clerk and Recorder of Summit County, Colorado.

[Signature Pages Follow]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Grant of Easements and Covenants as of the day and year first above written.

GRANTOR:

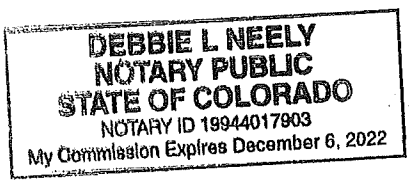
BGV PARTNERS ENTRADA LLC,
a Colorado limited liability company

By: [Signature]
Name: MIKE DUDAS
Title: MANAGER

STATE OF Colorado
COUNTY OF Summit ss.

The foregoing instrument has been acknowledged before me this 13th day of April, 2022 by Michael A. Dudick as manager of BGV Partners Entrada LLC, Grantor.

WITNESS my hand and official seal,
My commission expires: 12/6/22

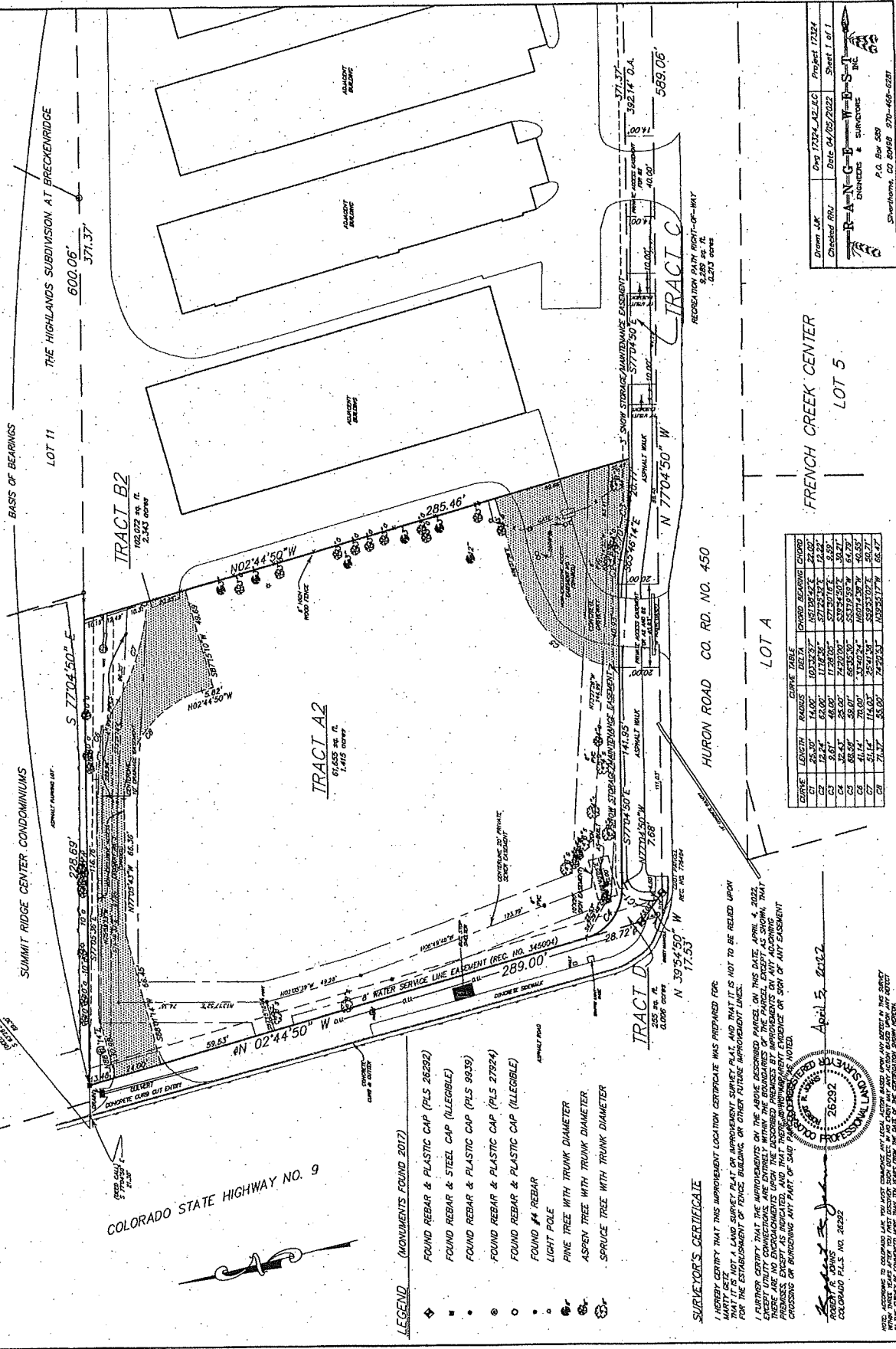
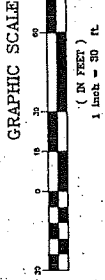


[Signature]
Notary Public

EXHIBIT A

[See attached Improvement Location Certificate for Tract A2, Entrada at Breckenridge, dated April 5, 2022, completed by Range West Inc.]

AN IMPROVEMENT LOCATION CERTIFICATE FOR TRACT A2, ENTRADA AT BRECKENRIDGE SUMMIT COUNTY, COLORADO



LEGEND (MONUMENTS FOUND 2017)

- ◆ FOUND REBAR & PLASTIC CAP (PLS 26292)
- FOUND REBAR & STEEL CAP (ILLEGIBLE)
- FOUND REBAR & PLASTIC CAP (PLS 9939)
- FOUND REBAR & PLASTIC CAP (PLS 27924)
- FOUND REBAR & PLASTIC CAP (ILLEGIBLE)
- FOUND #4 REBAR
- LIGHT POLE
- PINE TREE WITH TRUNK DIAMETER
- ASPEN TREE WITH TRUNK DIAMETER
- SPRUCE TREE WITH TRUNK DIAMETER

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR MARY PETERSON, A LAND SURVEYOR, BY ME OR AN EMPLOYEE OF MY FIRM, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDINGS, OR OTHER FUTURE IMPROVEMENT LINES.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, APRIL 5, 2022, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN. THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PARCELS BY IMPROVEMENTS ON THE PART OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCELS OR OTHERWISE NOTED.

[Signature]
 COLORADO PLS NO. 26292
 APRIL 5, 2022
 PROFESSIONAL LAND SURVEYOR

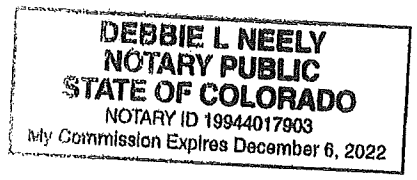
| CURVE | LENGTH | RADIUS | DELTA | CHORD BEARING | CHORD |
|-------|--------|---------|------------|---------------|--------|
| C1 | 25.30' | 14.00' | 103°32'37" | N57°34'42"E | 22.00' |
| C2 | 19.24' | 68.00' | 171°30'39" | S71°30'11"E | 9.88' |
| C3 | 28.24' | 25.00' | 74°20'00" | S33°24'50"E | 30.67' |
| C4 | 68.84' | 39.00' | 65°32'50" | S53°12'52"W | 64.79' |
| C5 | 41.14' | 76.00' | 33°32'24" | N69°14'39"W | 40.89' |
| C6 | 51.14' | 114.00' | 29°32'51" | N43°23'11"W | 65.47' |

Drawn LRF
 Directed DRJ
 Date 04/05/2022
 Project 17324
 Sheet 1 of 1
 W-E-S-J
 Checkers & Surveyors
 P.O. Box 589
 Steamboat, CO 80468 970-468-6231

JOINDER OF LIENOR

The undersigned, beneficiary under the Deed of Trust dated _____, and recorded _____, at Reception No. _____ in the Office of the Clerk and Recorder of Summit County, Colorado, as amended and supplemented from time to time (the "Deed of Trust"), for itself and its successors and assigns, approves the foregoing Grant of Easements and Covenants affecting the Burdened Property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to the Deed of Trust shall impair, invalidate, supersede or otherwise affect this Grant of Easements and Covenants.

FIRSTBANK, a Colorado state banking Corporation



By: [Signature]
Title: Executive Vice President
Date: 4/14/2022 4/13/2022
PM

STATE OF COLORADO)
) ss.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 13th day of April, 2022, by Braden Mcmillan Executive Vice President of Firstbank.

WITNESS my hand and official seal.
My commission expires: _____.

[Signature]
Notary Public

AUTHORIZATION TO ACT AS REPRESENTATIVE

BGV PARTNERS ENTRADA LLC, a Colorado limited liability company (together with its affiliates, the "Owner"), owner of Tract A2 of the certain real property legally described on the attached Exhibit A (the "Property") hereby authorizes OTTEN JOHNSON ROBINSON NEFF & RAGONETTI, P.C., a Colorado professional corporation, to act as the Owner's agent and representative in all matters pertaining to the Owner's applications to the Town of Breckenridge (the "Town") for the annexation and zoning of the Property (the "Applications"). This authorization will expire by its own terms upon the successful approval of the Applications by the Town, or upon the written termination of this instrument by the Owner.

OWNER:

BGV PARTNERS ENTRADA LLC, a Colorado limited liability company

By: MAD
Name: MICHAEL A. DUDICK
Title: MEMBER
Date of Signature: 8/26/22

STATE OF Colorado)
) ss.
COUNTY OF Summit)

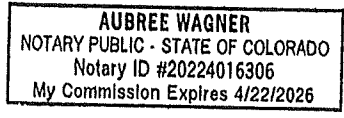
The foregoing instrument was acknowledged before me this 26 day of August, 2022 by Michael A. Dudick as Manager of BGV Partners Entrada LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires on: 4/22/2024

(SEAL)

Aubree Wagner
Notary Public



**EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY**

TRACT A2, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781.

CONTAINING A TOTAL OF 61,655 SQUARE FEET OR 1.415 ACRES.

TRACT D, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781.

CONTAINING A TOTAL OF 255 SQUARE FEET OR 0.006 ACRE.

A PORTION OF TRACT C, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S21°49'20"W A DISTANCE OF 14.17 FEET; THENCE N77°04'50"W A DISTANCE OF 211.57 FEET; THENCE 25.30 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 14.00 FEET, A CENTRAL ANGLE OF 103°32'57" AND A CHORD WHICH BEARS N51°08'42"E 22.00 FEET DISTANT; THENCE S77°04'50"E A DISTANCE OF 149.62 FEET; THENCE 12.24 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 62.00 FEET, A CENTRAL ANGLE OF 11°18'36". AND A CHORD WHICH BEARS S71°25'32"E 12.22 FEET DISTANT; THENCE S65°46'14"E A DISTANCE OF 19.70 FEET; THENCE 9.61 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A CENTRAL ANGLE OF 11°28'05" AND A CHORD WHICH BEARS S71°30'16"E 9.59 FEET DISTANT; THENCE S77°04'50"E A DISTANCE OF 20.77 FEET TO THE POINT OF BEGINNING, CONTAINING 4,047 SQUARE FEET, OR 0.093 ACRE MORE OR LESS.

A PORTION OF HURON ROAD, CO. RD. NO. 450, SUMMIT COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S21°49'20"W A DISTANCE OF 14.17 FEET TO THE POINT OF BEGINNING; THENCE S21°49'20"W A DISTANCE OF 43.73 FEET; THENCE N77°04'50"W A DISTANCE OF 189.05 FEET; THENCE N18°50'53"W A DISTANCE OF 50.82 FEET; THENCE N77°04'50"W A DISTANCE OF 211.57 FEET TO THE POINT OF BEGINNING, CONTAINING 8,891 SQUARE FEET OR 0.204 ACRE MORE OR LESS.



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: September 21, 2022
Subject: Planning Commission Decisions of the September 20, 2022 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, September 20, 2022:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS:

1. 301 N. Main Street Change of Use, 301 N. Main Street, PL-2022-0425

A proposal to convert 272 sq. ft. of the Watson House from office to restaurant use, and convert the McMenemy House from retail use to a beer taproom. The proposal includes a deviation from the employee housing mitigation rates specified by Policy 24 (Absolute) Social Community. *Called up and approved.*

2. Long Residence Solar, 213 S. French Street, PL-2022-0391

A proposal to install a flush-mounted solar array on the non-primary elevations of a non-historic residence. *Approved.*

TOWN PROJECT HEARINGS: None.

OTHER: None.



NOT TO SCALE

Breckenridge South



301 N. Main Street
Change of Use

Long Residence
Solar, 213 S.
French Street

PLANNING COMMISSION MEETING

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

ROLL CALL

| | | | |
|-----------------------------|--------------|---------------|--------------------------------|
| Mike Giller - absent | Mark Leas | George Swintz | Allen Frechter - absent |
| Tanya Delahoz | Ethan Guerra | Steve Gerard | |

APPROVAL OF MINUTES

With no changes, the September 6, 2022 Planning Commission Minutes were approved.

APPROVAL OF AGENDA

With the below changes, the September 20, 2022 Planning Commission Agenda was approved:

A discussion to recap the September 15 Planning Commission Field trip to Leadville and Buena Vista was added prior to the Materials Policy 5R work session.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No public comments.

CONSENT CALENDAR:

1. 301 N. Main Street Change of Use (MT), 301 N. Main Street, PL-2022-0425

Mr. Gerard made a motion to call up the 301 N. Main Street Change of Use, seconded by Mr. Swintz. The motion passed 5 to 0 and the project was called up.

Commissioner Questions / Comments:

Mr. Truckey: I just wanted to give an update. At the June 21 meeting the applicant was able to demonstrate to the satisfaction of the Planning Commission that the proposed Tap House use was not going to require the number of employees that our employee housing mitigation formula would require in policy 24A for a “restaurant use”. The reason for that was because the Tap House operates differently, at least in this situation, than a restaurant where you got full food service. So it's much more bare bones in terms of the employees needed for pouring beer. The Commission supported that as well as you thought that expanding Pho Real into 270 additional square feet of office space in the adjacent Watson House for the Pho Real was not going to change the number of employees required. What was outstanding after that meeting was coming back with language that would condition this approval. The Planning Commission was concerned about that in terms of ensuring that in the future this employee count is not exceeded. Businesses can morph over time and if it became full food service, how would we address that? So we have addressed that in the conditions of approval. The staff report documents what the employee mitigation requirements would have been and then backs that down to essentially what the Planning Commission agreed to. At the meeting, regarding the McMenamy House, where the Tap House is proposed, we heard from the applicant is that they would need only three employees, the equivalent of three FTEs. However, the existing use, the retail use, has a employee generation of up to 3.5 employees. So that's what's included in here because 3.5 employees is what they are already allowed to have in that space. If they were to change the use to something more employee-intensive than that one, the employee count could change. The condition recognizes the 15.2 employees at the Watson House and 3.5 at the McMenamy House. The property owner has to submit annual reports that outlines the number of employees

in both businesses and the Town has the ability to audit that. Annual reports need to be prepared to the satisfaction of the Town. We have the ability to audit the business and ask for additional documentation if we need it. We have remedies if we find some inconsistencies there. Staff is recommending approval of the change of use, with conditions, as it carries through everything that was discussed previously with the Commission. We also addressed the water plant investment fees along with parking fees in the conditions. Ed Bello, the owner will be on the hook for paying for those fees. So anyway, I'd be glad to answer any questions, but I just wanted to point out to you the findings and conditions that have addressed these issues.

Mr. Gerard: Mark, the applicant is on board for all of the conditions that the department is requesting? (Mr. Truckey: Correct.) (Mr. Ed Bello, Applicant: Yes.)

Mr. Swintz: I had a couple things just for me to understand. It is a change of use, so it is running with the land, not with the business? Or is it the other way around? (Mr. Truckey: Well, this is specific to these businesses in terms of the changes in the intensity of use. If the use intensity changed, we'd be back having this discussion again.) Okay. And are they bifurcated by structure, so if one is not in compliant and the other one is that you're only dealing with this one that's uncompliant? (Mr. Truckey: Yeah, we tried to do that on purpose. We had talked with the applicant about just having a pool of employees that are available for all these buildings, but staff did not support that because that is going to create a whole another series of headaches for us in terms of monitoring and enforcement. Think of La Cima Mall, for example, which is all under one ownership, if we had that kind of model. So we definitely wanted to keep the requirements per business.)

Mr. Bob Gregory, Attorney for Applicant:

I think the way that I would answer the question is it is specific to the buildings themselves because we are talking about the Watson House and the McMenemy House, as Mark put in his report. The Watson House basically has 15.2 employees that it is allowed under policy 24A and then the McMenemy House has 3.5 employees allowed under 24A. The business that operates within those structures doesn't necessarily matter. I mean, obviously, the businesses may change hands, not the use changes. So if somebody came in and operated a different tap house in the McMenemy House, there is no change in the use under those circumstances. It is really the change of use is what triggers it, whether or not there's a different business in that structure. Am I right, Mark. (Mr. Truckey: Correct.)

Mr. Gerard: And also, Bob, what would result if the tap house decided to become a full service restaurant in addition to a tap house?

Mr. Gregory: I think we have alleviated the Town's concerns in that regard. Obviously there are a whole host of things that would have to happen in order for a tap house to become a restaurant. And if anybody is actually familiar with McMenemy house, if you walked in there, it's a pretty bare bones building right now. Pretty old bare bones building, there is no kitchen in there. I mean, you would have to install a full kitchen. So there's a number of permits that have to be applied for and it would be obvious if the use is going to be changing from you know a tap house where beers are being poured to a facility where foods being prepared and that's why if you see in the conditions of approval, we did include in there that no food can be prepared in the McMenemy House. It can be sold. If it's prepared, somebody else is preparing it somewhere else. The real labor intensive process is obviously if you're preparing and serving food in the facility it's going to trigger that the use has changed under those circumstances.

Mr. Swintz: My last question, is the math on the 3.5 employees based on a 40 hour week. That means that they can have three employees working 40 hours and then one employee

working 20 hours and you're going to bifurcate. (Mr. Truckey: Yes, or they could have seven employees working 20 hours, however.) Yes, Okay.

Mr. Gregory: Obviously those of you that are familiar with the labor force in Breckenridge, lots of people have two or three or four jobs and so we wanted to make sure that somehow, the way that employees were being counted captured that reality.

PUBLIC COMMENT:
No public comment.

Commissioner Questions / Comments:

Mr. Swintz: I think Staff did a good job. I would recommend approval.

Mr. Gerard: It was a really interesting issue. I think, fortunately, most of us had some idea of the reality of both of these businesses and how they operated, and it kind of pointed out the problems with a one size fits all policy when you drill it down to the actual efforts on the ground. So I think it is an excellent resolution. We have a way for these businesses to do what they wanted to do and keep it that way unless they change, so I support the application.

Mr. Leas: I appreciate staff working hard with the businesses to work out all the details and seems like you listened to everything we said.

Mr. Guerra: I echo all of that. I read thought it four times today. I think you did a great job on it. Thank you.

Ms. Delahoz: I'm on the same page as everybody else. I think we worked hard on this issue. I appreciate the Town's commitment to doing this study next year on what businesses generate in terms of the employees so we have our own factual data that is relevant to our community. I appreciate that.

Mr. Gerard made a motion to approve the 301 N. Main Street Change of Use with the attached findings and conditions, seconded by Mr. Swintz. The motion passed 5 to 0 and the project was approved.

2. Long Residence Solar (SS), 213 S. French Street, PL-2022-0391

The Long Residence Solar Consent Calendar item was approved as presented without call-up.

OTHER MATTERS:

1. Planning Commission Retreat Overview

Mr. Kulick: We wanted to have an informal conversation about the observations or thoughts on the field trip. From staff perspective we thought was it went really well and that was really informative going to the modular facility and seeing the construction process for the modular component. And then actually going across the street and seeing how it's actually implemented in the field at the Farm development and the Railyard development. We would be happy to discuss any observations that we have from there. You know also with in mind that we are to be talking about materials after this. If you have any observations about the materials that you saw in any of the projects that are good or bad, feel free to bring them up.

Mr. Swintz: I wasn't able to attend, so I'd like to hear from my fellow Commissioners what they thought of the composite wood siding that you saw.

Mr. Guerra: It was especially interesting and informative going to the factory. My comment, I was disappointed in the siding that we saw over at the Farm. The stuff coming out of the factory looked well built. Thinking about it since, I have concerns about what that siding is going to look like on the project that we have coming up.

- Mr. Leas: I think that project is going to be delivered naked, so it is going to be sided here so the Town will have some input about what is applied.
- Mr. Guerra: I was not aware of that. Thank you, Mark. That makes me feel a little bit better about that project. I did hear subsequently, and these are rumors, people who have been looking into the outfit, Fading West, are having some issues with keeping things square, doors and windows operating great. Did anyone notice if they were building those walls to jigs? To keep them square and straight.
- Mr. Leas: I didn't see that. I would think that they would, but I don't know because that was going on in that attic portion of the factory.
- Ms. Delahoz: I am not a builder so I don't know how that all works, but if you are stacking those containers like LEGO blocks, are you able to tweak those doors and windows after?
- Mr. Leas: It is difficult to correct.
- Mr. Guerra: Once they're built, you are pretty much stuck with that, I would think. And what I was talking about is when you're building walls like that in a production line, if you have a jig that hold every board in a predetermined space. I didn't look at that, to see if they were building free-hand or with a jig.
- Mr. Leas: I was very impressed with the factory. It was state-of-the-art. And I think they're doing a very good job. They're using good material. And my impression was that they're competently building a good box. I did a modular home as my first spec home in 1994, and the reason I chose a modular manufacturer is that I had been in the manufacturing business for 18 years before that and the people that I had were finish carpenters, I did not have a carpentry subcontract crew. So I tried this and my experience at that point in time and things have changed a lot in that period of time. I saved money on what I bought, but I spent so much money tweaking those kinds of things and making things right because the boxes have to stack right, got to be even, because if you don't get them even the front of the house will have a bump in the siding. So if you're 1/2 inch off in the depth of one module, you're going to see that when you go to the back of the house if they line up in the front. So I just did that one time and moved on from that to do a panelized type of construction. Breckenridge has high hopes of saving a lot of money. And I think that that they may find by the time that it's all done, it isn't going to be the panacea it is perceived today. I'm optimistic, but apprehensive.
- Mr. Guerra: That is the message that I would echo.
- Ms. Puester: I am just going to add because we brought up the Justice Center materials. Just pulling what was approved, on those boxes is fiber cement board with a natural stone veneer base, and fiber cement vertical accent siding and trim. So it is all fiber cement and stone. The roof is standing seam metal. To be applied after the boxes arrive.
- Mr. Truckey: What I was going to add, just to your point, Mark is everyone at the Town and the County recognizes those potential issues. But there has been so much talk for so many years about trying a modular project. We almost started one previously and then we abandoned it because pricing came back different. I don't think that's ever going to be resolved until we actually go through with a project and hopefully there are not painful lessons to learn. The price is attractive and so that's obviously why we're doing it and you may be right, at the end of the day maybe we don't save much, but I think this is kind of looked at as something we have to explore, given that the cost of new construction.
- Ms. Delahoz: The factory was fascinating; it was just so cool to be there and experience it and walk through it. Fading West has a really amazing vision and mission. I don't have the building experience that other Commissioners have. My thoughts with the Railyard initially was, I had concerns with that siding, and maybe it was the application, but it looked like there was pretty big gaps in between where those siding pieces met, and we kept seeing that reflective flashing behind it. Maybe it wasn't finished, I don't know, but

that was didn't look fabulous to me. And then when we were over at the Farm, we saw some of that as well. It looked like their application was a little bit better. Or installation of that siding was a bit better, but we still saw a lot of that reflective flashing behind and I just don't think that that's something that we really want here. If we can paint that, that would be great. I don't know maybe half inch, three quarter inch reflective material (Mr. Leas; It's aluminum flashing.) all across it from where those aluminum pieces fit and it just didn't look good. Some of the interior material choices felt low-cost; our boxes will have different finishes. But overall, I mean the factory was amazing.

Mr. Guerra: With the bathroom finishing. I agree with you. You could upgrade some of those. They could get the z-flashing in a different color.

Mr. Leas: And a lot of times the siding will go on with the flashing and they'll spray the entire thing and you won't notice it because it's sprayed the same color as the siding.

Mr. Guerra: Paint could peel off of that galvanized flashing. And we saw some of that, Stefi and I saw an application that had been painted but was already peeling.

Ms. Delahoz: How do we prevent that then?

Mr. Guerra: You make sure that they use a paint, that is anodized or factory powder coated, and then it won't peel.

Mr. Kulick: I think to your point, if someone chose to go down the road of the Diamond Kote, or similar product, we would treat it like we do with any of our other penetrations. We would require any bare metal to be painted to match. When we do our inspections; any of the vents, conduit, etc. We would require all of that to be painted.

Mr. Leas: For you Steve and George. The other part of this that was really pretty exciting from my standpoint was the Railyard. And we met there with the developer, who I found to be a very interesting guy. This guy decided to put down a million and a half dollars on a piece of very questionable property in Leadville that Tonya had told us had been basically condemned.

Ms. Delahoz: It was a Superfund site because of the mining materials. But the east side of Leadville is ridden with mine shafts and tunnels and is fairly unstable. The Colorado Department of Mining Safety and Reclamation had made a recommendation that the lot not be built on. They've had some challenges with that. That's just some back story that I'm aware of just from my ties to the Leadville community. But he said that in cleaning up the land he removed about 150,000 tons of contaminated soils.

Mr. Leas: 150,000 tons of contaminated materials that they had to excavate and transport just to get started.

Mr. Guerra: And that was after they dropped the Superfund site designation.

Mr. Leas: He's really got a neat plan there and they've got a lot of mixed-use going on. They've got townhouses. They've got single families, apartments, commercial down on the street. He's trying to get another grocery store in there. A lot of stuff going on that really benefits that community. So it was just very interesting to talk to him and to try to pick his brains about the insight and the motivation of what he's doing from the standpoint of affordable housing. Here's one guy in one community who was doing this, and he had some interesting insights. He said that garages were much more efficient, with an alley in the back rather than curb cuts and attached to the house. He made a big point about their drainage and they had what is called an inverted crown where the water instead of going to the two sides and draining down the two side goes to the middle and then drains down. He's got half as much pipe to put in and he was bragging that during the rain storm that was a month or so ago here that they got they performed better than anybody else in the town in terms of drainage.

Mr. Guerra: The other interesting thing about affordable housing at the Farm. Buena Vista did not put any deed restrictions on those and they had immediate flips within a year. People

- were making \$100,000 in a year and bringing the prices up and are they still affordable? So I thought that was pretty interesting. We're not doing that here, obviously.
- Mr. Gerard: Even having started your comments with the siding that they're putting on in the field over there and relating back to the first session we had on non-natural materials and we all passed around the particle board and that kind of stuff. Does that change any of the thoughts you had about how we should approach the use of that kind of material here in Breck?
- Mr. Guerra: That's a good representation of the houses that I thought that the siding was pretty substandard. It was two things. Whatever that composite material was, the process of which they put that that the paint on was a very heavy enamel and very shiny and very plastic looking. It looked way too glossy for external application. And we also noticed there were a lot of gaps around the caulk lines that were going to be bigger than I would accept, at the window frames and corner trim. So, those are some of the things that I noticed.
- Mr. Leas: Did you notice the piece of plastic that they put on the butt joints? Whereas with the Hardy you put a piece of building paper or tar paper behind the joint, they had a plastic piece and that added to the inexpensive look.
- Mr. Kulick: For the people that weren't there, particularly the photo on the screen it was much more glossy and fake in appearance.
- Mr. Guerra: I think it was the choice of the materials that they used. If the composite is an acceptable material or not there are going to be different grades of that. And I am sure, the stuff that Sarah showed us, it would look good. The quality level of materials used in this development were bottom end. And it showed in my opinion.
- Mr. Leas: And the thing to remember is we're walking through the factory, they are processing many orders. These modular buildings have deciding on that that particular developer or builder that's wanted, and that's not necessarily their choice or their standard, but it's what we saw and all we can do is react to what we saw.
- Mr. Guerra: Right, I don't think this would be approved here.
- Ms. Crump: I did want to say that the Railyard development also used LP Smart Siding and it wasn't shiny. There were different levels of sheen throughout.
- Mr. Kulick: I think one of the things to note is the difference between the Railyard and Farm. Here is the example in Leadville where they had other materials they had the metal wainscoting and then they also had natural wood. At the Farm site in BV, the combination of the glossy siding with the aluminum railings brought out the totality of the non-natural materials. Having some natural product to offset it does make a difference.
- Mr. Delahoz: One House at the Railyard, we were walking around to the back road, to go into the unit that was not finished. And it had horizontal siding and it was on the left hand side and you could see the water marks. And that was concerning to me because that was the higher quality material.
- Mr. Leas: There are a couple ways that could happen that could have happened have happened when they had the materials stacked before it was installed.
- Mr. Swintz: So I think it's appropriate that Chris brought this up before we go into the agenda item but I'm still fishing for the aspect simply of durability. I don't care if it looks like plastic or it's shiny, that's not what I'm trying to drive for. Because we had a conversation before that we like Hardie board because we got some history with it. Then we were worried about this stuff, you know, falling apart. So can you guys address that from the field trip? Or do we not know that yet?
- Mr. Leas: You need to keep both in balance. It's important that it looks good. It's important that it's durable. You know if you really want something that's going to last for a long time

- then maybe you want plastic. But I don't think we want plastic here in Breckenridge, so we need to really keep in balance those values and say, you know, where's the compromise point here?
- Mr. Guerra: I can say that the plastic glossy look is going to repel water really well.
- Mr. Kulick: Policy 5R is a relative policy we are really deciding if it should receive points. Policy 5A does not address the actual materials but rather paint colors, and other specifics. We do not have to make a decision on a no go or not. We have to make a decision should it get negative points or not. But we're still recommending including composite wood as receiving negative points in the matrix.
- Ms. Szrek: I had a really quick thing I wanted to throw in and ask maybe the experts at the table. Natural wood, and how long it lasts? Obviously we like natural materials, I have done some projects that are old historic woods that are totally warped siding. Can you spray it with some kind of varnish that keeps it from weathering or does a natural wood just weather quicker comparatively speaking to a composite material? That's the question I wanted to ask quickly.
- Mr. Guerra: There are all kinds of different strains to protect from weathering, etc.
- Ms. Szrek: But in my mind, it will not be as durable as a synthetic material.
- Mr. Guerra: Not as durable as a Hardie board. Which is almost indestructible.
- Ms. Crump: Some natural woods are more durable than others, like teak or cedar are going to be naturally more durable than soft or yellowwoods.
- Mr. Leas: My response is going to be different than Ethan's because my experience is in a different climate. Humidity and termites. You just don't see here. So it's amazing to me how durable some of these woods are in this element up here.
- Mr. Guerra: We put on siding untreated a lot. I can think of numerous projects in Town. You know, an example is the Wyoming snow fence wood. You don't put anything on it because it changes the appearance. We are so dry here that we really don't have issues with the siding, unless it is installed improperly.
- Mr. Guerra: Siding deteriorates from the sun, if installed properly. If it's installed improperly where water gets behind it or in a splash back that can rot. If installed properly, the weather (not including the sun) would not be too much of an impact. I hesitate about discounting something because of unknown durability.
- Mr. Kulick: I think we're really looking at the aesthetics in terms of how it relates to policy 5R.

WORK SESSIONS:

1. Policy 5R Architectural Compatibility/Building Materials Continued (SVC)

Ms. Crump reviewed a draft proposed materials matrix for a potential future code amendment. The following specific question was asked of the Commission:

1. Does the Commission wish to recommend that Policy 5R Architectural Compatibility be amended to include the proposed material matrix?

Commissioner Questions / Comments:

- Mr. Swintz: Sarah and I talked about this this afternoon. The brick section, Mid-century modern style bricks should be more defined. And similarly the composite wood siding, does that term need to be defined more.
- Mr. Kulick: I think since this is a relative policy. For the mid-century style brick, we probably would need to have a description under points where like any amount of this style of brick that we're not comfortable with this get maximum negative points because we can't under 5R just completely prohibit it. And if we just discourage it, then it would kind of trigger back to the section where we're already giving the points even for the preferred brick. But we probably have to come back and maybe clarify that.

- Ms. Crump: It was a previous Mike Giller comment that certain colors and styles of brick wouldn't be appropriate for Breckenridge. So we wanted to make that clear in the matrix.
- Mr. Leas: Colors of brick and then you've got brick sizes and a long narrow grid is something that you would see in a mid-century modern style. I think that would be possible to narrow down and define what is appropriate for use here in Breckenridge. The bricks that were used were certain sizes for certain reasons during historical periods, and if you limit it to those particular sizes and components.
- Mr. Swintz: Agreed. Second comment is in the allowance column for composite wood where you used "discouraged." To me, maybe that ought to be there is "no allowance." There is none. Maybe under notes, we say we discourage the use of it if in fact that's what we're trying to communicate. So there is no allowance? It is not discouraged.
- Ms. Crump: I don't think we can say "no allowance" because like Mr. Kulick was saying, it is a relative policy, so we're not saying it's prohibited.
- Mr. Kulick: Correct. If you look at how our Policy 5 is laid out for materials, we don't have anything that we outright prohibit. You could do a completely glass house, but you would get negative six points under architectural compatibility. In terms of relative importance over all in the Code, it's still going to be relative and that's where we use "discouraged" in a relative policy and we would use "prohibited" under an absolute policy.
- Mr. Swintz: Next to composite wood notes and exceptions if there aren't any, we should just say none and fill in the columns. I wonder the conversation that I've just been listening to that you all had about the composite wood, that under the notes for composite wood that we do make comments in there about aesthetics that it shouldn't have a certain sheen. I shouldn't look like plastic but that's what I was hearing is an aesthetic issue there that might fit well under notes in the matrix. What are thoughts about that?
- Mr. Guerra: I would agree with that. And maybe that note it must have a natural appearance.
- Ms. Crump: I don't know if we want to encourage the natural-look/faux composite wood. I don't know if you noticed the samples that were being passed around previously but those are perhaps some of them questionably fake faux looking ones. Do we have a policy about matte versus gloss paint?
- Mr. Kulick: We don't. We think it should still get negative points and I think that's where we heard from the Planning Commission last time and probably taking the slow approach would be we're not even trying to distinguish between the glossy or matte. We're just kind of discouraging it and waiting and seeing if there's to be a separation between different products that maybe would rise up like fiber cement siding did over a decade where we became more comfortable with it to the point where we don't award negative points unless every aspect of the building is not natural.
- Mr. Leas: Maybe we should address the sheen of the materials in the section of code that deals with the Code that deals with the colors. It would be a blanket statement for all materials. Needs to be low-sheen finish.
- Mr. Kulick: I mean within the historic district, it traditionally was a painted wood siding with a sheen in a lot of cases. Outside the historic district, it's typically a stained appearance with really minimal paint. So maybe we could make a distinction between the conservation district and outside the conservation district.
- Mr. Gerard: Couple of things struck me as I was going through this. First of all, I agree with George about the word discouraged in the allowance column. And I think that's a note. It's a note that we kind of discourage it if that's what we want to say. And under the allowance column, I think we can we can say. Not "not allowed", but "no allowance." In other words, brick is allowed up to 25 percent. So that's a good comment. Composite wood siding is not going to get a free allowance right? Because in the points it's zero to 50 percent. Any amount gets you negative points.

- Ms. Crump: If I read no allowance, I would think that meant prohibited.
- Mr. Gerard: If you then go across, you can see, well, I guess it's there's no allowance, but if I put up to 50 percent, I get three negative points.
- Mr. Kulick: That column may not be necessary either. Because we have our point allocations where it is already discouraging it at a certain threshold by giving it negative points.
- Mr. Gerard: I'd be OK with that column not being there cause in the in the written language it tells you up here that brick is allowed.
- Mr. Truckey: You could take the 25 percent which it shows up under that column and move the notes over to one of the other columns.
- Ms. Crump: I think that's a better idea than saying "no allowance."
- Mr. Gerard: Once you commit the sin of getting points, people tend to go to the maximum of those points. So for example on brick; If they go to 26 percent, they're going to go to 50 percent because they've already taken the negative points and if they go to 51 and they're getting negative six. They're going to go as high as they want to go, even all the way. I don't know if that encourages people to do something bad. Or if it's just the way it is and we see it with like heated driveways and that heated outdoor space. Where they get so many square feet for so many points, and once they cross that line, they tend to go as far as they can go.
- Mr. Kulick: Yeah, we did correct it after we saw the East Peak 8 Hotel which had almost an acre of heated space and at the time only got negative three points with our revised code that you guys worked on I think that would probably qualify for negative thirty 30 points now. But I think in terms of materials again, we're trying to find balance. That's where we see the really high point thresholds, or in the case of an environmental policy. But in the case of kind of "beauty is in the eye of the beholder" it's probably at the lower end of the spectrum where even getting to negative six points in a single family home for maxing out your non-natural materials is quite a bit of points for them to overcome, so maybe there's a way to have smaller increments in the beginning, but I don't think we would recommend going above negative six. That's comparing it to other policies that are probably more egregious in terms of negative impacts to the community.
- Mr. Truckey: The one thing you could consider is changing the multiplier. Currently it's basically a choice of negative three or negative six points. If you used a smaller multiplier like two, then you could have negative two, four, or six points as options.
- Mr. Gerard: I think one of the place that it stands out to me is the metal siding. If going above 51 percent your maybe you're going to see a wall. It's all metal. If they wanted to do that. Which would really be probably not architecturally compatible.
- Mr. Kulick: I think metal would be a good example of that. If an applicant realizes that it is six negative points. Maybe they will ratchet it down to negative three points.
- Mr. Swintz: Question for staff, just kind of overarching. We're trying to perfect the paragraph above with a matrix, but we're really not editing the paragraph above. Do we want to open up that Pandora's Box?
- Mr. Truckey: We're proposing to take that paragraph out. Or significantly reduce it so that we really rely on the matrix.
- Ms. Crump: It could be something where we take, for example, the sentence about brick and that goes into the notes of the matrix. The proposal was to replace the paragraph.
- Mr. Kulick: I think the matrix will definitely simplify those pre app meetings for new applicants.
- Mr. Guerra: Couple of things on the fiber cement siding under notes. No negative points were applied with natural materials such as natural wood accents or natural stone base. Very vague. What are we looking for here? Are we looking for all the trim to be natural wood if they are putting on fiber cement siding?
- Mr. Kulick: We actually talked about that quite a bit internally and we came back to putting it on you guys to kind of make that interpretation.

- Ms. Puester: The more that you narrow what is possible in the materials matrix the more everything is going to look similar.
- Mr. Guerra: Must be a natural earth tone color. To me, a shiny siding is not a natural earth tone color.
- Ms. Crump: The earth tone phrase comes from the current code.
- Ms. Gerard: Making the matrix is creating an objective criteria and we don't want it to turn into a block of everything looking the same. I think this is much more user-friendly approach.
- Mr. Leas: I think the matrix brings clarity to what your metrics are. I agree with the comments to tweak to make it sharper.

All Commissioners agree to the suggested edits and that a materials matrix is an appropriate approach.

2. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 6:55 pm.

Tanya Delahoz, Chair



TOWN OF BRECKENRIDGE
TOWN COUNCIL

Scheduled Meetings

Shading indicates Council required attendance – others are optional

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

September 2022

| | | | |
|----------------------------------|----------------------------------|------------------------------------|--------------------------|
| Sept. 23rd - 25th | Oktoberfest | Main Street | All Day |
| September 27th, 2022 | County Courthouse | Meeting with BOCC | 9:30am - 10:30am |
| Tuesday, Sept. 27th, 2022 | Council Chambers | Second Meeting of the Month | 3:00 pm / 7:00 pm |
| September 28th, 2022 | Sallie Barber Mine Stabilization | Open House | 3:30pm - 5:00pm |

October 2022

| | | | |
|---------------------------------|-------------------------|------------------------------------|--------------------------|
| October 6th, 2022 | Sol Center | Ground Breaking | 11:00am |
| Oct. 7th - 9th | Craft Spirits Festival | Beaver Run / Riverwalk Center | All Day |
| Tuesday, Oct. 11th, 2022 | Council Chambers | Budget Retreat | 1:00pm |
| Tuesday, Oct. 11th, 2022 | Council Chambers | First Meeting of the Month | 3:00 pm / 7:00 pm |
| October 14th, 2022 | Keystone Conf Center | Ski Area COO Summit | 7:30am - 11:00am |
| October 20th & 21st, 2022 | Glenwood Springs | CAST Conference | All Day |
| Tuesday, Oct. 25th, 2022 | Council Chambers | Second Meeting of the Month | 3:00 pm / 7:00 pm |
| October 27th, 2022 | Council Chambers | BTO Winter Preview | 8:00am - 10:00am |

Other Meetings

| | | |
|----------------------|--|-----------------|
| September 26th, 2022 | Open Space & Trails Meeting | 5:30pm |
| September 27th, 2022 | Board of County Commissioners Meeting | 9:00am / 1:30pm |
| October 4th, 2022 | Board of County Commissioners Meeting | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| October 5th, 2022 | Breckenridge Events Committee | 9:00am |
| | Childcare Advisory Committee | 3:00pm |
| October 11th, 2022 | Board of County Commissioners Meeting | 9:00am / 1:30pm |
| | Workforce Housing Committee | 10:30am |
| October 12th, 2022 | Breckenridge Heritage Alliance | Noon |
| October 13th, 2022 | I-70 Coalition | 3:30pm |
| | Upper Blue Sanitation District | 5:30pm |
| October 17th, 2022 | Social Equity Advisory Commission | 7:30am |
| October 18th, 2022 | Board of County Commissioners Meeting | 9:00am |
| | Liquor & Marijuana Licensing Authority | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| October 24th, 2022 | Open Space & Trails Meeting | 5:30pm |
| October 25th, 2022 | Board of County Commissioners Meeting | 9:00am / 1:30pm |



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 27th, 2022 | Summit Stage Transit Board Meeting | 8:15am |
| | Breckenridge Tourism Office Board Meeting | 8:30am |
| | Northwest CO Council of Governments | 10:00am |
| | Breckenridge Creative Arts | 2:00pm |
| | RW&B Board Meeting | 3:00pm |
| November 1st, 2022 | Board of County Commissioners Meeting | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| November 2nd, 2022 | Police Advisory Committee | 7:30am |
| | Breckenridge Events Committee | 9:00am |
| | Childcare Advisory Committee | 10:00am |
| November 8th, 2022 | Board of County Commissioners Meeting | 9:00am / 1:30pm |
| | Workforce Housing Committee | 10:30am |
| November 9th, 2022 | Breckenridge Heritage Alliance | Noon |
| November 10th, 2022 | I-70 Coalition | 11:30am |
| | Upper Blue Sanitation District | 5:30pm |
| November 15th, 2022 | Board of County Commissioners Meeting | 9:00am |
| | Liquor & Marijuana Licensing Authority | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| November 16th, 2022 | Summit Combined Housing Authority | 9:00am |
| November 21st, 2022 | Social Equity Advisory Commission | 7:30am |
| November 24th, 2022 | Transit Advisory Council Meeting | 8:10am |
| | Summit Stage Transit Board Meeting | 8:15am |
| | Breckenridge Tourism Office Board Meeting | 8:30am |
| | RW&B Board Meeting | 3:00pm |
| December 15th, 2022 | Breckenridge Creative Arts | Noon |
| TBD | Water Task Force Meeting | 10:00am |
| | Tourism Overlay District Advisory Committee Meeting | 10:30am |
| | QQ - Quality and Quantity - Water District | 1:15pm |
| | Transit Advisory Council Meeting | 8:00am |