



TOWN OF  
**BRECKENRIDGE**

**Town Council Regular Meeting**  
Tuesday, November 8, 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](http://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](mailto:mayor@townofbreckenridge.com), or by mailed letter, prior to the meeting.

**I. CALL TO ORDER, ROLL CALL**

**II. APPROVAL OF MINUTES**

A. TOWN COUNCIL MINUTES - OCTOBER 25, 2022

**III. APPROVAL OF AGENDA**

**IV. COMMUNICATIONS TO COUNCIL**

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

**V. CONTINUED BUSINESS**

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

**VI. NEW BUSINESS**

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

1. *RESOLUTION NO. 20, SERIES 2022 - A RESOLUTION TO SET FORTH FINDINGS OF FACT AND CONCLUSIONS AS TO THE ELIGIBILITY OF THE UNDEVELOPED LAND KNOWN AS THE ENTRADA PROPERTY*

C. OTHER

1. *2023 PROPOSED BUDGET AND 2023-2027 CAPITAL IMPROVEMENT PLAN PUBLIC HEARING*

**VII. PLANNING MATTERS**

A. PLANNING COMMISSION DECISIONS

B. BRECKENRIDGE SKI AREA MASTER SIGN PLAN DE NOVO HEARING

**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 NOVEMBER AND DECEMBER

**XII. ADJOURNMENT**

**D) CALL TO ORDER, ROLL CALL**

Mayor Mamula called the meeting of October 25, 2022 to order at 7:00pm. The following members answered roll call: Mr. Rankin, Ms. Saade, Mr. Bergeron, Mr. Carleton, Mr. Beckerman and Mayor Mamula. Ms. Owens was absent.

**II) APPROVAL OF MINUTES**

**A) TOWN COUNCIL MINUTES – OCTOBER 11, 2022**

With no changes or corrections to the meeting minutes of October 11, 2022 Mayor Mamula declared they would stand approved as presented.

**III) APPROVAL OF AGENDA**

Mr. Holman stated there was one change to the agenda, which was to add Planning Commission Appointments under Planning Matters.  
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.

Mr. Craig Louer, a resident of Tyra Summit, stated he's the Vice President of the HOA for that property and is speaking on behalf of Tyra Summit, located between Four O'Clock Road and Four O'Clock Run. He stated he feels the zone his property is in is not consistent with the other Tyra properties and he would like it changed.

There were no additional comments and Public Comment was closed.

**B) BRECKENRIDGE TOURISM OFFICE UPDATE**

Mr. Bill Wishowski, representing the BTO, stated the winter preview is Thursday morning at 8am. He stated we are currently down about 7% year over year, and ADR is 1% up for summer. He also stated that for the winter season, we are down 14% year over year at this point and demand isn't pacing the same as in the past, but this is an industry trend. Mr. Wishowski stated that moving forward we will be looking at the 2018-2019 winter as a comparison and we were up about 4% for 2022 summer compared to 2019. Mr. Bergeron asked about service standards and Mr. Wishowski stated the higher NPS scores generally reflect better service. Mr. Beckerman asked about the timing of bookings and Mr. Wishowski stated the trends are difficult to predict post-covid.

**V) CONTINUED BUSINESS**

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

**1) COUNCIL BILL NO. 33, SERIES 2022 - A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SUBDIVISION REGULATIONS AS APPLICABLE TO MASTER PLANS**

Mayor Mamula read the title into the minutes. Mr. Chris Kulick 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. 33, SERIES 2022 - A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE PERTAINING TO SUBDIVISION REGULATIONS AS APPLICABLE TO MASTER PLANS. Mr. Rankin seconded the motion.

The motion passed 6-0. Ms. Owens was absent.

**VI) NEW BUSINESS**

**A) FIRST READING OF COUNCIL BILLS, SERIES 2022**

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

Mayor Mamula read the title into the minutes. Ms. Laurie Best stated this ordinance would authorize multiple documents associated with the COP process for the Justice Center Housing Project and we hope to issue the COPs in 2022.

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

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

The motion passed 6-0. Ms. Owens was absent.

- B) RESOLUTIONS, SERIES 2022
- 1) RESOLUTION NO. 19, SERIES 2022 - A RESOLUTION ADOPTING THE TOWN OF BRECKENRIDGE COMPREHENSIVE PLAN AND LAND USE GUIDELINES AS THE TOWN'S ANNEXATION PLAN PURSUANT TO SECTION 31-12-105(1)(e), C.R.S.

Mayor Mamula read the title into the minutes. Mr. Mark Truckey stated the Colorado State Statutes require all municipalities to adopt an annexation plan on an annual basis.

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

Mr. Bergeron moved to approve RESOLUTION NO. 19, SERIES 2022 - A RESOLUTION ADOPTING THE TOWN OF BRECKENRIDGE COMPREHENSIVE PLAN AND LAND USE GUIDELINES AS THE TOWN'S ANNEXATION PLAN PURSUANT TO SECTION 31-12-105(1)(e), C.R.S. Mr. Rankin seconded the motion.

The motion passed 6-0. Ms. Owens was absent.

- C) OTHER

**VII) PLANNING MATTERS**

- A) PLANNING COMMISSION DECISIONS

Mr. Carleton moved to call up the Vail Resorts Master Sign Plan, PL-2022-0439 and set a hearing date of November 8, 2022.

Ms. Saade seconded the motion. The motion passed 6-0. Ms. Owens was absent. Mayor Mamula declared the other Planning Commission Decisions would stand approved as presented, with the exception of the item called up by Mr. Carleton.

- B) PLANNING COMMISSION APPOINTMENTS

The Council voted by ballot for PLANNING COMMISSION APPOINTMENTS. Four seats were up for appointment. The following applicants were determined to receive the majority votes: Allen Fretcher, Mike Giller, Mark Leas, and Susan Propper.

Mr. Bergeron made the motion to appoint the four individuals with majority votes to the Planning Commission. Mr. Beckerman seconded the motion.

The motion passed 6-0. Ms. Owens was absent.

**VIII) REPORT OF TOWN MANAGER AND STAFF**

Mr. Holman stated he will be on vacation for the next few days.

**IX) REPORT OF MAYOR AND COUNCIL MEMBERS**

- A. CAST/MMC

Mayor Mamula stated the recent CAST meeting was in Glenwood and he thanked everyone who attended.

- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE

No report.

- C. BRECKENRIDGE TOURISM OFFICE

No report.

**D. BRECKENRIDGE HISTORY**

No report.

**E. BRECKENRIDGE CREATIVE ARTS**

No report.

**F. BRECKENRIDGE EVENTS COMMITTEE**

No report.

**G. CHILD CARE ADVISORY COMMITTEE**

Mr. Beckerman stated the minutes from the last meeting were in the packet.

**H. WORKFORCE HOUSING COMMITTEE**

No report.

**I. SOCIAL EQUITY ADVISORY COMMISSION**

Ms. Saade stated the minutes from the last meeting were in the packet.

**X) OTHER MATTERS**

Mr. Bergeron asked if it's possible to re-evaluate the STR zones and Ms. Crawford stated it is possible but not recommended at this time since the current legislation was recently passed.

**XI) SCHEDULED MEETINGS**

A) SCHEDULED MEETINGS FOR OCTOBER, NOVEMBER AND DECEMBER

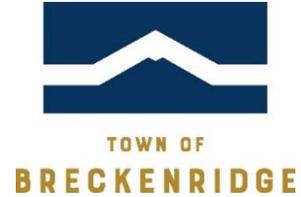
**XII) ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 7:28pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_  
Eric S. Mamula, Mayor



# Memo

TO: Breckenridge Town Council Members

FROM: Laurie Best-Housing Program Manager

DATE: November 2, 2022 (for November 8th meeting)

RE: Ordinance pertaining to COPs and Workforce Housing-Second Reading (Justice Center)

---

As you know, the Town will finance the construction of the new workforce housing project at the Justice Center by issuing "certificates of participation" (COPs or Certificates). As part of the COP process, the Town Council is being asked to approve an ordinance for the conveyance of property to the County as tenants in common, a site lease, and a lease purchase agreement. Second reading of this ordinance is scheduled for your November 8<sup>th</sup> meeting.

Since first reading on October 25, 2022 there have been a few changes which have been incorporated into a revised ordinance that is included in your packet. The reasons for the changes are an increase to the proposed budget from \$20,500,000 to \$22,072,409, increase to the COP amount to \$19,500,000, and elimination of cash contributions from the Town and County. Initially, both the Town and County planned to bring \$2,000,000 cash in addition to the \$2,500,000 grant. But, the current plan is to finance the bulk of the project cost (with the exception of the grant) through the COP, without cash contributions from the Town and County. These changes are denoted in red and include:

- the Site Lease Term shall end no later than December 31, 2057;
- the Lease Term shall end no later than December 31, 2047;
- the maximum annual repayment cost of Base Rentals payable by the Town shall not exceed \$1,900,000, and the total repayment cost shall not exceed \$41,000,000;
- the aggregate principal amount of the Base Rentals payable by the Town under the Lease with respect to the Certificates shall not exceed \$20,500,000;
- the purchase price of the Certificates shall not be less than 98% of the aggregate principal amount; and
- the maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 6.00%.

Staff recommends approval of the ordinance as presented in your packet and will be available if there are any questions.

COUNCIL BILL NO. \_\_\_  
ORDINANCE NO. \_\_\_  
SERIES 2022

AN ORDINANCE CONCERNING A FOR RENT WORKFORCE HOUSING PROJECT AND IN CONNECTION THEREWITH AUTHORIZING THE PROJECT, APPROVING THE CONVEYANCE OF PROPERTY, AND THE EXECUTION AND DELIVERY OF A DEED, A SITE LEASE, A LEASE PURCHASE AGREEMENT, AND OTHER DOCUMENTS.

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

Section 1. Recitals.

A. The Town of Breckenridge, in Summit County, Colorado (the “Town”), is a duly organized and existing home rule municipality of the State of Colorado (the “State”), created and operating pursuant to Article XX of the State Constitution and the Town’s Home Rule Charter (the “Charter”).

B. Pursuant to Section 11.10 of the Charter, the Town Council of the Town (the “Council”) is authorized to enter into lease-purchase and installment-purchase agreements as a means of acquiring any real or personal property for public purposes.

C. Pursuant to Section 15.4 of the Charter, the Council is authorized to lease, for such time as the Council shall determine, real or personal property to or from any person, firm or corporation, public and private, governmental or otherwise.

D. Pursuant to Title 1, Chapter 11 of the Town’s municipal code, any real estate leases which are longer than one year shall be approved by ordinance.

E. The Town and Summit County (the “County”) pursuant to the provisions of the Intergovernmental Agreement, dated January 11, 2022 (“IGA”) intend to jointly develop a workforce housing project described in the IGA as the Justice Center Project.

F. To implement the Justice Center Project, the Town wishes to transfer a portion of Government Lot 47 to the Town and the County as tenants in common pursuant to a Special Warranty Deed (the “Deed”).

G. After the transfer of property pursuant to the Deed, the Town and County will own fee title, as tenants in common, to vacant real property described as Lot 4, Block 1, Resubdivision of Parkway Center Subdivision Filing No. 1 Amended, according to the Plat Filed September 2, 2022 under Reception No. 1296242, County of Summit, State of Colorado (the “Property”).

H. Because the demand for workforce housing in the Town exceeds the supply, the Council hereby determines that it is in the public interest and is a public purpose

for the Town to finance the acquisition, construction, installation, equipping of for rent workforce housing on the Property, including any legally permitted costs and expenditures in connection therewith, all for public purposes, and as authorized by law (the “Project”).

I. The Council hereby determines that it is in the best interests of the Town and its inhabitants that the Town and County lease the Property pursuant to a Site Lease (the “Site Lease”) among the Town and County, as lessors, and UMB Bank, n.a., as lessee (the “Trustee”) and lease back the Trustee’s interest in the Property pursuant to the terms of a Lease Purchase Agreement (the “Lease”) between the Trustee, as lessor, and the Town, as lessee.

J. The Trustee will execute and deliver an Indenture of Trust (the “Indenture”) pursuant to which there will be executed and delivered certain certificates of participation (the “Certificates”) dated as of their date of delivery, that shall evidence proportionate interests in the right to receive certain revenues including rental payments made by the Town under the Lease.

K. The Town’s obligation under the Lease to pay Base Rentals and Additional Rentals (as each is defined in the Lease) will be from year to year only; will constitute a currently budgeted expenditure of the Town; will not constitute a mandatory charge or requirement in any ensuing budget year; and will not constitute a general obligation or other indebtedness or multiple fiscal year direct or indirect Town debt or other financial obligation of the Town within the meaning of any constitutional, statutory, or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect.

L. The Supplemental Public Securities Act, part 2 of article 57 of title 11, Colorado Revised Statutes (the “Supplemental Act”), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to an issue of securities.

M. There will be prepared and distributed in connection with the sale of the Certificates a Preliminary Official Statement (the “Preliminary Official Statement”) relating to the Certificates as approved by the Town Manager or the Finance Director of the Town.

N. No member of the Council has any conflict of interest or is interested in any pecuniary manner in the transactions contemplated by this ordinance

O. There have been filed with the Town Clerk proposed forms of: (i) the Deed; (ii) the Site Lease; (ii) the Lease; and (iv) a Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”) to be delivered by the Town.

P. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease and the Site Lease

Section 2. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Council or the officers, agents, or employees of the Council or the Town relating to the Deed, the Site Lease, the Lease,

the implementation of the Project, and the execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 3. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution and laws of the State and the Charter, that the implementation of the Project pursuant to the terms set forth in the Deed, the Site Lease, the Lease, and the Indenture are necessary, convenient, and in furtherance of the Town's purposes and are in the best interests of the inhabitants of the Town and that the fair value of the Property does not exceed its Purchase Option Price (as defined in the Lease), and the Council hereby authorizes and approves the same.

Section 4. Supplemental Act Election; Parameters. The Council hereby elects to apply all of the provisions of the Supplemental Act to the Lease, the Site Lease, and the Certificates, and in connection therewith delegates to the Mayor, any other member of the Council, the Town Manager, or the Finance Director the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the Lease and the Site Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Site Lease, the rental amount to be paid by the Trustee pursuant to the Site Lease, the term of the Lease and the rental amount to be paid by the Town pursuant to the Lease, subject to the following parameters and restrictions:

- (a) the Site Lease Term shall end no later than December 31, 2057;
- (b) the Lease Term shall end no later than December 31, 2047;
- (c) the maximum annual repayment cost of Base Rentals payable by the Town shall not exceed ~~\$1,800,000~~1,900,000, and the total repayment cost shall not exceed ~~\$38,000,000~~41,000,000;
- (d) the aggregate principal amount of the Base Rentals payable by the Town under the Lease with respect to the Certificates shall not exceed ~~\$19,000,000~~20,500,000;
- (e) the purchase price of the Certificates shall not be less than 98% of the aggregate principal amount; and
- (f) the maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 6.00%.

Pursuant to Section 11-57-205 of the Supplemental Act, the Council hereby delegates to each of the Mayor, the Town Manager or the Finance Director the authority to acknowledge any contract for the purchase of the Certificates between the Trustee and the Purchaser, and to execute any agreement or agreements in connection therewith. In addition, each of the Mayor, the Town Manager or the Finance Director is hereby authorized to independently determine if obtaining an insurance policy for all or a portion of the Certificates is in the best interests of the Town, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the Mayor, the Town Manager, or the Finance Director is

also hereby authorized to determine if obtaining a reserve fund insurance policy for the Certificates is in the best interests of the Town, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

Section 5. Approval of Documents. The Deed, the Site Lease, the Lease, and the Continuing Disclosure Certificate are in all respects approved, authorized, and confirmed, and the Mayor of the Town is hereby authorized and directed for and on behalf of the Town to execute and deliver such documents in substantially the forms and with substantially the same contents as the proposed forms of such documents on file with the Town Clerk, with such changes as may hereafter be approved by the Mayor, the Town Attorney, or the Town Manager.

Section 6. Official Statement. The Town Manager or the Finance Director are each independently authorized to prepare or cause to be prepared and to deem final a Preliminary Official Statement (in substantially the form of the Preliminary Official Statement September 1, 2021 prepared in connection with the Certificates of Participation, Series 2021 with such changes as are necessary to reflect current information regarding the Town and the sale of the Certificates) for use in connection with the offering and sale of the Certificates. The Town Manager or the Finance Director are each independently authorized to prepare or cause to be prepared, and the Mayor is authorized and directed to approve, on behalf of the Town, and execute a final Official Statement for use in connection with the offering and sale of the Certificates in substantially the form of the Preliminary Official Statement, but with such amendments, additions, and deletions as are in accordance with the facts and not inconsistent herewith. The execution of a final Official Statement by the Mayor shall be conclusively deemed to evidence the approval of the form and contents thereof by the Town.

Section 7. Authorization to Execute Collateral Documents. The Mayor, the Town Manager, the Finance Director, and other appropriate officials or employees of the Town are hereby authorized to execute and deliver for and on behalf of the Town any and all certificates, documents, instruments, and other papers and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance. The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town, if so required by any documents in connection with the matters authorized by this ordinance. The appropriate officers of the Town are authorized to execute on behalf of the Town agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this ordinance. The execution of any instrument by the aforementioned officers or members of the Council shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof and thereof.

Section 8. No General Obligation Debt. No provision of this ordinance, the Deed, the Site Lease, the Lease, the Indenture, the Continuing Disclosure Certificate, the Certificates or the Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory, or Charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall not have any obligation to make any payment with respect to the Certificates except

in connection with the payment of the Base Rentals and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the Town in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect Town debt or other financial obligation whatsoever. No provision of the Lease or the Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the State Constitution. Neither the Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 9. Reasonableness of Rentals. The Council hereby determines and declares that the Base Rentals do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Property pursuant to the Lease. The Council hereby determines and declares that the period during which the Town has an option to purchase the Property (i.e., the entire maximum term of the Lease) does not exceed the remaining useful life of the Property.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Certificates. Such recourse shall not be available either directly or indirectly through the Council or the Town, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling such certificate specifically waives any such recourse.

Section 11. Charter Controls. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 12. Repealer. All bylaws, orders, resolutions and ordinances of the Town, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the Town, or part thereof, heretofore repealed.

Section 13. Severability. If any section, subsection, paragraph, clause, or other provision of this ordinance for any reason is held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or other provision shall not affect any of the remaining provisions of this ordinance, the intent being that the same are severable.

Section 14. Effective Date, Recording and Authentication. A true copy of this ordinance shall be numbered and recorded in the official records of the Town, authenticated by the signatures of the Mayor and the Town Clerk, and published in accordance with the Charter and the Town's municipal code. In accordance with Section 5.9 of the Charter, this ordinance will take effect thirty days after final publication.

INTRODUCED, READ BY TITLE, APPROVED ON FIRST READING AND ORDERED TO BE PUBLISHED IN FULL WITH NOTICE OF PUBLIC HEARING THIS 25TH DAY OF OCTOBER, 2022. A copy of this ordinance is available for inspection in the office of the Town Clerk.

(SEAL)

ATTEST:

TOWN OF BRECKENRIDGE, COLORADO

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

APPROVED IN FORM:

\_\_\_\_\_  
Town Attorney

INTRODUCED A SECOND TIME, READ BY TITLE, APPROVED ON SECOND READING FOLLOWING A PUBLIC HEARING, AND ORDERED TO BE PUBLISHED BY TITLE THIS 8TH DAY OF NOVEMBER, 2022. A copy of this ordinance is available for inspection in the office of the Town Clerk.

(SEAL)

ATTEST:

TOWN OF BRECKENRIDGE, COLORADO

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

APPROVED IN FORM:

\_\_\_\_\_  
Town Attorney

EXHIBIT A

(Attach Notice of October 25, 2022 Meeting)

EXHIBIT B

(Attach Affidavit of Publication Following Approval on First Reading)

EXHIBIT C

(Attach Notice of November 8, 2022 Meeting and Public Hearing)

EXHIBIT D

(Attach Affidavit of Publication Following Final Passage)

AFTER RECORDATION PLEASE RETURN TO:

Butler Snow LLP  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
Attention: Kimberley Crawford, Esq.

Pursuant to Section 39-13-104(1)(j), Colorado Revised Statutes, this Site Lease Agreement is exempt from the documentary fee.

---

---

**SITE LEASE AGREEMENT**

**DATED AS OF [CLOSING DATE], 2022**

**BETWEEN**

**TOWN OF BRECKENRIDGE, COLORADO, AND SUMMIT COUNTY, COLORADO  
AS LESSORS**

**AND**

**UMB BANK, N.A.,  
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE INDENTURE,  
AS LESSEE**

---

---

This SITE LEASE AGREEMENT, dated as of [closing date], 2022 (this “Site Lease”), is by and between the Town of Breckenridge, Colorado, a home rule municipality duly organized and validly existing under the Constitution and laws of the State of Colorado (the “Town”) and Summit County, Colorado, a county duly organized and validly existing under the Constitution and laws of the State of Colorado (the “County”, and together with the Town, the “Lessors), as lessors, and UMB Bank, n.a., Denver, Colorado, a national banking association duly organized and validly existing under the laws of the United States of America, solely in its capacity as trustee under the Indenture (the “Trustee”), as lessee.

## **PREFACE**

Unless the context otherwise requires, capitalized terms used herein shall have the meanings ascribed to them herein and in the Lease Purchase Agreement, dated as of [closing date], 2022 (the “Lease”), between the Trustee, as lessor, and the Town, as lessee.

## **RECITALS**

1. The Town is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the “Charter”).

2. Pursuant to Section 11.10 of the Charter, the Town Council of the Town (the “Council”) is authorized to enter into lease-purchase and installment-purchase agreements as a means of acquiring any real or personal property for public purposes.

3. Pursuant to Section 15.4 of the Charter, the Council is authorized to lease, for such time as the Council shall determine, real or personal property to or from any person, firm or corporation, public and private, governmental or otherwise.

4. The County is a duly and regularly created, organized and existing political subdivision and public body corporate and politic, existing as such under and by virtue of the Constitution and laws of the State of Colorado.

5. Pursuant to C.R.S. § 30-11-101(1)(c), the County is authorized “to lease any real or personal property, either as lessor or lessee, together with any facilities thereon, when deemed by the board of county commissioners to be in the best interests of the county and its inhabitants.”

6. The Lessors have determined to develop for rent workforce housing (the “Project”) on the property described in Exhibit A attached hereto (the “Leased Property”) and for the Town to finance the costs of the Project.

7. The Town and the County own fee title, as tenants in common, to the Leased Property.

8. To accomplish the Project, the Lessors have determined to lease the Leased Property pursuant to this Site Lease to the Trustee and the Town has determined to lease back the Trustee’s interest in the Property pursuant to the terms of the Lease.

9. The Trustee and the Lessors intend that this Site Lease set forth their entire understanding and agreement regarding the terms and conditions upon which the Trustee is leasing the Leased Property from the Lessors.

10. Contemporaneously with the execution and delivery of this Site Lease and the Lease, the Trustee will execute and deliver an Indenture of Trust (the “Indenture”) pursuant to which there will be

executed and delivered certain certificates of participation (the “Certificates”) dated as of their date of delivery that will evidence proportionate interests in the right to receive certain, will be payable solely from the sources therein provided, and will not directly or indirectly obligate the Town to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect.

11. The proceeds of the Certificates will be utilized for the Project, as well as for the payment of the costs of execution and delivery of the Certificates.

12. The Lessors are entering into this Site Lease with the Trustee as material consideration for the Trustee’s agreement to lease the Leased Property to the Town pursuant to the Lease. The Trustee will prepay in full its rental payments due under this Site Lease which rental payments shall be used by the Town to effect the Project, all pursuant to this Site Lease, the Lease and the Indenture.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

**Section 1. Site Lease and Terms.** The Lessors hereby demise and lease to the Trustee and the Trustee hereby leases from the Lessors, on the terms and conditions hereinafter set forth, the Leased Property, subject to Permitted Encumbrances as described in **Exhibit B** hereto.

The term of this Site Lease shall commence on the date hereof and shall end on December 1, 2057 (the “Site Lease Termination Date”), unless such term is sooner terminated as hereinafter provided. If, prior to the Site Lease Termination Date, the Trustee has transferred and conveyed the Trustee’s leasehold interest in all of the Leased Property pursuant to Article 12 of the Lease as a result of the Town’s payment of (a) the applicable Purchase Option Price thereunder; or (b) all Base Rentals and Additional Rentals, all as further provided in Section 12.2 of the Lease, then the term of this Site Lease shall end in connection with such transfer and conveyance.

The term of any sublease of the Leased Property or any portion thereof, or any assignment of the Trustee’s interest in this Site Lease, pursuant to Section 5 hereof, the Lease and the Indenture, shall not extend beyond December 31, 2057. At the end of the term of this Site Lease, all right, title and interest of the Trustee, or any sublessee or assignee, in and to the Leased Property, shall terminate. Upon such termination, the Trustee and any sublessee or assignee shall execute and deliver to the Lessors any necessary documents releasing, assigning, transferring and conveying the Trustee’s, sublessee’s or assignee’s respective interests in the Leased Property.

**Section 2. Rental.** The Lessors acknowledge that there has been deposited to the (1) Construction Fund (created pursuant to the Indenture) \$\_\_\_\_\_ in order to finance the Project, which will be leased, together with the Leased Property, to the Town pursuant to the Lease and (2) Costs of Execution and Delivery Fund (created pursuant to the Indenture) the amount of \$\_\_\_\_\_ to pay the Costs of Execution and Delivery (as defined in the Indenture) and that such deposits constitute full and adequate consideration for conveyance of the leasehold interest in the Leased Property conveyed to the Trustee pursuant to this Site Lease. The estimated useful life of the Project exceeds the maximum term of this Site Lease.

**Section 3. Purpose.** The Trustee shall use the Leased Property solely for the purpose of leasing the Leased Property back to the Town pursuant to the Lease and for such purposes as may be incidental thereto; provided, that upon the occurrence of an Event of Nonappropriation or an Event of Lease Default and the termination of the Lease, the Town shall vacate the Leased Property, as provided in the Lease, and the Trustee may exercise the remedies provided in this Site Lease, the Lease and the Indenture.

**Section 4. Owner in Fee.** The Lessors represent that (a) they are the owners (as tenants in common) in fee of the Leased Property, subject only to Permitted Encumbrances as described in **Exhibit B** hereto, and (b) the Permitted Encumbrances do not and shall not interfere in any material way with the Leased Property. The Trustee acknowledges that it is only obtaining a leasehold interest in the Leased Property and pursuant to this Site Lease.

**Section 5. Sales, Assignments and Subleases.** Unless an Event of Nonappropriation or an Event of Lease Default shall have occurred and except as may otherwise be provided in the Lease, the Trustee may not sell or assign its rights and interests under this Site Lease or sublet all or any portion of the Leased Property, without the written consent of the Town.

In the event that (a) the Lease is terminated for any reason and (b) this Site Lease is not terminated, the Trustee may sublease the Leased Property or any portion thereof, or sell or assign the Trustee's leasehold interests in this Site Lease, pursuant to the terms of the Lease and the Indenture, and any purchasers from or sublessees or assignees of the Trustee may sell or assign its respective interests in the Leased Property, subject to the terms of this Site Lease, the Lease and the Indenture. The Lessors and the Trustee (or any purchasers from or assignees or sublessees of the Trustee) agree that, except as permitted by this Site Lease, the Lease and the Indenture and except for Permitted Encumbrances (including purchase options under the Lease), none of the Lessors, the Trustee, or any purchasers from or sublessees or assignees of the Trustee will sell, mortgage or encumber the Leased Property or any portion thereof during the term of this Site Lease.

The Trustee and any other person who has the right to use the Leased Property under this Site Lease, at its own expense, may install equipment and other personal property in or on any portion of the Leased Property unless it is permanently affixed to the Leased Property or removal of it would materially damage the Leased Property, in which case it will become part of the Leased Property.

Nothing herein prohibits the Lessors from transferring ownership of the Leased Property subject to the provisions of this Site Lease, the Lease and the Indenture.

**Section 6. Right of Entry.** To the extent that the Lease is terminated and this Site Lease is still in effect, the Lessors reserve the right for any of their duly authorized representatives to enter upon the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

**Section 7. Termination.** The Trustee agrees, upon the termination of this Site Lease, to quit and surrender all of the Leased Property, and agrees that any permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon.

**Section 8. Default.** In the event the Trustee shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Trustee, the Lessors may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and that so long as any Certificates are Outstanding and unpaid under the Indenture, the Base Rentals due under the Lease shall continue to be paid to the Trustee except as otherwise provided in the Lease. In addition, so long as any of the Certificates are Outstanding, this Site Lease shall not be terminated except as described in Section 1 hereof.

**Section 9. Quiet Enjoyment and Acknowledgment of Ownership.** The Trustee at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy the Leased Property, subject to the provisions of the Lease and the Indenture, and the Lessors hereby acknowledge that the

Trustee shall have a leasehold interest in all improvements or additions to be built on the Leased Property subject to this Site Lease, the Lease and the Indenture.

**Section 10. Trustee's Disclaimer.** It is expressly understood and agreed that (a) this Site Lease is executed by UMB Bank, n.a., solely in its capacity as Trustee under the Indenture, and (b) nothing herein shall be construed as creating any liability on UMB Bank, n.a., other than in its capacity as Trustee under the Indenture. All financial obligations of the Trustee under this Site Lease, except those resulting from its willful misconduct or negligence, are limited to the Trust Estate.

**Section 11. Taxes; Maintenance; Insurance.** During the Lease Term of the Lease and in accordance with the provisions of the Lease, including Sections 9.1 and 9.3 thereof, the Town covenants and agrees to pay any and all taxes, assessments or governmental charges due in respect of the Leased Property and all maintenance costs and utility charges in connection with the Leased Property. In the event that (a) the Lease is terminated for any reason, (b) this Site Lease is not terminated, and (c) the Trustee subleases all or any portion of the Leased Property or sells or assigns its interests in this Site Lease, the Trustee, or any purchaser, sublessee or assignee of the Leased Property (including the leasehold interests of the Trustee resulting from this Site Lease) shall pay or cause to be paid when due, all such taxes, assessments or governmental charges and maintain the Leased Property in good condition and working order. Any such payments that are to be made by the Trustee shall be made solely from (a) the proceeds of such sale, subleasing or assignment, (b) from the Trust Estate, or (c) from other moneys furnished to the Trustee under Section 8.02(m) of the Indenture, and in the absence of available moneys identified in the preceding clauses (a) through (c), the Trustee shall be under no obligation to pay or cause to be paid when due, all such taxes, assessments or governmental charges and maintain the Leased Property in good condition and working order.

The provisions of the Lease shall govern with respect to the maintenance of insurance hereunder during the Lease Term of the Lease. In the event that (a) the Lease is terminated for any reason, and (b) this Site Lease is not terminated, the Trustee, or any sublessee, purchaser or assignee of the Leased Property shall obtain and keep in force, (i) commercial general liability insurance against claims for personal injury, death or damage to property of others occurring on or in the Leased Property in an amount not less than the limitations provided in the Colorado Governmental Immunity Act (Article 10, Title 24, Colorado Revised Statutes, as heretofore or hereafter amended), and (ii) property insurance in an amount not less than the full replacement value of the Leased Property. Any such insurance that is to be obtained by the Trustee shall be paid for solely from (a) the proceeds of such sale, subleasing or assignment, (b) from the Trust Estate, including without limitation moneys (including any amounts under a Qualified Surety Bond) on deposit in the Reserve Fund, or (c) from other moneys furnished to the Trustee under Section 8.02(m) of the Indenture, and in the absence of available moneys identified in the preceding clauses (a) through (c), the Trustee shall be under no obligation to obtain or keep in force such insurance coverages. All such insurance shall name the Trustee, any sublessee, purchaser or assignee and the Town as insured. The Trustee shall be named loss payee. The Town and the Trustee shall waive any rights of subrogation with respect to the Trustee, any sublessee, purchaser or assignee, and the Town, and their members, directors, officers, agents and employees, while acting within the scope of their employment and each such insurance policy shall contain such a waiver of subrogation by the issuer of such policy.

Nothing in the preceding paragraphs or in this Site Lease shall be interpreted or construed to require the Trustee to sublease all or any portion of the Leased Property or sell or assign its interests in this Site Lease, in the event that the Lease is terminated for any reason and this Site Lease is not terminated.

**Section 12. Damage, Destruction or Condemnation.** The provisions of the Lease shall govern with respect to any damage, destruction or condemnation of the Leased Property during the Lease Term of the Lease. In the event that (a) the Lease is terminated for any reason and (b) this Site Lease is not

terminated, and either (i) the Leased Property or any portion thereof is damaged or destroyed, in whole or in part, by fire or other casualty, or (ii) title to or use of the Leased Property or any part thereof shall be taken under the exercise of the power of eminent domain, the Lessors and the Trustee, or any sublessee, purchaser or assignee of the Leased Property from the Trustee shall cause the Net Proceeds of any insurance claim or condemnation award to be applied in accordance with the provisions of Article 10 of the Lease.

**Section 13. Hazardous Substances.** Except for customary materials necessary for operation, cleaning and maintenance of the Leased Property, none of the Town, the Trustee or any sublessee, purchaser or assignee of the Leased Property from the Trustee shall cause or permit any Hazardous Substance to be brought upon, generated at, stored or kept or used in or about the Leased Property without prior written notice to the Town and the Trustee and all Hazardous Substances, including customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Substance so brought upon or used or kept on or about the Leased Property, provided unless the Trustee has exercised its right to take possession of the Leased Property after the occurrence and continuance of an Event of Lease Default, the Trustee shall have no responsibility under this Section to monitor or investigate whether the Leased Property complies with environmental laws or is subject to any Hazardous Substance. If the presence of Hazardous Substance on the Leased Property caused or permitted by the Town, the Trustee or any sublessee, purchaser or assignee of the Leased Property from the Trustee, as the case may be, results in contamination of the Leased Property, or if contamination of the Leased Property by Hazardous Substance otherwise occurs for which the Town, the Trustee or any sublessee or assignee of the Leased Property, as the case may be, is legally liable for damage resulting therefrom (provided that the Trustee shall have no liability under this section unless it is in possession of the Leased Property and unless the presence of such Hazardous Substances is due to the Trustee's negligence or willful misconduct), then the Town, the Trustee or any sublessee, purchaser or assignee of the Leased Property from the Trustee, as the case may be, shall reimburse the other party for its reasonable and necessary legal expenses to defend the parties hereto or assignees hereof that have not caused or permitted such contamination and are not so legally liable with respect to this Site Lease from claims for damages, penalties, fines, costs, liabilities or losses; provided that the cost of such defense, (a) in the case of the Trustee, shall be payable solely from the Trust Estate, or (b) in the case of the Town, shall be payable only if the cost of such defense has been annually appropriated by the Town. This duty to reimburse legal expenses is not an indemnification. It is expressly understood that none of the Town, the Trustee or any sublessee, purchaser or assignee is indemnifying any other person with respect to this Site Lease. Without limiting the foregoing, if the presence of any Hazardous Substance on the Leased Property caused or permitted by:

(a) the Trustee after the Trustee has exercised its right to take possession of the Leased Property after the occurrence and continuance of an Event of Lease Default, or any sublessee, purchaser or assignee of the Leased Property from the Trustee, as the case may be, results in any contamination of the Leased Property, the Trustee or any sublessee, purchaser or assignee of the Leased Property from the Trustee, as the case may be, shall provide prior written notice to the Town and the Trustee and promptly take all actions, solely at the expense of the Trust Estate as are necessary to effect remediation of the contamination in accordance with legal requirements; or

(b) the Town, results in any contamination of the Leased Property, the Town shall provide prior written notice to the Trustee and promptly take all actions, solely at the expense of the Town, which expenses shall constitute Additional Rentals, as are necessary to effect remediation of the contamination in accordance with legal requirements.

**Section 14. Third Party Beneficiaries.** It is expressly understood and agreed that the Owners of the outstanding Certificates are third party beneficiaries to this Site Lease and enforcement of the terms and conditions of this Site Lease, and all rights of action relating to such enforcement, shall be strictly

reserved to the Lessors, as Lessors, and the Trustee, as Lessee, and their respective successors and assigns, and to the Owners of the Certificates. Except as hereinafter provided, nothing contained in this Site Lease shall give or allow any such claim or right of action by any other or third person on this Site Lease. It is the express intention of the Lessors and the Trustee that any person other than the Lessors, the Trustee or the Owners of the Certificates receiving services or benefits under this Site Lease shall be deemed to be an incidental beneficiary only.

**Section 15. Partial Invalidity.** If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

**Section 16. No Merger.** The Lessors and the Trustee intend that the legal doctrine of merger shall have no application to this Site Lease and that neither the execution and delivery of the Lease by the Trustee and the Lessors nor the exercise of any remedies under this Site Lease or the Lease shall operate to terminate or extinguish this Site Lease or the Lease, except as specifically provided herein and therein.

**Section 17. Amendments.** This Site Lease may only be amended, changed, modified or altered as provided in the Indenture.

**Section 18. Notices.** All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by any party to the other parties shall be in writing and shall be sufficiently given and served upon the other parties if (i) delivered personally or (ii) if mailed by certified or registered mail, postage prepaid, or (iii) by private courier service which provides evidence of delivery, or (iv) sent by electronic transmission which produces evidence of transmission, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission. All such communications will be addressed as follows:

If to the Trustee:

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Attention: Corporate Trust and Escrow Services  
Email: Jonathan.Fernandez@umb.com  
Phone: (303) 764-3607

If to the Town:

Town of Breckenridge, Colorado  
150 Ski Hill Road  
P. O. Box 168  
Breckenridge, Colorado 80424  
Attention: Town Manager  
Email: rickh@townofbreckenridge.com  
Phone: (970) 453-3171

If to the County:

Board of the County Commissioners  
P.O. Box 68

Breckenridge, Colorado 80424  
Attn: County Manager  
Email: \_\_\_\_\_  
Phone: (970)453-3401

Any party may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 19. Recitals.** The Recitals set forth in this Site Lease are hereby incorporated by reference and made a part of this Site Lease.

**Section 20. Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

**Section 21. Execution.** This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same Site Lease.

**Section 22. Governing Law.** This Site Lease shall be governed by and construed in accordance with the State of Colorado without regard to choice of law analysis.

**Section 23. No Waiver of Governmental Immunity.** No provision of this Site Lease shall act or be deemed to be a waiver by the Lessors of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*

**Section 24. Electronic Transactions.** The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, the Town, the County, and the Trustee have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

TOWN OF BRECKENRIDGE, COLORADO,  
as Lessor

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

(SEAL)

Attest:

By: \_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

SUMMIT COUNTY, COLORADO, as Lessor

By: \_\_\_\_\_  
Tamara Pogue, Chair of the Board of  
County Commissioners

(SEAL)

Attest:

By: \_\_\_\_\_  
Kathleen Neel, County Clerk and Recorder

UMB BANK, n.a., solely in its capacity of Trustee under the Indenture, as Lessee

By: \_\_\_\_\_  
Jonathan Fernandez, Vice President

STATE OF COLORADO )  
 )  
COUNTY OF SUMMIT ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Eric S. Mamula and Helen Cospolich, CMC, as Mayor and Town Clerk, respectively, of the Town of Breckenridge, Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

\*\*\*\*\*

STATE OF COLORADO )  
 )  
COUNTY OF SUMMIT ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Tamara Pogue, Chair of the Board of County Commissioners of Summit County, Colorado, and Kathleen Neel, County Clerk and Recorder, of Summit County, Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

\*\*\*\*\*

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Jonathan Fernandez, as Vice President of UMB Bank, n.a., as Trustee.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

**EXHIBIT A**

**DESCRIPTION OF THE LEASED PROPERTY**

The Leased Property consists of the real property and the buildings and improvements located thereon as set forth below, as amended from time to time.

Lot 4, Block 1, Resubdivision of Parkway Center Subdivision Filing No. 1 Amended, according to the Plat Filed September 2, 2022 under Reception No. 1296242, County of Summit, State of Colorado

## EXHIBIT B

### PERMITTED ENCUMBRANCES

“*Permitted Encumbrances*” means, as of any particular time: (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pending contest pursuant to the provisions of the Lease; (b) this Site Lease, the Lease, the Indenture and any related fixture filing and any liens arising or granted pursuant to the Lease or the Indenture; (c) utility, access and other easements and rights of way, licenses, permits, party wall and other agreements, restrictions and exceptions which pursuant to the Indenture the Mayor or the Town Representative certifies will not materially interfere with or materially impair the Leased Property, including rights or privileges in the nature of easements, licenses, permits and agreements as provided in the Lease; and (d) the easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee pursuant to this Site Lease, as shown below and which do not interfere in any material way with the Leased Property.

The easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee pursuant to this Site Lease are as follows:

- 1) Liens for ad valorem taxes and special assessments not then delinquent, if applicable.
- 2) This Site Lease.
- 3) The Lease.
- 4) All other encumbrances appearing of record on the date hereof.

AFTER RECORDATION PLEASE RETURN TO:

Butler Snow LLP  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
Attention: Kimberley Crawford, Esq.

Pursuant to Section 39-13-104(1)(j), Colorado Revised Statutes, this Lease Purchase Agreement is exempt from the documentary fee.

---

---

**LEASE PURCHASE AGREEMENT**

**DATED AS OF [CLOSING DATE], 2022**

**BETWEEN**

**UMB BANK, N.A.,  
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE INDENTURE,  
AS LESSOR**

**AND**

**TOWN OF BRECKENRIDGE, COLORADO,  
AS LESSEE**

---

---

**This Table of Contents is not a part of this Lease and is only for convenience of reference.**

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS..... 3

    Section 1.1    Certain Funds and Accounts ..... 3

    Section 1.2    Definitions..... 3

ARTICLE 2 REPRESENTATIONS AND COVENANTS..... 10

    Section 2.1    Representations and Covenants of the Town ..... 10

    Section 2.2    Representations and Covenants of the Trustee..... 11

    Section 2.3    Nature of Lease ..... 11

    Section 2.4    Town Acknowledgement of Certain Matters ..... 12

    Section 2.5    Relationship of Town and Trustee ..... 12

ARTICLE 3 LEASE OF THE LEASED PROPERTY ..... 13

ARTICLE 4 LEASE TERM ..... 14

    Section 4.1    Duration of Lease Term ..... 14

    Section 4.2    Termination of Lease Term..... 14

ARTICLE 5 ENJOYMENT OF THE LEASED PROPERTY ..... 16

    Section 5.1    Trustee’s Covenant of Quiet Enjoyment ..... 16

    Section 5.2    Town’s Need for the Leased Property; Determinations as to Fair Value and Fair  
                    Purchase Price ..... 16

ARTICLE 6 PAYMENTS BY THE TOWN..... 17

    Section 6.1    Payments to Constitute Currently Budgeted Expenditures of the Town..... 17

    Section 6.2    Base Rentals, Purchase Option Price and Additional Rentals..... 17

    Section 6.3    Manner of Payment ..... 18

    Section 6.4    Nonappropriation ..... 19

    Section 6.5    Holdover Tenant..... 20

    Section 6.6    Prohibition of Adverse Budget or Appropriation Modifications ..... 20

ARTICLE 7 LEASING OF THE SITE; DESIGN, ACQUISITION, CONSTRUCTION AND  
    IMPROVEMENT OF THE PROJECT ..... 21

    Section 7.1    Leasing of the Site; Design, Acquisition, Construction and Improvement of the Project  
                    ..... 21

    Section 7.2    Disbursements for Costs of the Project ..... 21

    Section 7.3    Completion of Construction ..... 22

    Section 7.4    Title Insurance..... 22

    Section 7.5    Project Contracts ..... 22

    Section 7.6    Project Documents ..... 23

    Section 7.7    Defaults Under Project Contracts..... 23

    Section 7.8    Performance and Payment Bonds ..... 23

    Section 7.9    Professional Errors and Omissions Liability Insurance ..... 24

    Section 7.10    Contractor’s Commercial General Liability Insurance ..... 24

    Section 7.11    Design Consultant’s General Liability Insurance ..... 24

    Section 7.12    Contractor’s Automobile Liability Insurance..... 24

    Section 7.13    Builder’s Risk Insurance ..... 25

    Section 7.14    Design Consultant’s and Contractor’s Worker’s Compensation Insurance ..... 25

    Section 7.15    Proceeds of Certain Insurance Policies and Performance Bonds ..... 25

ARTICLE 8 TITLE TO LEASED PROPERTY; LIMITATIONS ON ENCUMBRANCES .....	26
Section 8.1 Title to the Leased Property .....	26
Section 8.2 No Encumbrance, Mortgage or Pledge of the Leased Property .....	26
ARTICLE 9 MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES .....	27
Section 9.1 Maintenance of the Leased Property by the Town.....	27
Section 9.2 Modification of the Leased Property; Installation of Furnishings and Machinery of the Town .....	27
Section 9.3 Taxes, Other Governmental Charges and Utility Charges .....	27
Section 9.4 Provisions for Liability and Property Insurance.....	28
Section 9.5 Advances .....	29
Section 9.6 Granting of Easements .....	29
ARTICLE 10 DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS .....	30
Section 10.1 Damage, Destruction and Condemnation.....	30
Section 10.2 Obligation to Repair and Replace the Leased Property.....	30
Section 10.3 Insufficiency of Net Proceeds .....	31
Section 10.4 Cooperation of the Trustee.....	31
ARTICLE 11 DISCLAIMER OF WARRANTIES; OTHER COVENANTS.....	33
Section 11.1 Disclaimer of Warranties .....	33
Section 11.2 Further Assurances and Corrective Instruments .....	33
Section 11.3 Compliance with Requirements .....	33
Section 11.4 Release and Substitution of Leased Property .....	33
Section 11.5 Tax Covenants.....	34
Section 11.6 Undertaking to Provide Ongoing Disclosure .....	34
Section 11.7 Covenant to Reimburse Legal Expenses .....	34
Section 11.8 Access to the Leased Property; Rights to Inspect Books .....	35
ARTICLE 12 PURCHASE OPTION .....	36
Section 12.1 Purchase Option .....	36
Section 12.2 Conditions for Purchase Option .....	36
Section 12.3 Manner of Conveyance .....	36
ARTICLE 13 ASSIGNMENT AND SUBLEASING.....	37
Section 13.1 Assignment by the Trustee; Replacement of the Trustee.....	37
Section 13.2 Assignment and Subleasing by the Town .....	37
ARTICLE 14 EVENTS OF LEASE DEFAULT AND REMEDIES .....	38
Section 14.1 Events of Lease Default Defined .....	38
Section 14.2 Remedies on Default .....	38
Section 14.3 Limitations on Remedies.....	39
Section 14.4 No Remedy Exclusive.....	39
Section 14.5 Waivers .....	39
Section 14.6 Agreement to Pay Attorneys' Fees and Expenses.....	40
Section 14.7 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws.....	40
ARTICLE 15 MISCELLANEOUS .....	41
Section 15.1 Sovereign Powers of Town .....	41
Section 15.2 Notices.....	41
Section 15.3 Third Party Beneficiaries .....	41
Section 15.4 Binding Effect .....	41

Section 15.5	Amendments .....	41
Section 15.6	Amounts Remaining in Funds.....	42
Section 15.7	Triple Net Lease .....	42
Section 15.8	Computation of Time .....	42
Section 15.9	Payments Due on Holidays .....	42
Section 15.10	Severability .....	42
Section 15.11	Execution in Counterparts.....	42
Section 15.12	Applicable Law .....	42
Section 15.13	The Trustee is Independent of the Town.....	42
Section 15.14	Governmental Immunity .....	43
Section 15.15	Recitals.....	43
Section 15.16	Captions.....	43
Section 15.17	Trustee’s Disclaimer .....	43
Section 15.18	Electronic Transactions .....	43
EXHIBIT A	DESCRIPTION OF LEASED PROPERTY.....	A-1
EXHIBIT B	PERMITTED ENCUMBRANCES .....	B-1
EXHIBIT C	BASE RENTALS SCHEDULE .....	C-1
EXHIBIT D	FORM OF NOTICE OF LEASE RENEWAL .....	D-1
EXHIBIT E	FORM OF REQUISITION.....	E-1
EXHIBIT F	CERTIFICATE OF COMPLETION.....	F-1

This LEASE PURCHASE AGREEMENT, dated as of [closing date], 2022 (this “Lease”), is by and between **UMB BANK, N.A.**, Denver, Colorado, a national banking association duly organized and validly existing under the laws of the United States of America, solely in its capacity as trustee under the Indenture (the “Trustee”), as lessor, and the **TOWN OF BRECKENRIDGE, COLORADO**, a Colorado home rule municipality duly organized and existing under the Constitution and laws of the State of Colorado (the “Town”), as lessee.

## PREFACE

All capitalized terms used herein will have the meanings ascribed to them in Article 1 of this Lease.

## RECITALS

1. The Town is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the “Charter”).

2. Pursuant to Section 11.10 of the Charter, the Town Council of the Town (the “Council”) is authorized to enter into lease-purchase and installment-purchase agreements as a means of acquiring any real or personal property for public purposes.

3. Pursuant to Section 15.4 of the Charter, the Council is authorized to lease, for such time as the Council shall determine, real or personal property to or from any person, firm or corporation, public and private, governmental or otherwise.

4. Because the demand for workforce housing in the Town exceeds the supply, the Council has determined that it is in the public interest and is a public purpose for the Town to finance the acquisition, construction, installation, equipping of for rent workforce housing on the property described in Exhibit A attached hereto (the “Leased Property”) including any legally permitted costs and expenditures in connection therewith, all for public purposes, and as authorized by law (the “Project”).

5. To accomplish the Project, the Trustee, solely in its capacity of Trustee under the Indenture, will acquire a leasehold interest in the Leased Property by leasing the Leased Property from the Town pursuant to the Site Lease (as defined herein) and the Trustee will lease the Leased Property back to the Town pursuant to this Lease.

6. The payment by the Town of Base Rentals (as defined herein) and Additional Rentals (as defined herein) hereunder in any future Fiscal Year (as defined herein) is subject to specific Appropriation (as defined herein) and renewal by the Council of this Lease for such future Fiscal Year. The Base Rentals and Additional Rentals payable by the Town under this Lease constitute current expenditures of the Town.

7. Neither this Lease nor the payment by the Town of Base Rentals or Additional Rentals hereunder shall be deemed or construed as creating an indebtedness of the Town within the meaning of any provision of the Colorado Constitution, the Charter or the laws of the State of Colorado, concerning or limiting the creation of indebtedness by the Town, and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the Town within the meaning of Article X, Section 20(4) of the Colorado Constitution or a mandatory charge or requirement against the Town in any ensuing Fiscal Year beyond the then current Fiscal Year. The obligation of the Town to pay Base Rentals and Additional Rentals hereunder shall be from year to year only, shall constitute currently budgeted expenditures of the Town, shall not constitute a mandatory charge or requirement in any ensuing budget

year, nor a mandatory payment obligation of the Town in any ensuing Fiscal Year beyond any Fiscal Year during which this Lease shall be in effect. In the event that this Lease is not renewed, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

8. The Trustee is executing this Lease solely in its capacity as trustee under the Indenture, and subject to the terms, conditions and protections provided for therein.

9. The Trustee and the Town intend that this Lease sets forth their entire understanding and agreement regarding the terms and conditions upon which the Town is leasing the Leased Property from the Trustee.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the Trustee and the Town agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

**Section 1.1 Certain Funds and Accounts.** All references herein to any funds and accounts shall mean the funds and accounts so designated which are established under the Indenture.

**Section 1.2 Definitions.** All capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Indenture, unless the context otherwise requires. Capitalized terms used herein shall have the following meanings under this Lease:

“*Additional Certificates*” means Additional Certificates which may be executed and delivered pursuant to the Indenture.

“*Additional Rentals*” means the payment or cost of all:

(a) (i) reasonable expenses and fees of the Trustee related to the performance or discharge of its responsibilities under the provisions of this Lease, the Site Lease or the Indenture, including the reasonable fees and expenses of any person or firm employed by the Town to make rebate calculations under the provisions of Section 3.04 of the Indenture and the expenses of the Trustee in respect of any policy of insurance obtained in respect of the Certificates executed and delivered with respect to this Lease, (ii) the cost of insurance premiums and insurance deductible amounts under any insurance policy to protect the Trustee from any liability under this Lease, approved by the Town Representative, which approval shall not be unreasonably withheld, (iii) reasonable legal fees and expenses incurred by the Trustee to defend the Trust Estate or the Trustee from and against any legal claims, and (iv) reasonable expenses and fees of the Trustee incurred at the request of the Town Representative;

(b) taxes, assessments, insurance premiums, utility charges, maintenance, upkeep, repair and replacement with respect to the Leased Property and as otherwise required under this Lease;

(c) payments into the Rebate Fund for rebate payments as provided in this Lease; and

(d) all other charges and costs (together with all interest and penalties that may accrue thereon in the event that the Town shall fail to pay the same, as specifically set forth in this Lease) which the Town agrees to assume or pay as Additional Rentals under this Lease.

Additional Rentals do not include Base Rentals.

“*Appropriation*” means the action of the Council in annually making moneys available for all payments due under this Lease, including the payment of Base Rentals and Additional Rentals.

“*Approval of Special Counsel*” means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of the Base Rentals paid by the Town under this Lease.

“*Base Rentals*” means the rental payments payable by the Town during the Lease Term, which constitute payments payable by the Town for and in consideration of the right to possess and use the Leased Property as set forth in **Exhibit C** (Base Rentals Schedule) hereto. Base Rentals does not include Additional Rentals.

“*Base Rentals Payment Dates*” means the Base Rentals Payment Dates set forth in **Exhibit C** (Base Rentals Schedule) hereto.

“*Business Day*” means any day, other than a Saturday, Sunday or legal holiday or a day (a) on which banks located in Denver, Colorado, are required or authorized by law or executive order to close or (b) on which the Federal Reserve System is closed.

“*Certificate of Completion*” means the Certificate of Completion in substantially the form attached hereto as **Exhibit F** to be delivered by the Town Representative to the Trustee pursuant to Section 7.3 hereof.

“*Certificates*” means the “Certificates of Participation, Series 2022, evidencing Proportionate Interests in the Base Rentals and other Revenues under an annually renewable Lease Purchase Agreement dated as of [closing date], 2022, between UMB Bank, n.a., solely in its capacity as trustee under the Indenture, as lessor, and the Town of Breckenridge, Colorado, as lessee” dated as of their date of delivery, executed and delivered pursuant to the Indenture.

“*Charter*” means the home rule charter of the Town, and any amendments or supplements thereto.

“*Completion Date*” means the earlier of (a) [closing date], 202\_, or such later date established by the Town with the Approval of Special Counsel, or (b) any date on which the Certificate of Completion is delivered by the Town Representative to the Trustee pursuant to Section 7.3 of this Lease.

“*Construction Fund*” means the Construction Fund created under the Indenture.

“*Continuing Disclosure Certificate*” means the certificate executed by the Town of even date herewith which constitutes an undertaking pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission.

“*Costs of Execution and Delivery*” means all items of expense directly or indirectly payable by the Trustee related to the authorization, execution and delivery of the Site Lease and this Lease and related to the authorization, sale, execution and delivery of the Certificates, as further defined in the Indenture.

“*Costs of the Project*” means all costs and expenses incurred in connection with the Project, including without limitation:

- (a) any costs paid or incurred for the acquisition of any real estate acquired as part of the Leased Property;
- (b) obligations paid, incurred or assumed for labor, materials and equipment in connection with the construction, acquisition, installation, equipping and improvement of the Project;
- (c) the cost of performance and payment bonds and of insurance of all kinds (including, without limitation, title insurance) that may be necessary or appropriate in connection with the Project;
- (d) the costs of engineering, architectural and other professional and technical services including obligations incurred or assumed for preliminary design and development work, test borings, soils tests, surveys, environmental review, estimates and plans and specifications;

(e) administrative costs incurred in connection with the leasing of the Leased Property and the construction of the Project incurred prior to the Completion Date, including supervision of the construction, acquisition, installation and equipping as well as the performance of all of the other duties required by or consequent upon the construction, acquisition, installation and equipping of the Project, including, without limitation, costs of preparing and securing all Project Documents, architectural, engineering and other professional and technical fees, building permit fees, water tap fees, sanitary sewer and wastewater fees, legal fees and expenses, appraisal fees, independent inspection fees, auditing fees and advertising expenses in connection with the Project;

(f) costs incurred in connection with the Certificates, including the initial compensation and expenses of the Trustee, legal fees and expenses, costs incurred in obtaining ratings from rating agencies, the premium for a qualified surety bond, if any, and accounting fees;

(g) all costs which are required to be paid under the terms of any Project Contract;

(h) any costs associated with the leasing of the Site pursuant to the Site Lease;

(i) costs related to the preparation of the Site for construction of the Project, including, but not limited to, the costs of demolition and cleanup of any existing improvements on the Site and costs associated with the provision of sewer, water, gas, electricity and other infrastructure improvements and services to the Site;

(j) payments to a reserve fund to the extent necessary to establish or maintain a reserve requirement, if any;

(k) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel; and

(l) any and all other costs necessary to effect the Trustee's leasing of the Site and the implementation and completion of the Project to the extent the same are permitted by the laws of the State of Colorado and will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel.

“*County*” means Summit County, Colorado.

“*Council*” means the Town Council of the Town or any successor to its functions.

“*Counsel*” means an attorney at law or law firm (who may be counsel for the Trustee) who is satisfactory to the Town.

“*C.R.S.*” means Colorado Revised Statutes.

“*Event(s) of Lease Default*” means any event as defined in Section 14.1 of this Lease.

“*Event of Nonappropriation*” means the termination and non-renewal of this Lease by the Town, determined by the Council's failure, for any reason, to appropriate by the last day of each Fiscal Year, (a) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (b) sufficient

amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year, as provided in Section 6.4 of this Lease. An Event of Nonappropriation may also occur under certain circumstances described in Section 9.3(c) of this Lease. The term also means a notice under this Lease of the Town's intention to not renew and therefore terminate this Lease or an event described in this Lease relating to the exercise by the Town of its right to not appropriate amounts due as Additional Rentals in excess of the amounts for which an Appropriation has been previously effected.

*"Finance Director"* means the Finance Director of the Town or his or her successor in functions, if any.

*"Fiscal Year"* means the Town's fiscal year, which begins on January 1 of each calendar year and ends on December 31 of the same calendar year, or any other twelve month period which the Town or other appropriate authority hereafter may establish as the Town's fiscal year.

*"Force Majeure"* means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America, the State of Colorado or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; pandemics or other declared health emergencies; or any other cause or event not within the control of the Town in its capacity as lessee hereunder or the Trustee.

*"Hazardous Substance"* means and includes: (a) the terms "hazardous substance," "release" and "removal" which, as used herein, shall have the same meaning and definition as set forth in paragraphs (14), (22) and (23), respectively, of Title 42 U.S.C. §9601 and in Colorado law, provided, however, that the term "hazardous substance" as used herein shall also include "hazardous waste" as defined in paragraph (5) of 42 U.S.C. §6903 and "petroleum" as defined in paragraph (8) of 42 U.S.C. §6991; (b) the term "superfund" as used herein means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, being Title 42 U.S.C. §9601 et seq., as amended, and any similar State of Colorado statute or local ordinance applicable to the Leased Property, including, without limitation, Colorado rules and regulations promulgated, administered and enforced by any governmental agency or authority pursuant thereto; and (c) the term "underground storage tank" as used herein shall have the same meaning and definition as set forth in paragraph (1) of 42 U.S.C. §6991.

*"Indenture"* means the Indenture of Trust, dated as of [closing date], 2022, entered into by the Trustee, as the same may be amended or supplemented.

*"Initial Term"* means the period which commences on the date of delivery of this Lease and terminates on December 31, 2022.

*"Interest Portion"* means the portion of each Base Rentals payment that represents the payment of interest set forth in Exhibit C (Base Rentals Schedule) hereto.

*"Lease"* means this Lease Purchase Agreement, dated as of [closing date], 2022, between the Trustee, as lessor, and the Town, as lessee, as the same may hereafter be amended.

*"Lease Remedy"* or *"Lease Remedies"* means any or all remedial steps provided in this Lease whenever an Event of Lease Default or an Event of Nonappropriation has happened and is continuing, which may be exercised by the Trustee as provided in this Lease and in the Indenture.

*"Lease Term"* means the Initial Term and any Renewal Terms as to which the Town may exercise its option to renew this Lease by effecting an Appropriation of funds for the payment of Base Rentals and

Additional Rentals hereunder, as provided in and subject to the provisions of this Lease. “Lease Term” refers to the time during which the Town is the lessee of the Leased Property under this Lease.

“*Leased Property*” means the Site and the premises, buildings and improvements situated thereon, including all fixtures attached thereto, as more particularly described in **Exhibit A** to this Lease, together with any and all additions and modifications thereto and replacements thereof, including, without limitation, the easements, rights of way, covenants and other rights set forth in the documents listed on **Exhibit B** attached hereto, and any New Facility.

“*Net Proceeds*” means the proceeds of any performance or payment bond, or proceeds of insurance, including self-insurance, required by this Lease or proceeds from any condemnation award, or any proceeds resulting from default or breaches of warranty under any Project Contract, or proceeds derived from the exercise of any Lease Remedy or otherwise following termination of this Lease by reason of an Event of Nonappropriation or an Event of Lease Default, allocable to the Leased Property, less (a) all related expenses (including, without limitation, attorney’s fees and costs) incurred in the collection of such proceeds or award; and (b) all other related fees, expenses and payments due to the Town and the Trustee.

“*New Facility*” means any real property, buildings or equipment leased by the Town to the Trustee pursuant to a future amendment to the Site Lease and leased back by the Town from the Trustee pursuant to a future amendment to this Lease in connection with the execution and delivery of Additional Certificates.

“*Owners*” means the registered owners of any Certificates and Beneficial Owners.

“*Permitted Encumbrances*” with respect to the Leased Property, means, as of any particular time: (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pending contest pursuant to the provisions of this Lease; (b) the Site Lease, this Lease, the Indenture and any related fixture filing and any liens arising or granted pursuant to the Site Lease, this Lease or the Indenture; (c) utility, access and other easements and rights of way, licenses, permits, party wall and other agreements, restrictions and exceptions which the Town Representative certifies will not materially interfere with or materially impair the Leased Property, including rights or privileges in the nature of easements, licenses, permits and agreements as provided in this Lease or other Project Contracts; (d) any sublease of the Leased Property that are permitted pursuant to the terms and provisions of Section 13.2 hereof; and (e) the easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee pursuant to the Site Lease, as shown on **Exhibit B** hereto and which the Town Representative certifies do not and will not interfere in any material way with the intended use of the Leased Property.

“*Prepayment*” means any amount paid by the Town pursuant to the provisions of this Lease as a prepayment of the Base Rentals due hereunder.

“*Principal Portion*” means the portion of each Base Rentals payment that represents the payment of principal set forth in **Exhibit C** (Base Rentals Schedule) hereto.

“*Project*” means, to the extent financed with the proceeds of the Certificates, the construction and equipping of for rent workforce housing on the Site.

“*Project Contract*” means any contract entered into before the Completion Date by the Town regarding the design, acquisition, construction, improvement or installation of any portion of the Project, including, without limitation, the design contracts between the Town and the design consultants, the construction contracts between the Town and the contractors, and any other contracts between the Town

and anyone performing work or providing services in connection with the implementation and completion of the Project.

“*Project Documents*” means the following: (a) plans, drawings and specifications for the Project, when and as they are approved by the Town, including change orders, if any; (b) any necessary permits for the Project, including any building permits and certificates of occupancy; (c) the Project Contracts; (d) policies of title insurance, insurance policies required under the Project Contracts, including general liability, property damage and automobile, worker’s compensation and builders’ risk insurance policies in respect of the general contractor for construction of the Project and, on and after the Completion Date of the Project, insurance policies required under Article 9 of this Lease, including commercial general liability and public liability, property and worker’s compensation insurance policies, or certificates of insurance for any of such policies thereof, as required by this Lease; (e) contractor’s performance and payment bonds with respect to the Project; and (f) any and all other documents executed by or furnished to the Town or the Trustee in connection with the Project.

“*Purchase Option Price*” means the amount payable on any date, at the option of the Town, to prepay Base Rentals, terminate the Lease Term and purchase the Trustee’s leasehold interest in the Leased Property, as provided herein.

“*Renewal Term*” means any portion of the Lease Term commencing on January 1 of any calendar year and terminating on or before December 31 of such calendar year as provided in Article 4 of this Lease.

“*Requisition*” means the process by which the Town Representative will request the reimbursement to the Town or the payment to others of qualifying Costs of the Project, such Requisition to be initiated by the submission to the Trustee of a form substantially as set forth in **Exhibit E** hereto.

“*Revenues*” means (a) all amounts payable by or on behalf of the Town or with respect to the Leased Property pursuant to this Lease including, but not limited to, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds, but not including Additional Rentals; (b) any portion of the proceeds of the Certificates deposited into the Base Rentals Fund or the Construction Fund created under the Indenture; (c) any moneys which may be derived from any insurance in respect of the Certificates; and (d) any moneys and securities, including investment income, held by the Trustee in the Funds and Accounts established under the Indenture (except for moneys and securities held in the Rebate Fund or any defeasance escrow account).

“*Site*” means the real property owned by the Town and leased by the Town to the Trustee under the Site Lease and subleased by the Trustee to the Town under this Lease, the legal description of which is set forth in **Exhibit A** hereto, or an amendment or supplement hereto.

“*Site Lease*” means the Site Lease, dated as of [closing date], 2022, between the Town and County, as lessors, and the Trustee, as lessee, as the same may hereafter be amended.

“*Special Counsel*” means any counsel experienced in matters of municipal law and listed in the list of municipal bond attorneys, as published semiannually by The Bond Buyer, or any successor publication. So long as the Lease Term is in effect, the Town shall have the right to select Special Counsel.

“*Tax Certificate*” means the Tax Certificate entered into by the Town with respect to this Lease.

“*Tax Code*” means the Internal Revenue Code of 1986, as amended, and all regulations and rulings promulgated thereunder.

“*Town*” means the Town of Breckenridge, Colorado.

“*Town Manager*” means the Town Manager of the Town or his or her successor in function.

“*Town Representative*” means the Mayor, the Town Manager or the Finance Director or such other person at the time designated to act on behalf of the Town for the purpose of performing any act under this Lease, the Site Lease or the Indenture by a written certificate furnished to the Trustee containing the specimen signature of such person or persons and signed on behalf of the Town by the Mayor.

“*Trustee*” means UMB Bank, n.a., acting solely in the capacity of trustee pursuant to the Indenture, and any successor thereto appointed under the Indenture.

**ARTICLE 2**  
**REPRESENTATIONS AND COVENANTS**

**Section 2.1 Representations and Covenants of the Town.** The Town represents and covenants to the Trustee, to the extent allowed by law and subject to renewal of this Lease and Appropriation as set forth in Article 6 hereof as follows:

(a) The Town is a home rule municipal corporation duly organized and existing within the State under the Constitution and laws of the State and its Charter. The Town is authorized to enter into this Lease and the Site Lease and to carry out its obligations under this Lease and the Site Lease. The Town has duly authorized and approved the execution and delivery of this Lease, the Site Lease and all other documents related to the execution and delivery of this Lease and the Site Lease.

(b) The Town and County own the Leased Property as tenants in common and the Trustee has a leasehold interest in the Leased Property pursuant to the Site Lease.

(c) The leasing of the Leased Property to the Trustee pursuant to the Site Lease and the leasing or subleasing of the Leased Property from the Trustee, under the terms and conditions provided for in this Lease, and the implementation of the Project by the Town, are necessary, convenient and in furtherance of the Town's public purposes and are in the best interests of the citizens and inhabitants of the Town. The Town will apply the net proceeds derived from the proceeds of the Certificates to effectuate the Project.

(d) Neither the execution and delivery of this Lease and the Site Lease, nor the fulfillment of or compliance with the terms and conditions of this Lease and the Site Lease, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town or its property is bound, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to the Town, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien or encumbrance whatsoever upon any of the property or assets of the Town, except for Permitted Encumbrances.

(e) The Town agrees that, except for non-renewal and nonappropriation as set forth in Article 6 hereof, if the Town fails to perform any act which the Town is required to perform under this Lease, the Trustee may, but shall not be obligated to, perform or cause to be performed such act, and any reasonable expense incurred by the Trustee in connection therewith shall be an obligation owing by the Town (from moneys for which an Appropriation has been effected) to the Trustee shall be a part of Additional Rentals, and the Trustee shall be subrogated to all of the rights of the party receiving such payment.

(f) There is no litigation or proceeding pending against the Town affecting the right of the Town to execute this Lease or the Site Lease or the ability of the Town to make the payments required hereunder or to otherwise comply with the obligations contained herein, or which, if adversely determined, would, in the aggregate or in any case, materially adversely affect the property, assets, financial condition or business of the Town or materially impair the right or ability of the Town to carry on its operations substantially as now conducted or anticipated to be conducted in the future.

(g) Except for customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, the Town shall not cause or permit any Hazardous

Substance to be brought upon, generated at, stored or kept or used in or about the Leased Property without prior written notice to the Trustee, and all Hazardous Substances, including, customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Substance so brought upon or used or kept in or about the Leased Property. If the presence of any Hazardous Substance on the Leased Property caused or permitted by the Town results in contamination of the Leased Property, or if contamination of the Leased Property by any Hazardous Substance otherwise occurs for which the Town is legally liable for damage resulting therefrom, then the Town shall include as an Additional Rental any amount necessary to reimburse the Trustee for legal expenses incurred to defend (to the extent that an Appropriation for the necessary moneys has been effected by the Town) the Trustee from claims for damages, penalties, fines, costs, liabilities or losses. The reimbursement of the Trustee's legal expenses is not an indemnification. It is expressly understood that the Town is not indemnifying the Trustee and expenses of such defense shall constitute Additional Rentals. Without limiting the foregoing, if the presence of any Hazardous Substance on the Leased Property caused or permitted by the Town results in any contamination of the Leased Property, the Town shall provide prior written notice to the Trustee and promptly take all actions at its sole expense (which expenses shall constitute Additional Rentals) as are necessary to effect remediation of the contamination in accordance with legal requirements.

(h) The Town covenants and agrees to comply with any applicable covenants and requirements of the Town set forth in the Tax Certificate.

**Section 2.2 Representations and Covenants of the Trustee.** The Trustee represents and covenants as follows:

(a) So long as no Event of Indenture Default has occurred and is then continuing or existing, except as specifically provided in the Site Lease or this Lease or as necessary to transfer the Trust Estate to a successor Trustee, the Trustee shall not pledge or assign the Trustee's right, title and interest in and to (i) this Lease or the Site Lease, (ii) the Base Rentals, other Revenues and collateral, security interests and attendant rights and obligations which may be derived under this Lease or the Site Lease and/or (iii) the Leased Property and any reversion therein or any of its or the Trustee's other rights under this Lease or the Site Lease or assign, pledge, mortgage, encumber or grant a security interest in its or the Trustee's right, title and interest in, to and under this Lease or the Site Lease or the Leased Property except for Permitted Encumbrances.

(b) Neither the execution and delivery of this Lease and the Site Lease or the Indenture by the Trustee, nor the fulfillment of or compliance with the terms and conditions thereof and hereof, nor the consummation of the transactions contemplated thereby or hereby conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitutes a default under any of the foregoing.

(c) To the Trustee's knowledge, there is no litigation or proceeding pending against the Trustee affecting the right of the Trustee to execute this Lease and the Site Lease or to execute the Indenture, and perform its obligations thereunder or hereunder, except such litigation or proceeding as has been disclosed in writing to the Town on or prior to the date the Indenture is executed and delivered.

**Section 2.3 Nature of Lease.** The Town and the Trustee acknowledge and agree that the Base Rentals and Additional Rentals hereunder shall constitute currently budgeted and appropriated expenditures of the Town and may be paid from any legally available funds. The Town's obligations

under this Lease shall be subject to the Town's annual right to terminate this Lease (as further provided herein), and shall not constitute a mandatory charge or requirement in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as creating a general obligation, multiple fiscal year financial obligation, or other indebtedness of the Town within the meaning of any constitutional, Charter or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Article XI, Sections 1 or 2 of the Colorado Constitution. Neither this Lease nor the execution and delivery of the Certificates shall directly or indirectly obligate the Town to make any payments beyond those duly budgeted and appropriated for the Town's then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Trustee's leasehold interest in the Leased Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of Town moneys, nor shall any provision of this Lease restrict the future issuance of any Town bonds or obligations payable from any class or source of Town moneys (provided, however, certain restrictions in the Indenture shall apply to the issuance of Additional Certificates). In the event that this Lease is not renewed by the Town, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

**Section 2.4 Town Acknowledgement of Certain Matters.** The Town acknowledges the Indenture and the execution and delivery by the Trustee of the Certificates pursuant to the Indenture. The Town also acknowledges the Trustee's authority to act on behalf of the Owners of the Certificates with respect to all rights, title and interests of the Trustee in, to and under this Lease, the Site Lease and the Leased Property.

**Section 2.5 Relationship of Town and Trustee.** The relationship of the Town and the Trustee under this Lease is, and shall at all times remain, solely that of lessee and lessor; and the Town neither undertakes nor assumes any responsibility or duty to the Trustee or to any third party with respect to the Trustee's obligations relating to the Leased Property; and the Trustee does not undertake or assume any responsibility or duty to the Town or to any third party with respect to the Town's obligations relating to the Leased Property. Notwithstanding any other provisions of this Lease: (a) the Town and the Trustee are not, and do not intend to be construed to be, partners, joint ventures, members, alter egos, managers, controlling persons or other business associates or participants of any kind of either of the other, and the Town and the Trustee do not intend to ever assume such status; and (b) the Town and the Trustee shall not be deemed responsible for, or a participant in, any acts, omissions or decisions of either of the other.

**ARTICLE 3**  
**LEASE OF THE LEASED PROPERTY**

The Trustee demises and leases the Leased Property to the Town and the Town leases the Leased Property from the Trustee, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

The Town and the Trustee acknowledge that the Town and the County own the Leased Property and the Town and the County have leased the Leased Property to the Trustee pursuant to the Site Lease; and the Town and the Trustee intend that there be no merger of the Town's interests as sublessee under this Lease and the Town's ownership interest in the Leased Property so as to cause the cancellation of the Site Lease or this Lease, or an impairment of the leasehold and subleasehold interest intended to be created by the Site Lease and this Lease.

**ARTICLE 4  
LEASE TERM**

**Section 4.1 Duration of Lease Term.** The Lease Term shall commence as of the date hereof. The Initial Term shall terminate on December 31, 2022. This Lease may be renewed, solely at the option of the Town, for 2\_ Renewal Terms, provided, however, that the Lease Term shall terminate no later than December 1, 204\_. The Town hereby finds that the maximum Lease Term hereunder does not exceed the weighted average useful life of the Leased Property. The Town further determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum Lease Term) does not exceed the useful life of the Leased Property.

The Town Manager or other officer of the Town at any time charged with the responsibility of formulating budget proposals for the Town is hereby directed to include in the annual budget proposals submitted to the Council, in any year in which this Lease shall be in effect, items for all payments required for the ensuing Renewal Term under this Lease until such time, if any, as the Town may determine to not renew and terminate this Lease. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the Town that any decision to effect an Appropriation for the Base Rentals and Additional Rentals shall be made solely by the Council in its absolute discretion and not by any other official of the Town, as further provided in the following paragraph. During the Lease Term, the Town shall in any event, whether or not the Lease is to be renewed, furnish the Trustee with copies of its annual budget promptly after the budget is adopted. The Trustee shall have no duty to examine the Town's annual budget.

Not later than December 15 of the then current Initial Term or any Renewal Term the Town Representative shall give written notice (in substantially the form set forth in **Exhibit D** attached hereto) to the Trustee that either:

- (a) the Town has effected or intends to effect on a timely basis an Appropriation for the ensuing Fiscal Year which includes (1) sufficient amounts authorized and directed to be used to pay all of the Base Rentals and (2) sufficient amounts to pay such Additional Rentals as are estimated to become due, all as further provided in Sections 6.2, 6.3 and 6.4 of this Lease, whereupon, this Lease shall be renewed for the ensuing Fiscal Year; or
- (b) the Town has determined, for any reason, not to renew this Lease for the ensuing Fiscal Year.

Subject to the provisions of Section 6.4(a) hereof, the failure to give such notice shall not constitute an Event of Lease Default, nor prevent the Town from electing not to renew this Lease, nor result in any liability on the part of the Town. The Town's option to renew or not to renew this Lease shall be conclusively determined by whether or not the applicable Appropriation has been made on or before December 31 of each Fiscal Year, all as further provided in Article 6 of this Lease.

The terms and conditions hereof during any Renewal Term shall be the same as the terms and conditions hereof during the Initial Term, except that the Purchase Option Price and the Base Rentals shall be as provided in Article 12 and **Exhibit C** (Base Rentals Schedule) hereof.

**Section 4.2 Termination of Lease Term.** The Lease Term shall terminate upon the earliest of any of the following events:

- (a) the expiration of the Initial Term or any Renewal Term during which there occurs an Event of Nonappropriation pursuant to Section 4.1 and Article 6 of this Lease (provided

that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);

(b) the occurrence of an Event of Nonappropriation under this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);

(c) the conveyance of the Trustee's leasehold interest in the Leased Property under this Lease to the Town upon payment of the Purchase Option Price or all Base Rentals and Additional Rentals, for which an Appropriation has been effected by the Town for such purpose, as provided in Section 12.2(a) or (b) of this Lease; or

(d) an uncured Event of Lease Default and termination of this Lease under Article 14 of this Lease by the Trustee.

Except for an event described in subparagraph (c) above, upon termination of this Lease, the Town agrees to peacefully deliver possession of the Leased Property to the Trustee.

Termination of the Lease Term shall terminate all unaccrued obligations of the Town under this Lease, and shall terminate the Town's rights of possession under this Lease (except to the extent of the holdover provisions of Sections 6.5 and 14.2(c)(i) hereof, and except for any conveyance pursuant to Article 12 of this Lease). All obligations of the Town accrued prior to such termination shall be continuing until the Trustee gives written notice to the Town that such accrued obligations have been satisfied.

Upon termination of the Lease Term any moneys received by the Trustee in excess of the amounts necessary to terminate and discharge the Indenture, shall be paid to the Town.

The Town shall not have the right to terminate this Lease due to a default by the Trustee under this Lease.

**ARTICLE 5**  
**ENJOYMENT OF THE LEASED PROPERTY**

**Section 5.1 Trustee's Covenant of Quiet Enjoyment.** The Trustee hereby covenants that the Town shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Trustee. The Trustee shall not interfere with the quiet use and enjoyment of the Leased Property by the Town during the Lease Term so long as no Event of Lease Default shall have occurred. The Trustee shall, at the request of the Town and at the cost of the Town, cooperate fully in any legal action in which the Town asserts against third parties its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the Town may at its own expense join in any legal action affecting its possession and enjoyment of the Leased Property and shall be joined in any action affecting its liabilities hereunder.

The provisions of this Article 5 shall be subject to the Trustee's right to inspect the Leased Property and the Town's books and records with respect thereto as provided in Section 11.8 hereof.

**Section 5.2 Town's Need for the Leased Property; Determinations as to Fair Value and Fair Purchase Price.** The Town has determined and hereby determines that it has a current need for the Leased Property. It is the present intention and expectation of the Town that this Lease will be renewed annually until the Trustee's interests in the Site Lease are released and unencumbered title to the Leased Property is acquired by the Town pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the Town. The Town has determined and hereby determines that the Base Rentals under this Lease during the Lease Term for the Leased Property represent the fair value of the use of the Leased Property and that the Purchase Option Price for the Leased Property will represent the fair purchase price of the Trustee's leasehold interest in the Leased Property at the time of the exercise of the option. The Town has determined and hereby determines that the Base Rentals do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew this Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property hereunder. In making such determinations, the Town has given consideration to the estimated current value of the Leased Property, the uses and purposes for which the Leased Property will be employed by the Town, the benefit to the citizens and inhabitants of the Town by reason of the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease, the Town's option to purchase the Trustee's leasehold interest in the Leased Property and the expected eventual vesting of unencumbered title to the Leased Property in the Town. The Town hereby determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum Lease Term for the Leased Property) does not exceed the weighted average useful life of the Leased Property.

**ARTICLE 6  
PAYMENTS BY THE TOWN**

**Section 6.1 Payments to Constitute Currently Budgeted Expenditures of the Town.** The Town and the Trustee acknowledge and agree that the Base Rentals, Additional Rentals and any other obligations hereunder shall constitute currently budgeted expenditures of the Town, if an Appropriation has been effected for such purpose. The Town's obligations to pay Base Rentals, Additional Rentals and any other obligations under this Lease shall be from year to year only (as further provided in Article 4 and Sections 6.2 and 6.4 hereof), shall extend only to moneys for which an Appropriation has been effected by the Town, and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as a delegation of governmental powers or as creating a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town or a general obligation or other indebtedness of the Town within the meaning of any constitutional, Charter provision or statutory debt limitation, including without limitation Article X, Section 20 of the Colorado constitution. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Constitution of the State. Neither this Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those for which an Appropriation has been effected by the Town for the Town's then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Trustee's leasehold interest in the Leased Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of Town moneys, nor shall any provision of this Lease restrict the future issuance of any Town bonds or obligations payable from any class or source of Town moneys (provided, however, that certain restrictions in the Indenture shall apply to the issuance of Additional Certificates).

**Section 6.2 Base Rentals, Purchase Option Price and Additional Rentals.**

(a) The Town shall pay Base Rentals for which an Appropriation has been effected by the Town, directly to the Trustee during the Initial Term and any Renewal Term, on the Base Rentals Payment Dates and in the "Total Base Rentals" amounts set forth in **Exhibit C** (Base Rentals Schedule) attached hereto and made a part hereof. For federal and State income tax purposes, a portion of each payment of Base Rentals for the Certificates is designated and will be paid as interest, and **Exhibit C** (Base Rentals Schedule) hereto sets forth the Interest Portion of each payment of Base Rentals for the Certificates. The Town shall receive credit against its obligation to pay Base Rentals to the extent moneys are held by the Trustee on deposit in the Base Rentals Fund created under the Indenture and are available to pay Base Rentals. The Town acknowledges that upon receipt by the Trustee of each payment of Base Rentals, the Trustee, pursuant to the terms of the Indenture, is to deposit the amount of such Base Rentals in the Base Rentals Fund.

The Base Rentals set forth in **Exhibit C** shall be recalculated in the event of the execution and delivery of Additional Certificates as provided in the Indenture and shall also be recalculated in the event of a partial redemption of the Certificates. The Trustee may conclusively rely upon such revised Exhibit C (Base Rentals Schedule) and has no duty to make an independent investigation in connection therewith.

(b) The Town may, on any date, pay the then applicable Purchase Option Price for the purpose of terminating this Lease and the Site Lease in whole and purchasing the Trustee's leasehold interest in the Leased Property as further provided in Article 12 of this Lease. Subject to the Approval of Special Counsel, the Town may also, at any time during the Lease Term,

(1) prepay any portion of the Base Rentals due under this Lease and (2) in connection with such prepayment, recalculate the Base Rentals set forth in **Exhibit C** (Base Rentals Schedule). Any such revised **Exhibit C** (Base Rentals Schedule) shall be prepared by the Town Representative and delivered to the Trustee. The Trustee may conclusively rely upon such revised **Exhibit C** (Base Rentals Schedule) and has no duty to make an independent investigation in connection therewith. The Town shall give the Trustee notice of its intention to exercise either of such options not less than forty-five (45) days in advance of the date of exercise and shall deposit with the Trustee by not later than the Business Day preceding the date of exercise an amount equal to the Purchase Option Price due on the date of exercise or the applicable amount of Base Rentals to be prepaid. If the Town shall have given notice to the Trustee of its intention to prepay Base Rentals but shall not have deposited the amounts with the Trustee on the date specified in such notice, the Town shall continue to pay Base Rentals which have been specifically appropriated by the Council for such purpose as if no such notice had been given. The Trustee may waive the right to receive forty-five (45) days advance notice and may agree to a shorter notice period in the sole determination of the Trustee.

(c) All Additional Rentals shall be paid by the Town on a timely basis directly to the person or entity to which such Additional Rentals are owed. Additional Rentals shall include, without limitation, the reasonable fees and expenses of the Trustee, reasonable expenses of the Trustee in connection with the Leased Property and for the cost of taxes, insurance premiums, utility charges, maintenance and repair costs and all other expenses expressly required to be paid hereunder, and any other amounts due to the insurer of any of the Certificates, and any Rebate Fund payments required pursuant to this Lease and the Indenture. All of the payments required by this paragraph are subject to Appropriation by the Town; provided, however, a failure by the Town to budget and appropriate moneys for any of the payments required by this paragraph shall constitute an Event of Nonappropriation.

If the Town's estimates of Additional Rentals for any Fiscal Year are not itemized in the budget required to be furnished to the Trustee under Section 4.1 of this Lease, the Town shall furnish an itemization of such estimated Additional Rentals to the Trustee on or before the 15th day preceding such Fiscal Year.

**Section 6.3 Manner of Payment.** The Base Rentals, for which an Appropriation has been effected by the Town, and, if paid, the Purchase Option Price, shall be paid or prepaid by the Town to the Trustee at its corporate trust office by wire transfer of federal funds, certified funds or other method of payment acceptable to the Trustee in lawful money of the United States of America.

The obligation of the Town to pay the Base Rentals and Additional Rentals as required under this Article 6 and other sections hereof in any Fiscal Year for which an Appropriation has been effected by the Town for the payment thereof shall be absolute and unconditional and payment of the Base Rentals and Additional Rentals in such Fiscal Years shall not be abated through accident or unforeseen circumstances, or any default by the Trustee under this Lease, or under any other agreement between the Town and the Trustee, or for any other reason including without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Leased Property, commercial frustration of purpose, or failure of the Trustee, to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Lease, it being the intention of the parties that the payments required by this Lease will be paid in full when due without any delay or diminution whatsoever, subject only to the annually renewable nature of the Town's obligation hereunder as set forth in Section 6.1 hereof, and further subject to the Town's rights under Section 10.3 hereof. Notwithstanding any dispute between the Town and the Trustee, the Town shall, during the Lease Term, make all payments of Base Rentals and Additional Rentals in such Fiscal Years and shall not

withhold any Base Rentals or Additional Rentals, for which an Appropriation has been effected by the Town, pending final resolution of such dispute (except to the extent permitted by Sections 8.2 and 9.3 hereof with respect to certain Additional Rentals), nor shall the Town assert any right of set-off or counterclaim against its obligation to make such payments required hereunder. No action or inaction on the part of the Trustee shall affect the Town's obligation to pay all Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, in such Fiscal Years subject to this Article (except to the extent provided by Sections 8.2 and 9.3 hereof with respect to certain Additional Rentals).

**Section 6.4 Nonappropriation.** In the event that the Town gives notice that it intends to not renew this Lease as provided by Section 4.1 hereof or the Town shall not effect an Appropriation, on or before December 31 of each Fiscal Year, of moneys to pay all Base Rentals and reasonably estimated Additional Rentals coming due for the next ensuing Renewal Term as provided in Section 4.1 hereof and this Article, or in the event that the Town is proceeding under the provisions of Section 10.3(c) hereof (when applicable), an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

(a) In the event the Trustee does not receive the written notice provided for by Section 4.1 hereof or evidence that an Appropriation has been effected by the Town on or before December 31 of a Fiscal Year, then the Trustee shall declare an Event of Nonappropriation on the first Business Day of the February following such Fiscal Year or such declaration shall be made on any earlier date on which the Trustee receives official, specific written notice from the Town that this Lease will not be renewed; provided that the Trustee's failure to declare an Event of Nonappropriation on such date shall not be construed as a waiver of the event of Nonappropriation or the consequences of an Event of Nonappropriation under this Lease. In order to declare an Event of Nonappropriation, the Trustee shall send written notice thereof to the Town.

(b) The Trustee shall waive any Event of Nonappropriation which is cured by the Town, within 30 days of the receipt by the Town of notice from the Trustee as provided in (a) above, by a duly effected Appropriation to pay all Base Rentals and sufficient amounts to pay reasonably estimated Additional Rentals coming due for such Renewal Term.

(c) Pursuant to the terms of the Indenture, the Trustee may waive any Event of Nonappropriation which is cured by the Town within a reasonable time with the procedure described in (b) above.

In the event that during the Initial Term or any Renewal Term, any Additional Rentals shall become due which were not included in a duly effected Appropriation and moneys are not specifically budgeted and appropriated or otherwise made available to pay such Additional Rentals within 60 days subsequent to the date upon which such Additional Rentals are due, an Event of Nonappropriation shall be deemed to have occurred, upon notice by the Trustee to the Town to such effect (subject to waiver by the Trustee as hereinbefore provided).

If an Event of Nonappropriation occurs, the Town shall not be obligated to make payment of the Base Rentals or Additional Rentals or any other payments provided for herein which accrue after the last day of the Initial Term or any Renewal Term during which such Event of Nonappropriation occurs; provided, however, that, subject to the limitations of Sections 6.1 and 14.3 hereof, the Town shall continue to be liable for Base Rentals and Additional Rentals allocable to any period during which the Town shall continue to occupy, use or retain possession of the Leased Property.

Subject to Section 6.5 hereof, the Town shall in all events vacate or surrender possession of the Leased Property by March 1 of the Renewal Term in respect of which an Event of Nonappropriation has occurred.

After March 1 of the Renewal Term in respect of which an Event of Nonappropriation has occurred, the Trustee may proceed to exercise all or any Lease Remedies.

The Town acknowledges that, upon the occurrence of an Event of Nonappropriation (a) the Trustee shall be entitled to all moneys then being held in all funds created under the Indenture (except the Rebate Fund, and any defeasance escrow accounts) to be used as described therein and (b) all property, funds and rights then held or acquired by the Trustee upon the termination of this Lease by reason of an Event of Nonappropriation are to be held by the Trustee in accordance with the terms of the Indenture.

**Section 6.5 Holdover Tenant.** If the Town fails to vacate the Leased Property after termination of this Lease, whether as a result of the occurrence of an Event of Nonappropriation or an Event of Lease Default as provided in Section 14.2(a) hereof, with the written permission of the Trustee it will be deemed to be a holdover tenant on a month-to-month basis, and will be bound by all of the other terms, covenants and agreements of this Lease. Any holding over by the Town without the written permission of the Trustee shall be at sufferance. The amount of rent to be paid monthly during any period when the Town is deemed to be a holdover tenant will be equal to (a) one-sixth of the Interest Portion of the Base Rentals coming due on the next succeeding Base Rentals Payment Date plus one-twelfth of the Principal Portion of the Base Rentals coming due on the next succeeding Base Rentals Payment Date on which a Principal Portion of the Base Rentals would have been payable with appropriate adjustments to ensure the full payment of such amounts on the due dates thereof in the event termination occurs during a Renewal Term plus (b) Additional Rentals as the same shall become due.

**Section 6.6 Prohibition of Adverse Budget or Appropriation Modifications.** To the extent permitted by law, the Town shall not, during any Fiscal Year of the Lease Term, make any budgetary transfers or other modifications to its then existing budget and appropriation measures relating to the Leased Property or this Lease which would adversely affect the Town's ability to meet its obligation to pay Base Rentals and duly budgeted and appropriated Additional Rentals hereunder.

**ARTICLE 7**  
**LEASING OF THE SITE; DESIGN, ACQUISITION, CONSTRUCTION**  
**AND IMPROVEMENT OF THE PROJECT**

**Section 7.1 Leasing of the Site; Design, Acquisition, Construction and Improvement of the Project.** As further provided in Section 8.1 hereof, fee simple title to the Site is held by the Town and the County. Pursuant to the Site Lease, the Town and the County lease the Site to the Trustee and pursuant to this Lease, the Town leases the Leased Property back from the Trustee.

The Town hereby agrees that it will make all contracts, orders, receipts, writings and instructions, including all Project Contracts, with any other persons, firms or corporations and in general do all things that may be necessary, requisite or proper for the acquisition, construction, installation and completion of the Project. The Town agrees to comply with all applicable federal, State of Colorado and local law in connection with the making of contracts for the Project. The administration of the Project is to comply with all policies and procedures and all standard contractual and procedural documents required by the Town, except that pursuant to Section 7.5 upon termination of this Lease due to the occurrence of an Event of Nonappropriation or an Event of Lease Default, all Project Contracts shall be fully and freely assignable to the Trustee. Notwithstanding anything to the contrary contained in this Lease or the Indenture, all Project Documents shall be made and approved by the Town. The Town hereby further agrees:

- (a) The Town shall cause the Project to be completed as herein provided; and
- (b) The Town agrees to complete the Project with all reasonable dispatch, and to use its best efforts to have all of the Project completed by the Completion Date or as soon thereafter as may be practicable.

So long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Lease Default shall have occurred, the Town shall have full power to carry out the acts and agreements provided in this Section 7.1, and such power shall not be terminated or restricted by act of the Trustee, except as provided in this Section 7.1.

The Town agrees to implement and complete the Project pursuant to this Article 7, through the application of moneys to be disbursed by the Trustee from the Construction Fund (created under the Indenture) pursuant to the Indenture. If, for any reason, the Project is not completed by the Completion Date, there shall be no resulting liability on the part of the Town or the Trustee or an Event of Lease Default hereunder, and there shall be no diminution in or postponement of the Base Rentals and Additional Rentals required to be paid by the Town and for which an Appropriation has been effected by the Town during the Lease Term. However, in the event that the Trustee does not receive a Certificate of Completion in respect of the Project, as required in Section 7.3 of this Lease, by the Completion Date, and unless the Town opts to complete the Project and submits a reasonable schedule of completion to the Trustee, the Trustee shall, upon thirty (30) days written notice to the Town, be authorized, but not required, to complete the remainder of the Project from any moneys remaining in the Construction Fund for the Project.

**Section 7.2 Disbursements for Costs of the Project.** So long as no Event of Nonappropriation or Event of Lease Default has occurred, the Trustee shall disburse the moneys in the Construction Fund created under the Indenture to pay the Costs of the Project. Such disbursements from the Construction Fund shall be made upon receipt by the Trustee of a Requisition signed by the Town Representative, in substantially the form set forth in **Exhibit E** hereto, specifying in reasonable detail the nature of the obligation. The Trustee shall have no duty to review or examine the accompanying bill, invoice or statement of account, but may conclusively rely on the properly executed disbursement request.

If an Event of Nonappropriation or an Event of Lease Default shall occur after the execution and delivery of this Lease, but prior to the Completion Date, any moneys held in funds and accounts created under the Indenture (other than moneys on deposit in the Rebate Fund and any defeasance escrow funds) may be utilized by the Trustee to complete, repair or modify the Project, or may be disbursed for the payment of Certificates executed and delivered pursuant to the Indenture or other charges as the Trustee may deem appropriate in accordance with the standards concerning the Trustee contained in the Indenture, subject to Section 11.5 hereof.

Under the Indenture, the Trustee is authorized and directed to issue its checks or drafts or transmit wire payments for each disbursement to pay Costs of the Project provided for herein. The Town hereby consents to such disbursements by the Trustee. The Trustee shall keep and maintain adequate records pertaining to the Construction Fund established under the Indenture and all disbursements therefrom in accordance with the Requisitions. After the Project has been completed and the Certificate of Completion has been filed with the Trustee as provided in Section 7.3 of this Lease, and after any amounts remaining on deposit in the Construction Fund have been applied in accordance with Section 7.3 hereof, the Trustee shall provide account statements to the Town.

**Section 7.3 Completion of Construction.** Upon the substantial completion of the Project, the Town Representative shall execute and deliver to the Trustee a Certificate of Completion in substantially the form of **Exhibit F** hereto.

In the event that, after the delivery of the Certificate of Completion, there remains in the Construction Fund created under the Indenture any unreserved balance, such balance shall be used by the Trustee, as directed in writing by the Town, to:

- (a) add to, modify or alter the Project or add new components thereto provided that such addition, modification or alteration shall be consistent with, and shall not violate the covenants contained in, the Tax Certificate or in Section 11.5 hereof, or
- (b) direct the Trustee in writing to transfer the remaining balance to the Base Rentals Fund created under the Indenture in amounts consistent with, and not in violation of the covenants contained in, the Tax Certificate, for a credit against the Base Rentals as the same shall become due, or
- (c) effect a combination of the foregoing.

**Section 7.4 Title Insurance.** The Trustee shall be provided with an owner's title insurance policy insuring the Trustee's leasehold interest in the Site pursuant to the Site Lease, subject only to Permitted Encumbrances, in an amount not less than the aggregate principal amount of the Certificates or such lesser amount as shall be the maximum insurable value of the Leased Property. Such policy, or a binding commitment therefor, shall be provided to the Trustee concurrently with the issuance of each series of Certificates.

**Section 7.5 Project Contracts.** The Town represents that, in the opinion of the Town, based upon an examination of property, estimated design, construction, acquisition and installation costs and the configuration of the Project, the Project can, to the best of the Town's present knowledge, be constructed, acquired and installed for a total cost within the amount of funds to be available in the Construction Fund created under the Indenture, including anticipated investment income. In the event of cost overruns resulting in the Costs of the Project exceeding the amount available in the Construction Fund created under the Indenture, all in connection with the leasing of the Site and the implementation and completion of the Project, upon written consent of the Town, either (a) the Town shall make such modifications to the plans and specifications for the Project as will permit the Project to be provided from the amounts

available therefor under the Indenture or (b) upon the Approval of Special Counsel, the Town shall deposit additional funds received from appropriations by the Town, or the Trustee may deposit additional funds received from the proceeds of Additional Certificates in the Construction Fund created under the Indenture, sufficient to complete the Project. If the Town pays any portion of the Costs of the Project pursuant to this Section, it shall not be entitled to any reimbursement therefor from the Trustee or any owner of Certificates, nor shall it be entitled to any diminution in or postponement of the Base Rentals and the Additional Rentals payable under this Lease.

Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, the Trustee as lessee of the Leased Property under the Site Lease, may complete the Project, utilizing any moneys available therefor (except for any moneys on deposit in the Rebate Fund and any defeasance escrow funds). All Project Contracts shall provide that, upon a termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or an Event of Lease Default or upon the Trustee's assuming control over completion of the Project as provided in Section 7.1 of this Lease, and upon written notice by the Trustee to the party or parties to the Project Contracts that any of such events has occurred: (a) such contracts shall be fully and freely assignable to the Trustee, without the consent of any other person and the Trustee may choose to assume or not assume such contracts; and (b) if the Trustee does so assume such contracts, the other party or parties thereto shall perform the agreements contained therein for the Trustee. All Project Contracts shall also provide that, upon an Event of Nonappropriation or an Event of Lease Default and upon written notice from the Trustee, the Trustee may, in its sole discretion, terminate some or all of such Project Contracts; and the other party or parties thereto shall then be entitled to payment only from amounts available therefor under the Indenture and only for work done prior to such termination. Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default or upon the Trustee's assuming control over the implementation and completion of the Project as provided in Section 7.1 hereof, and upon receipt of a written request from the Trustee, the Town shall assign all of its right, title and interest in and to any or all Project Contracts to the Trustee and shall deliver all such Project Documents held by it to the Trustee.

**Section 7.6 Project Documents.** The Town Representative shall furnish to the Trustee upon request (though the Trustee shall have no duty to review) copies of the Project Documents, as soon after the commencement of the Lease Term as such Project Documents shall become available to the Town and from time to time thereafter. Neither the Project Documents nor any change or amendment thereto shall (a) cause the Project to be used for any purpose prohibited hereby or by the constitution or laws of the State; (b) result in a material reduction in the value of the Project (except as provided in Section 7.5 hereof); (c) adversely affect the ability of the Town to meet its obligations hereunder; or (d) cause the Town to violate its tax covenant in Section 11.5 hereof.

**Section 7.7 Defaults Under Project Contracts.** In the event of any material default by a design consultant or construction contractor under any of the Project Contracts, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the Town shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such design consultant or contractor and/or against each surety of any bond securing the performance of such Project Contracts. The Net Proceeds of any amounts recovered by way of damages, liquidated damages, refunds, adjustments, or otherwise in connection with the foregoing, remaining after deduction of expenses incurred in such recovery (including without limitation, attorneys' fees and costs) shall be paid to the Trustee for deposit to the Construction Fund created under the Indenture if prior to the Completion Date, or if after the Completion Date, to the Trustee for deposit in a separate trust fund in accordance with Section 10.2 of this Lease.

**Section 7.8 Performance and Payment Bonds.** Each contractor entering into a Project Contract for the construction of the Project shall be required to furnish a performance and payment bond

in a form acceptable to the Town, copies of which shall be provided to the Town and the Trustee upon its request. Such bonds shall be made payable to the Town and the Trustee as co-obligees, subject to the provisions of the Indenture, shall be executed by a corporate surety licensed to transact business in the State and acceptable to the Town, and shall be in an amount equal to the contract price for such contractor's Project Contract. If, at any time during the construction of the Project, the surety on such bond shall be disqualified from doing business within the State, or shall otherwise become incapable of performing its obligations under such bond, an alternate surety acceptable to the Town shall be selected. In the event of any change order resulting in the performance of additional work in connection with the Project, the amounts of such bonds pertaining thereto shall be increased to include the cost of such additional work or materials or fixtures to be incorporated in the Project.

**Section 7.9 Professional Errors and Omissions Liability Insurance.** The Town shall require in its contracts with the design consultants for the Project that they obtain and maintain professional liability insurance for damages for claims by reasons of any negligent act, error or omission committed or alleged to have been committed by them or anyone for whom they are liable, in an amount of not less than \$2,000,000 per claim and \$2,000,000 aggregate. Professional liability insurance coverage may be structured to provide coverage on a "claims-made" basis; provided, however, the professional liability insurance coverage shall remain in effect for the period set out in C.R.S. §13-80-104. Deductibles for such insurance shall be paid by the design consultants. The limits of this insurance shall not be reduced unless approved by the Town and the Trustee in writing.

**Section 7.10 Contractor's Commercial General Liability Insurance.** Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such contractor's Project Contract in the amount of at least \$2,000,000 each occurrence and \$4,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the Town and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the Town and the Trustee. A certificate of insurance in a form acceptable to the Town shall be provided to the Town and the Trustee with respect to each contractor. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

**Section 7.11 Design Consultant's General Liability Insurance.** Each design consultant entering into a Project Contract for the design of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such design consultant's Project Contract in the amount of at least \$1,000,000 each occurrence, and \$2,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the Town and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the Town and the Trustee. A certificate of insurance in a form acceptable to the Town shall be provided to the Town and Trustee with respect to each design consultant. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

**Section 7.12 Contractor's Automobile Liability Insurance.** Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000 for any one occurrence as well as a \$10,000,000 umbrella policy with respect to each of the contractor's owned, hired or non-owned vehicles assigned to or used in performance of its work.

**Section 7.13 Builder's Risk Insurance.** Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to provide Builder's Risk Insurance with minimum limits of \$30,000,000. A certificate of insurance shall be provided to the Trustee and the Town within seven Business Days of the effective date of the policies. The policies shall be written on an "all risk" basis and shall name the Town and the Trustee as insureds. The policies shall contain a waiver of subrogation by the issuer of such policies with respect to the Town and the Trustee, and their respective officers, agents and employees while acting within the scope of their employment.

**Section 7.14 Design Consultant's and Contractor's Worker's Compensation Insurance.** Each design consultant and contractor entering into a Project Contract shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance during the term of its Project Contract covering its employees working thereunder. Such insurance, if issued by a private carrier, shall contain a provision that such coverage shall not be canceled without thirty (30) days' prior written notice to the Town and the Trustee. A certificate issued by the state compensation insurance fund evidencing such coverage shall be provided to the Town or, if such insurance is provided by a private carrier, a completed certificate of insurance, in a form acceptable to the Town, shall be provided to the Town with respect to each design consultant and contractor. Minimum limits of Worker's Compensation Insurance shall be \$500,000 each accident; \$500,000 disease policy and \$500,000 disease each employee.

**Section 7.15 Proceeds of Certain Insurance Policies and Performance Bonds.** The Net Proceeds of any performance or payment bond or insurance policy required by Sections 7.8 through 7.13 and any Net Proceeds received as a consequence of default under a Project Contract as provided by Section 7.7 of this Lease, shall be deposited into the Construction Fund if received prior to the Completion Date and, if received after the Completion Date, remitted to the Trustee for deposit in a separate trust fund in accordance with Section 10.2 of this Lease.

**ARTICLE 8  
TITLE TO LEASED PROPERTY;  
LIMITATIONS ON ENCUMBRANCES**

**Section 8.1 Title to the Leased Property.** At all times during the Lease Term, title to the Site will remain in the Town and the County, subject to the Site Lease, this Lease, the Indenture and any other Permitted Encumbrances. Except personal property purchased by the Town at its own expense pursuant to Section 9.2 of this Lease, the Project, and any and all additions and modifications to or replacements of any portion of the Project shall be held in the name of the Trustee, subject to this Lease and Permitted Encumbrances, until foreclosed on or conveyed as provided in Section 7.02 of the Indenture or Article 7 of this Lease, or until the termination of the Site Lease, notwithstanding (i) the occurrence of an Event of Nonappropriation as provided in Section 6.4 of this Lease or one or more Events of Default as defined in Section 14.1 of this Lease; (ii) the occurrence of any event of damage, destruction, condemnation or construction defect, breach of warranty or title defect, as provided in Article 10 of this Lease; (iii) termination of the right of the Town to direct the acquisition, construction and equipping of the Project pursuant to the last sentence of Section 7.1 of this Lease; or (iv) the violation by the Trustee (or by the Trustee as assignee of the Lessor pursuant to the Indenture) of any provision of this Lease.

The Town shall have no right, title or interest in the Project, or any additions and modifications to or replacements of any portion thereto, except as expressly set forth in this Lease.

**Section 8.2 No Encumbrance, Mortgage or Pledge of the Leased Property.** Except as may be permitted by this Lease, the Town shall not permit any mechanic's or other lien to be established or remain against the Leased Property; provided that, if the Town shall first notify the Trustee of the intention of the Town to do so, the Town may in good faith contest any mechanic's or other lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Trustee shall notify the Town that, in the opinion of Counsel, by nonpayment of any such items the Trustee's leasehold interest in the Leased Property will be materially endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the Town shall promptly pay and cause to be satisfied and discharged all such unpaid items (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such items). The Trustee will cooperate in any such contest. Except as may be permitted by this Lease, the Town shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, except Permitted Encumbrances. The Town shall promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above.

**ARTICLE 9  
MAINTENANCE; TAXES; INSURANCE  
AND OTHER CHARGES**

**Section 9.1 Maintenance of the Leased Property by the Town.** Subject to its right to not appropriate and as otherwise provided in Section 9.3 hereof, the Town agrees that at all times during the Lease Term, the Town will maintain, preserve and keep the Leased Property or cause the Leased Property to be maintained, preserved and kept, in good repair, working order and condition, and from time to time make or cause to be made all necessary and proper repairs, including replacements, if necessary. The Trustee shall have no responsibility in any of these matters or for the making of any additions, modifications or replacements to the Leased Property.

**Section 9.2 Modification of the Leased Property; Installation of Furnishings and Machinery of the Town.** The Town shall have the privilege of making substitutions, additions, modifications and improvements to the Leased Property, at its own cost and expense, as appropriate and any such substitutions, additions, modifications and improvements to the Leased Property shall be the property of the Town, subject to the Site Lease, this Lease and the Indenture and shall be included under the terms of the Site Lease, this Lease and the Indenture; provided, however, that such substitutions, additions, modifications and improvements shall not in any way damage the Leased Property or cause the Leased Property to be used for purposes other than lawful governmental functions of the Town (except to the extent of subleasing permitted under Section 13.2 hereof) or cause the Town to violate its tax covenant in Section 11.5 hereof; and provided that the Leased Property, as improved or altered, upon completion of such substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Leased Property immediately prior to such making of substitutions, additions, modifications and improvements.

The Town may also, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Leased Property. All such machinery, equipment and other tangible property shall remain the sole property of the Town in which the Trustee shall have no interests; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to the Leased Property shall be included under the terms of the Site Lease, this Lease and the Indenture, in the event that such Leased Property would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

The Town shall have the right to make substitutions to the Leased Property upon compliance with the provisions set forth in Section 11.4 hereof.

**Section 9.3 Taxes, Other Governmental Charges and Utility Charges.** In the event that the Leased Property shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, the Town shall pay the amount of all such taxes, assessments and governmental charges then due, as Additional Rentals. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Town shall be obligated to provide for Additional Rentals only for such installments as are required to be paid during the upcoming Fiscal Year. Except for Permitted Encumbrances, the Town shall not allow any liens for taxes, assessments or governmental charges to exist with respect to the Leased Property (including, without limitation, any taxes levied upon the Leased Property which, if not paid, will become a charge on the rentals and receipts from the Leased Property, or any interest therein, including the leasehold interests of the Trustee), or the rentals and revenues derived therefrom or hereunder. The Town shall also pay as Additional Rentals, as the same respectively become due, all utility and other charges and fees and other expenses incurred in the operation, maintenance and upkeep of the Leased Property.

The Town may, at its expense, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Trustee shall notify the Town that, in the opinion of Counsel, by nonpayment of any such items the value of the Leased Property will be materially endangered or the Leased Property will be subject to loss or forfeiture, or the Trustee will be subject to liability, in which event such taxes, assessments, utility or other charges shall be paid forthwith (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such taxes, assessments, utility or other charges).

**Section 9.4 Provisions for Liability and Property Insurance.** Upon completion of the Project, the Town shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Leased Property in an amount equal to the estimated replacement cost of the Leased Property. Such insurance policy or policies may have a deductible clause in an amount deemed reasonable by the Council. The Town may, in its discretion, insure the Leased Property under blanket insurance policies which insure not only the Leased Property, but other buildings as well, as long as such blanket insurance policies comply with the requirements hereof. If the Town shall insure against similar risks by self-insurance, the Town may, at its election provide for casualty and property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the Town shall elect to self-insure, the Town Representative shall annually furnish to the Trustee a certification of the adequacy of the Town's reserves. The Trustee shall be named additional insured and loss payee on any casualty and property insurance.

The Town shall, at its own expense, cause public liability insurance to be carried and maintained with respect to the activities to be undertaken by and on behalf of the Town in connection with the use of the Leased Property, in an amount not less than the limitations provided in the Colorado Governmental Immunity Act (Article 10, Title 24, C.R.S., as heretofore or hereafter amended). Such insurance may contain deductibles and exclusions deemed reasonable by the Council. The public liability insurance required by this Section may be by blanket insurance policy or policies. If the Town shall insure against similar risks by self-insurance, the Town, at its election may provide for public liability insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the Town shall elect to self-insure, the Town Representative shall annually furnish to the Trustee a certification of the adequacy of the Town's reserves. The Trustee shall be named as additional insured and loss payee on any public liability insurance.

Any casualty and property damage insurance policy required by this Section shall be so written or endorsed as to make payments under such insurance policy payable to the Town and the Trustee. Each insurance policy provided for in this Section shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the Town at least 30 days in advance of such cancellation. All insurance policies issued pursuant to this Section, or certificates evidencing such policies, shall be deposited with the Trustee. No agent or employee of the Town shall have the power to adjust or settle any loss with respect to the Leased Property in excess of \$25,000, whether or not covered by insurance, without the prior written consent of the Trustee.

Upon completion of the Project, the Town shall provide the Trustee with evidence that the insurance required pursuant to this Section 9.4 is in effect. A certification by the Town Representative that such insurance is in effect shall be sufficient evidence of insurance. A certificate of insurance from the Town or the Town's insurance agent will also be acceptable evidence of insurance. On or about October 1 in each year the Town shall provide annual certification that the insurance required pursuant to this Section 9.4 is in effect.

**Section 9.5 Advances.** If the Town fails to pay any Additional Rentals during the Lease Term as such Additional Rentals become due, the Trustee may (but shall not be obligated to) pay such Additional Rentals and the Town agrees to reimburse the Trustee to the extent permitted by law and subject to Appropriation as provided under Article 6 hereof.

**Section 9.6 Granting of Easements.** As long as no Event of Nonappropriation or Event of Lease Default shall have happened and be continuing, the Trustee, shall upon the request of the Town, (a) grant or enter into easements, permits, licenses, party wall and other agreements, rights-of-way (including the dedication of public roads) and other rights or privileges in the nature of easements, permits, licenses, party wall and other agreements and rights of way with respect to any property or rights included in this Lease (whether such rights are in the nature of surface rights, sub-surface rights or air space rights), free from this Lease and any security interest or other encumbrance created hereunder or thereunder; (b) release existing easements, permits, licenses, party wall and other agreements, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration; and (c) execute and deliver any instrument necessary or appropriate to grant, enter into or release any such easement, permit, license, party wall or other agreement, right-of-way or other grant or privilege upon receipt of: (i) a copy of the instrument of grant, agreement or release and (ii) a written application signed by the Town Representative requesting such grant, agreement or release and stating that such grant, agreement or release will not materially impair the effective use or materially interfere with the operation of the Leased Property, and will not materially adversely affect the security intended to be given by or under the Indenture, the Site Lease or this Lease.

**ARTICLE 10**  
**DAMAGE, DESTRUCTION AND CONDEMNATION;**  
**USE OF NET PROCEEDS**

**Section 10.1 Damage, Destruction and Condemnation.** If, during the Lease Term,

- (a) the Leased Property shall be destroyed (in whole or in part), or damaged by fire or other casualty; or
- (b) title to, or the temporary or permanent use of, the Leased Property or the estate of the Town or the Trustee in the Leased Property is taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or entity acting under governmental authority; or
- (c) a breach of warranty or a material defect in the construction, manufacture or design of the Leased Property becomes apparent; or
- (d) title to or the use of all or a portion of the Leased Property is lost by reason of a defect in title thereto,

then, the Town shall be obligated to continue to pay Base Rentals and Additional Rentals (subject to Article 6 hereof).

**Section 10.2 Obligation to Repair and Replace the Leased Property.** The Town and the Trustee, to the extent Net Proceeds are within their respective control, shall cause such Net Proceeds of any insurance policies, performance bonds or condemnation awards received prior to the Completion Date to be deposited to the Construction Fund and after the Completion Date in a separate trust fund. All Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the Town, upon receipt of requisitions by the Trustee signed by the Town Representative stating with respect to each payment to be made:

- (a) the requisition number;
- (b) the name and address of the person, firm or entity to whom payment is due;
- (c) the amount to be paid; and
- (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

The Trustee shall have no duty to review or examine the accompanying bill, invoice or statement of account, but may conclusively rely on the properly executed disbursement request. The Town and the Trustee shall agree to cooperate and use their best reasonable efforts subject to the terms of the Indenture to enforce claims which may arise in connection with material defects in the construction, manufacture or design of the Leased Property or otherwise. If there is a balance of any Net Proceeds allocable to the Leased Property remaining after such repair, restoration, modification, improvement or replacement has been completed, this balance shall be used by the Town, to:

- (a) add to, modify or alter the Leased Property or add new components thereto, or

(b) prepay the Base Rentals with a corresponding adjustment in the amount of Base Rentals payable under **Exhibit C** (Base Rentals Schedule) to this Lease, or

(c) accomplish a combination of (a) and (b).

Any repair, restoration, modification, improvement or replacement of the Leased Property paid for in whole or in part out of Net Proceeds allocable to the Leased Property shall be the property of the Town, subject to the Site Lease, this Lease and the Indenture and shall be included as part of the Leased Property under this Lease.

**Section 10.3 Insufficiency of Net Proceeds.** If the Net Proceeds (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Leased Property required under Section 10.2 of this Lease, the Town may elect to:

(a) complete the work or replace such Leased Property (or portion thereof) with similar property of a value equal to or in excess of such portion of the Leased Property and pay as Additional Rentals, to the extent amounts for Additional Rentals which have been specifically appropriated by the Town are available for payment of such cost, any cost in excess of the amount of the Net Proceeds allocable to the Leased Property, and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds allocable to the Leased Property, the Town shall make any payments pursuant to the provisions of this paragraph, the Town shall not be entitled to any reimbursement therefor from the Trustee, nor shall the Town be entitled to any diminution of the Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, payable under Article 6 of this Lease; or

(b) apply the Net Proceeds allocable to the Leased Property to the payment of the Purchase Option Price in accordance with Article 12 of this Lease, or an appropriate portion thereof. In the event of an insufficiency of the Net Proceeds for such purpose, the Town shall, subject to the limitations of Section 6.1 hereof, pay such amounts as may be necessary to equal that portion of the Purchase Option Price which is attributable to the Leased Property for which Net Proceeds have been received (as certified to the Trustee by the Town); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price, such excess shall be used as directed by the Town in the same manner as set forth in Section 10.2 hereof; or

(c) if the Town does not timely budget and appropriate sufficient funds to proceed under either (a) or (b) above, an Event of Nonappropriation will be deemed to have occurred and, subject to the Town's right to cure, the Trustee may pursue remedies available to it following an Event of Nonappropriation.

The above referenced election shall be made by the Town within 90 days of the occurrence of an event specified in Section 10.1 of this Lease. It is hereby declared to be the Town's present intention that, if an event described in Section 10.1 hereof should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the Leased Property, the Town would use its best efforts to proceed under either paragraph (a) or paragraph (b) above; but it is also acknowledged that the Town must operate within budgetary and other economic constraints applicable to it at the time, which cannot be predicted with certainty; and accordingly the foregoing declaration shall not be construed to contractually obligate or otherwise bind the Town.

**Section 10.4 Cooperation of the Trustee.** The Trustee shall cooperate fully with the Town in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 10.1 of this Lease and in the prosecution or defense of any prospective or pending

condemnation proceeding with respect to the Leased Property and the enforcement of all warranties relating to the Leased Property. So long as no Event of Lease Default or Event of Nonappropriation has occurred and is then existing, the Trustee shall not voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim performance or payment bond claim, prospective or pending condemnation proceeding with respect to the Leased Property without the written consent of the Town.

**ARTICLE 11**  
**DISCLAIMER OF WARRANTIES; OTHER COVENANTS**

**Section 11.1 Disclaimer of Warranties.** THE TRUSTEE HAS NOT MADE AND WILL NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. THE TOWN HEREBY ACKNOWLEDGES AND DECLARES THAT THE TOWN IS SOLELY RESPONSIBLE FOR THE MAINTENANCE AND OPERATION OF THE LEASED PROPERTY, AND THAT THE TRUSTEE HAS NO RESPONSIBILITY THEREFOR. For the purpose of enabling the Town to discharge such responsibility, the Trustee constitutes and appoints the Town as its attorney in fact for the purpose of asserting and enforcing, at the sole cost and expense of the Town, all manufacturer's warranties and guaranties, express or implied, with respect to the Leased Property, as well as any claims or rights the Trustee may have in respect of the Leased Property against any manufacturer, supplier, contractor or other person. Except as otherwise provided in this Lease, the Trustee shall not be liable for any direct or indirect, incidental, special, punitive or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by the Town of any item, product or service provided for herein except that nothing shall relieve the Trustee's liability for any claims, damages, liability or court awards, including costs, expenses and attorney fees, relating to or arising from the Trustee's actions or omissions that result from the negligence, bad faith or willful misconduct of the Trustee or its employees.

**Section 11.2 Further Assurances and Corrective Instruments.** The Trustee and the Town agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments hereof or supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property.

**Section 11.3 Compliance with Requirements.** During the Lease Term, the Town and the Trustee shall observe and comply promptly to the extent possible with all current and future orders of all courts having jurisdiction over the Leased Property, provided that the Town and the Trustee may contest or appeal such orders so long as they are in compliance with such orders during the contest or appeal period, and all current and future requirements of all insurance companies writing policies covering the Leased Property.

**Section 11.4 Release and Substitution of Leased Property.** So long as no Event of Lease Default or Event of Nonappropriation shall have occurred and be continuing, the Town shall prepare and the Trustee shall release all or any portion of the Leased Property, and shall execute all documents necessary or appropriate to reconvey or release such portion of the Leased Property to the Town, free of all restrictions and encumbrances imposed or created by the Site Lease, this Lease or the Indenture, upon receipt by the Trustee of the following: (a) a written request of the Town Representative for such release, describing the portion of the Leased Property to be released; (b) a certificate of the Town Representative certifying (i) the fair market value of the portion of the Leased Property to be released and of any real property to be substituted for the portion of the Leased Property to be released; (ii) that the disposition of the portion of the Leased Property to be released and the substitution therefor of the real property to be substituted for the portion of the Leased Property to be released (if any) will not materially adversely affect the ability of the Town to operate the Leased Property or to fulfill its obligations under this Lease; (iii) that any real property to be substituted for a portion of the Leased Property to be released is necessary or useful to the operation of the Leased Property; and (iv) that the fair market value of any real property to be substituted for the portion of the Leased Property to be released, together with cash to be paid by the

Town to the Trustee, if any, is at least equal to the fair market value of the portion of the Leased Property to be released; (c) appraisals of the fair market value of the portion of the Leased Property to be released and any real property to be substituted for the portion of the Leased Property to be released, respectively, by a member of the American Institute of Real Estate Appraisers (MAI); and (d) supplements and amendments to the Site Lease, this Lease and the Indenture and any other documents necessary to effect the substitution for any portion of the Leased Property to be released. The Town agrees that any cash paid to the Trustee pursuant to the provisions of this Section 11.4 shall be used to redeem or defease Outstanding Certificates.

**Section 11.5 Tax Covenants.** The Town acknowledges that the moneys in all funds and accounts expected to be created under the Indenture are to be invested or deposited by the Trustee, at the written direction of the Town.

The Town covenants for the benefit of the Owners of the Certificates that it will not take any action or omit to take any action with respect to the Certificates, the proceeds thereof, any other funds of the Town or any facilities financed or refinanced with the proceeds of the Certificates (except for the possible exercise of the Town's right to terminate this Lease as provided herein) if such action or omission (i) would cause the interest on the Certificates to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or (ii) would cause interest on the Certificates to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the Certificates to lose its exclusion from Colorado taxable income or to lose its exclusion from Colorado alternative minimum taxable income under present Colorado law. Subject to the Town's right to terminate this Lease as provided herein, the foregoing covenant shall remain in full force and effect, notwithstanding the payment in full or defeasance of the Certificates, until the date on which all obligations of the Town in fulfilling the above covenant under the Tax Code and Colorado law have been met.

In addition, the Town covenants that its direction of investments pursuant to Article 5 of the Indenture shall be in compliance with the procedures established by the Tax Certificate to the extent required to comply with its covenants contained in the foregoing provisions of this Section. The Town hereby agrees that, to the extent necessary, it will, during the Lease Term, pay to the Trustee such sums as are required for the Trustee to pay the amounts due and owing to the United States Treasury as rebate payments. Any such payment shall be accompanied by directions to the Trustee to pay such amounts to the United States Treasury. Any payment of Town moneys pursuant to the foregoing sentence shall be Additional Rentals for all purposes of this Lease.

The Town is to execute the Tax Certificate in connection with the execution and delivery of this Lease, which Tax Certificate shall provide further details in respect of the Town's tax covenants herein.

**Section 11.6 Undertaking to Provide Ongoing Disclosure.** The Town covenants for the benefit of the Owners of the Certificates to comply with the terms of the Continuing Disclosure Certificate, provided that a failure of the Town to do so shall not constitute an Event of Lease Default. The Trustee shall have no power or duty to enforce this Section. Unless otherwise required by law, no Certificate owner shall be entitled to damages for the Town's non-compliance with its obligations under this Section; however, the Certificate Owners may enforce specific performance of the obligations contained in this Section by any judicial proceedings available.

**Section 11.7 Covenant to Reimburse Legal Expenses.** To the extent permitted by law, the Town shall defend and hold harmless the Trustee against claims arising from the alleged negligent acts or omissions of the Town's public employees, which occurred or are alleged to have occurred during the performance of their duties and within the scope of their employment, unless such acts or omissions are, or are alleged to be, willful and wanton. Such claims shall be subject to the limitations of the Colorado

Governmental Immunity Act, C.R.S. 24-10-101 to 24-10-120. The Town shall include as Additional Rentals, the reimbursement of reasonable and necessary fees and expenses incurred by the Trustee to defend the Trustee from and against all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the conduct or management of the Leased Property or from any work or thing done on the Leased Property during the Lease Term requested by the Town, or from any condition of the Leased Property caused by the Town. This duty to reimburse the Trustee's legal expenses is not an indemnification and it is expressly understood that the Town is not indemnifying the Trustee and, as previously stated, is limited to Net Proceeds and moneys, if any, in excess of such Net Proceeds, for which an Appropriation has been effected.

**Section 11.8 Access to the Leased Property; Rights to Inspect Books.** The Town agrees that the Trustee shall have the right at all reasonable times to examine and inspect the Leased Property (subject to such regulations as may be imposed by the Town for security purposes) and all of the Town's books and records with respect thereto, but the Trustee has no duty to inspect the Leased Property books or records. The Town further agrees that the Trustee shall have such rights of access to the Leased Property as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the Town to perform its obligations under this Lease. The Indenture allows the Town to have the right at all reasonable times to examine and inspect all of the Trustee's books and records with respect to the Leased Property and all funds and accounts held under the Indenture.

The Town and its representatives shall have the right to examine and inspect the books and records of the Trustee relating to the Leased Property at all reasonable times from the date of this Lease and until three years after the termination date of this Lease.

**ARTICLE 12**  
**PURCHASE OPTION**

**Section 12.1 Purchase Option.** The Town shall have the option to purchase the Trustee's leasehold interest in the Leased Property, but only if an Event of Lease Default or an Event of Nonappropriation has not occurred and is then continuing. The Town may exercise its option on any date by complying with one of the conditions set forth in Section 12.2.

The Town shall give the Trustee notice of its intention to exercise its option not less than forty-five (45) days in advance of the date of exercise and shall deposit the required moneys with the Trustee on or before the date selected to pay the Purchase Option Price. The Trustee may waive such notice or may agree to a shorter notice period in the sole determination of the Trustee.

If the Town shall have given notice to the Trustee of its intention to purchase the Trustee's leasehold interest in the Leased Property or prepay Base Rentals, but shall not have deposited the amounts with the Trustee on the date specified in such notice, the Town shall continue to pay Base Rentals, which have been specifically appropriated by the Town for such purpose, as if no such notice had been given.

**Section 12.2 Conditions for Purchase Option.** The Trustee shall transfer and release the Trustee's leasehold interests in the Leased Property to the Town in the manner provided for in Section 12.3 of this Lease; provided, however, that prior to such transfer and release, either:

(a) the Town shall have paid the then applicable Purchase Option Price which shall equal the sum of the amount necessary to defease and discharge the Indenture as provided therein (i.e., provision for payment of all principal and interest portions of any and all Certificates which may have been executed and delivered pursuant to the Indenture shall have been made in accordance with the terms of the Indenture) plus any fees and expenses then owing to the Trustee; or

(b) the Town shall have paid all Base Rentals set forth in **Exhibit C** (Base Rentals Schedule) hereto, for the entire maximum Lease Term, and all then current Additional Rentals required to be paid hereunder.

At the Town's option, amounts then on deposit in any fund held under the Indenture (except the Rebate Fund and excluding any defeasance escrow funds) may be credited toward the Purchase Option Price.

**Section 12.3 Manner of Conveyance.** At the closing of the purchase or other conveyance of all of the Trustee's leasehold interest in the Leased Property pursuant to Section 12.2 of this Lease, the Trustee shall release and terminate the Site Lease, this Lease and the Indenture and execute and deliver to the Town any necessary documents releasing, assigning, transferring and conveying the Trustee's leasehold interest in the Leased Property, as they then exist, subject only to the following:

(a) Permitted Encumbrances, other than the Site Lease, this Lease and the Indenture;

(b) all liens, encumbrances and restrictions created or suffered to exist by the Trustee as required or permitted by the Site Lease, this Lease or the Indenture or arising as a result of any action taken or omitted to be taken by the Trustee as required or permitted by the Site Lease, this Lease or the Indenture;

(c) any lien or encumbrance created or suffered to exist by action of the Town; and

(d) those liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee.

**ARTICLE 13**  
**ASSIGNMENT AND SUBLEASING**

**Section 13.1 Assignment by the Trustee; Replacement of the Trustee.** Except as otherwise provided in this Lease and the Indenture, this Lease may not be assigned by the Trustee for any reason other than to a successor by operation of law or to a successor trustee under the Indenture or with the prior written consent of the Town which consent shall not be unreasonably withheld. The Trustee will notify the Town of any assignment to a successor by operation of law.

If an Event of Lease Default or Event of Nonappropriation has occurred and is continuing, the Trustee may act as herein provided, including exercising the remedies set forth in Section 14.2, without the prior written direction of the Town.

**Section 13.2 Assignment and Subleasing by the Town.** This Lease may not be assigned by the Town for any reason other than to a successor by operation of law. However, the Leased Property may be subleased, as a whole or in part, by the Town, without the necessity of obtaining the consent of the Trustee or any owner of the Certificates subject to each of the following conditions:

(a) The Leased Property may be subleased, in whole or in part, only to an agency or department of, or a political subdivision of, the State, or to another entity or entities with Approval of Special Counsel, or to persons who will occupy a portion of the Leased Property as their residence;

(b) The Town shall furnish or cause to be furnished to the Trustee a copy of any sublease agreement;

(c) Except for subleases to persons who will occupy a portion of the Leased Property as their residence, any sublease of the Leased Property shall provide that it shall automatically terminate upon a termination of this Lease;

(d) This Lease, and the obligations of the Town hereunder, shall, at all times during the Lease Term remain obligations of the Town, and the Town shall maintain its direct relationships with the Trustee, notwithstanding any sublease; and

(e) No sublease by the Town shall cause the Leased Property to be used for any purpose which would cause the Town to violate its tax covenant in Section 11.5 hereof.

All subleases shall provide that, upon a termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or an Event of Lease Default, and upon written notice by the Trustee to the party or parties to the subleases that any of such events has occurred such contracts shall be fully and freely assignable to the Trustee, without the consent of any other. Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, and upon receipt of a written request from the Trustee, the Town shall cooperate with the Trustee to effectuate the assignment of all of its right, title and interest in and to all subleases to the Trustee.

**ARTICLE 14**  
**EVENTS OF LEASE DEFAULT AND REMEDIES**

**Section 14.1 Events of Lease Default Defined.** Any one of the following shall be Events of Lease Default under this Lease:

(a) failure by the Town to pay any Base Rentals or Additional Rentals, which have been specifically appropriated by the Town for such purpose, during the Initial Term or any Renewal Term, within five (5) Business Days of the date on which they are due; or

(b) subject to the provisions of Section 6.5 hereof, failure by the Town to vacate or surrender possession of the Leased Property by March 1 of any Renewal Term in respect of which an Event of Nonappropriation has occurred; or

(c) failure by the Town to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in (a) or (b), (and other than a failure to comply with Section 11.6 hereof) for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be received by the Town from the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration; provided that if the failure stated in the notice cannot be corrected within the applicable period, the Trustee shall not withhold its consent to an extension of such time if corrective action can be instituted by the Town within the applicable period and diligently pursued until the default is corrected; or

(d) failure by the Town and the County to comply with the terms of the Site Lease.

The foregoing provisions of this Section 14.1 are subject to the following limitations:

(i) the Town shall be obligated to pay the Base Rentals and Additional Rentals, which have been specifically appropriated by the Town for such purpose, only during the then current Lease Term, except as otherwise expressly provided in this Lease; and

(ii) if, by reason of Force Majeure, the Town or the Trustee shall be unable in whole or in part to carry out any agreement on their respective parts herein contained other than the Town's agreement to pay the Base Rentals and Additional Rentals due hereunder, the Town or the Trustee shall not be deemed in default during the continuance of such inability. The Town and the Trustee each agree, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the Town or the Trustee from carrying out their respective agreements; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town.

**Section 14.2 Remedies on Default.** Whenever any Event of Lease Default shall have happened and be continuing beyond any applicable cure period, the Trustee may, or shall at the request of the owners of a majority in aggregate principal amount of the Certificates then Outstanding and upon indemnification as to costs and expenses as provided in the Indenture, without any further demand or notice, take one or any combination of the following remedial steps:

(a) terminate the Lease Term and give notice to the Town to vacate and surrender possession of the Leased Property, which vacation and surrender the Town agrees to complete within sixty (60) days from the date of such notice; provided, in the event the Town does not vacate and surrender possession on the termination date, the provisions of Section 6.5 hereof shall apply;

(b) lease or sublease the Leased Property or sell or assign any interest the Trustee has in the Leased Property, including the Trustee's leasehold interest in the Leased Property;

(c) recover from the Town:

(i) the portion of Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, which would otherwise have been payable hereunder, during any period in which the Town continues to occupy, use or possess the Leased Property; and

(ii) Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, which would otherwise have been payable by the Town hereunder during the remainder, after the Town vacates and surrenders possession of the Leased Property, of the Fiscal Year in which such Event of Lease Default occurs; or

(d) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under the Site Lease, this Lease and the Indenture.

Upon the occurrence of an Event of Nonappropriation, the Trustee shall be entitled to recover from the Town the amounts set forth in Section 14.2(c)(i) hereof if the Town continues to occupy the Leased Property after December 31 of the Fiscal Year in which such Event of Nonappropriation occurs.

The Trustee shall also be entitled, upon any Event of Lease Default, to any moneys in any funds or accounts created under the Indenture (except the Rebate Fund or any defeasance escrow accounts).

**Section 14.3 Limitations on Remedies.** The remedies in connection with an Event of Lease Default shall be limited as set forth in this Section. A judgment requiring a payment of money may be entered against the Town by reason of an Event of Lease Default only as to the Town's liabilities described in paragraph (c) of Section 14.2 hereof. A judgment requiring a payment of money may be entered against the Town by reason of an Event of Nonappropriation only to the extent that the Town fails to vacate and surrender possession of the Leased Property as required by Section 6.4 of this Lease, and only as to the liabilities described in paragraph (c)(i) of Section 14.2 hereof. The remedy described in paragraph (c)(ii) of Section 14.2 of this Lease is not available for an Event of Lease Default consisting of failure by the Town to vacate and surrender possession of the Leased Property by March 1 following an Event of Nonappropriation.

**Section 14.4 No Remedy Exclusive.** Subject to Section 14.3 hereof, no remedy herein conferred upon or reserved to the Trustee, is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved in this Article 14, it shall not be necessary to give any notice, other than such notice as may be required in this Article 14.

**Section 14.5 Waivers.** The Trustee may waive any Event of Lease Default under this Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Payment of Base Rentals or Additional Rentals by the Town shall not constitute a waiver of any breach or default by the Trustee hereunder.

**Section 14.6 Agreement to Pay Attorneys' Fees and Expenses.** In the event that either party hereto shall default under any of the provisions hereof and the nondefaulting party shall employ attorneys or incur other expenses for the collection of Base Rentals or Additional Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party, to the extent permitted by law, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the nondefaulting party. Notwithstanding the foregoing, any such fees and expenses owed by the Town hereunder shall constitute Additional Rentals for all purposes of this Lease and shall be subject to Appropriation.

**Section 14.7 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws.** To the extent permitted by law, in the case of an Event of Nonappropriation or an Event of Lease Default neither the Town nor any one claiming through or under the Town shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of the Indenture; and the Trustee and the Town, for themselves and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws. Notwithstanding the foregoing, it is expressly understood that the Town cannot and does not hereby waive its right to set up, claim or seek to take advantage of its police powers or its Colorado constitutional or statutory right of eminent domain.

**ARTICLE 15  
MISCELLANEOUS**

**Section 15.1 Sovereign Powers of Town.** Nothing in this Lease shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers or immunities of the Town. Nothing in this Lease shall be construed to require the Town to occupy and operate the Leased Property other than as lessee, or to require the Town to exercise its right to purchase the Leased Property as provided in Article 12 hereof.

**Section 15.2 Notices.** All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by any party to the other parties shall be in writing and shall be sufficiently given and served upon the other parties if (i) delivered personally or (ii) if mailed by certified or registered mail, postage prepaid, or (iii) by private courier service which provides evidence of delivery, or (iv) sent by electronic transmission which produces evidence of transmission, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission. All such communications will be addressed as follows:

If to the Trustee:

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Attention: Corporate Trust and Escrow Services  
Email: Jonathan.Fernandez@umb.com  
Phone: (303) 764-3607

If to the Town:

Town of Breckenridge, Colorado  
150 Ski Hill Road  
P. O. Box 168  
Breckenridge, Colorado 80424  
Attention: Finance Director  
Email: rickh@townofbreckenridge.com  
Phone: (970) 453-3171

The Town and the Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 15.3 Third Party Beneficiaries.** It is expressly understood and agreed that the Owners of the outstanding Certificates are third party beneficiaries to this Lease and enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to the Town, as lessee and the Trustee, as lessor, and their respective successors and assigns, and to the Owners of the Certificates. Except as hereinafter provided, nothing contained in this Lease shall give or allow any such claim or right of action by any other or third person on this Lease. It is the express intention of the Town and the Trustee that any person other than the Town, the Trustee, or the Owners of the Certificates receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.

**Section 15.4 Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Trustee and the Town and their respective successors and assigns, subject, however, to the limitations contained in Article 13 of this Lease.

**Section 15.5 Amendments.** This Lease may only be amended, changed, modified or altered as provided in the Indenture.

**Section 15.6 Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in the Base Rentals Fund, the Construction Fund, the Costs of Execution and Delivery Fund, or any other fund or account created under the Indenture (except the Rebate Fund or any defeasance escrow account), upon termination of the Lease Term, and after payment in full of the Certificates (or provision for payment thereof having been made in accordance with the provisions of this Lease and the Indenture) and fees and expenses of the Trustee in accordance with this Lease and the Indenture, shall belong to and be paid to the Town by the Trustee, as an overpayment of Base Rentals.

**Section 15.7 Triple Net Lease.** This Lease shall be deemed and construed to be a “triple net lease” and, subject to the prior Appropriation requirements hereof, the Town shall pay absolutely net during the Lease Term, the Base Rentals, the Additional Rentals and all expenses of, or other payments in respect of, the Leased Property as required to be paid by the Town under this Lease, for which a specific Appropriation has been effected by the Town for such purpose, free of any deductions, and without abatement, deduction or setoff (other than credits against Base Rentals expressly provided for in this Lease).

**Section 15.8 Computation of Time.** In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is not a Business Day, the period is extended to include the next day which is a Business Day. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. Notwithstanding the foregoing, Base Rentals shall be recalculated in the event of any Prepayment of Base Rentals as provided in Section 6.2(b) hereof.

**Section 15.9 Payments Due on Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

**Section 15.10 Severability.** Except for the requirement of the Town to pay Base Rentals for which a specific Appropriation has been effected by the Town for such purpose and the requirement of the Trustee to provide quiet enjoyment of the Leased Property and to convey the Trustee’s leasehold interest in the Leased Property to the Town under the conditions set forth in Article 12 of this Lease (which, if held invalid or unenforceable by any court of competent jurisdiction, may have the effect of invalidating or rendering unenforceable the other provisions of this Lease), in the event that any other provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 15.11 Execution in Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 15.12 Applicable Law.** This Lease shall be governed by and construed in accordance with the law of the State of Colorado without regard to choice of law analysis.

**Section 15.13 The Trustee is Independent of the Town.** Neither the Trustee nor any agent or employee of the Trustee shall be or shall be deemed to be an agent or employee of the Town. The Trustee acknowledges that the Trustee and its employees are not entitled to unemployment insurance benefits of

the Town unless the Trustee or a third party otherwise provides such coverage and that the Town does not pay for or otherwise provide such coverage. The Trustee shall have no authorization, express or implied, to bind the Town to any agreements, liability or understanding except as expressly set forth herein.

**Section 15.14 Governmental Immunity.** Notwithstanding any other provisions of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et. seq., C.R.S., as now or hereafter amended.

**Section 15.15 Recitals.** The Recitals set forth in this Lease are hereby incorporated by this reference and made a part of this Lease.

**Section 15.16 Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

**Section 15.17 Trustee's Disclaimer.** It is expressly understood and agreed that (a) the Lease is executed by UMB Bank, n.a., solely in its capacity as Trustee under the Indenture, and (b) nothing herein shall be construed as creating any liability on UMB Bank, n.a., other than in its capacity as Trustee under the Indenture. All financial obligations of the Trustee under this Lease, except those resulting from its willful misconduct or negligence, are limited to the Trust Estate.

**Section 15.18 Electronic Transactions.** The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, the parties have executed this Lease Purchase Agreement as of the day and year first above written.

TOWN OF BRECKENRIDGE, COLORADO,  
as Lessee

UMB BANK, n.a., solely in its capacity of Trustee  
under the Indenture, as Lessor

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

By: \_\_\_\_\_  
Jonathan Fernandez, Vice President

(SEAL)

Attest:

By: \_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

STATE OF COLORADO )  
 )  
COUNTY OF SUMMIT ) ss.  
 )  
TOWN OF BRECKENRIDGE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2022, by Eric S. Mamula and Helen Cospolich, CMC, as Mayor and Town Clerk, respectively, of the Town of Breckenridge, Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

\* \* \* \* \*

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2022, by Jonathan Fernandez, as Vice President of UMB Bank, n.a., as Trustee.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

**EXHIBIT A**

**DESCRIPTION OF LEASED PROPERTY**

The Leased Property consists of the real property and the buildings and improvements located thereon as set forth below, as amended from time to time.

Lot 4, Block 1, Resubdivision of Parkway Center Subdivision Filing No. 1 Amended, according to the Plat Filed September 2, 2022 under Reception No. 1296242, County of Summit, State of Colorado.

**EXHIBIT B**

**PERMITTED ENCUMBRANCES**

“*Permitted Encumbrances*” as defined in Section 1.2 of this Lease and the following:

- 1) Liens for ad valorem taxes and special assessments not then delinquent, if applicable.
- 2) The Site Lease.
- 3) This Lease.
- 4) All other encumbrances appearing of record on the date hereof.

**EXHIBIT C**  
**BASE RENTALS SCHEDULE<sup>(1)</sup>**

BASE RENTALS SCHEDULE

Period Ending	Base Rentals Principal Component	Base Rentals Interest Component	Total Rentals	Base
06/01/2023				
12/01/2023				
06/01/2024				
12/01/2024				
06/01/2025				
12/01/2025				
06/01/2026				
12/01/2026				
06/01/2027				
12/01/2027				
06/01/2028				
12/01/2028				
06/01/2029				
12/01/2029				
06/01/2030				
12/01/2030				
06/01/2031				
12/01/2031				
06/01/2032				
12/01/2032				
06/01/2033				
12/01/2033				
06/01/2034				
12/01/2034				
06/01/2035				
12/01/2035				
06/01/2036				
12/01/2036				
06/01/2037				
12/01/2037				
06/01/2038				
12/01/2038				
06/01/2039				
12/01/2039				
06/01/2040				
12/01/2040				
06/01/2041				

12/01/2041

---

---

Base Rental payments are due on May 21 and November 20 of each year during the Lease Term. The Base Rentals have been calculated on the basis of a 360-day year of twelve 30-day months and any recalculation of Base Rentals under Section 6.2(b) hereof shall be done on the same basis. If Base Rentals are stated to be due on any date that is not a Business Day, such Base Rentals shall be due on the next day that is a Business Day without the accrual of interest on Base Rentals between such dates.

Statement Regarding the Leased Property

The duration of the Lease, throughout the maximum Lease Term, does not exceed the weighted average useful life of the Leased Property and, to the extent that the Leased Property constitutes items of personal property, such items are considered paid from the first Base Rentals described above.

**EXHIBIT D**

**FORM OF NOTICE OF LEASE RENEWAL**

To: UMB Bank, n.a., as Trustee  
Attention: Corporate Trust and Escrow Services

The undersigned is the Town Representative of the Town of Breckenridge, Colorado (the "Town"). The Town is the lessee under that certain Lease Purchase Agreement, dated as of [closing date], 2022 (the "Lease"), between the Town and UMB Bank, n.a., solely in its capacity of Trustee under the Indenture, as the lessor thereunder. I am familiar with the facts herein certified and am authorized and qualified to certify the same. The undersigned hereby states and certifies:

(a) the Town has effected or intends to effect on a timely basis an Appropriation for the ensuing Fiscal Year which includes (1) sufficient amounts authorized and directed to be used to pay all the Base Rentals and (2) sufficient amounts to pay such Additional Rentals as are estimated to become due, all as further provided in Sections 6.2, 6.3 and 6.4 of the Lease, whereupon, the Lease shall be renewed for the ensuing Fiscal Year;

\_\_\_\_\_  
Initial

or

(b) the Town has determined not to renew the Lease for the ensuing Fiscal Year.

\_\_\_\_\_  
Initial

**TOWN OF BRECKENRIDGE, COLORADO**

By: \_\_\_\_\_  
Town Representative

Date: \_\_\_\_\_

**EXHIBIT E**

**FORM OF REQUISITION**

REQUISITION NO. \_\_\_\_\_

To: UMB Bank, n.a., as Trustee  
Attention: Corporate Trust and Escrow Services

The undersigned Town Representative (the “Town Representative”) of and for the Town of Breckenridge, Colorado (the “Town”), as the lessee’s representative under the Lease Purchase Agreement, dated as of [closing date], 2022 (the “Lease”), between UMB Bank, n.a., as trustee, as lessor, and the Town, as lessee, hereby requisitions the following sum from the Construction Fund established under the Indenture of Trust, dated as of [closing date], 2022 (the “Indenture”), entered into by UMB Bank, n.a., as Trustee, and in connection with such request, certifies as follows:

Amount: \$ \_\_\_\_\_

Name and Address of Payee:

The Town has attached hereto a copy of each Payee’s Form W-9 or Form W-8, as applicable (unless previously provided). The Town further acknowledges the Trustee cannot process such requisition until the Trustee is in receipt of a valid Form W-9 or W-8, as applicable, in accordance with the Internal Revenue Service regulations and the Foreign Account Tax Compliance Act.

Describe Nature of Obligation:

The Town Representative further certifies that:

- (a) the obligation described above has been properly incurred, is a proper charge against the applicable Construction Account of the Construction Fund and has not been the basis of any previous withdrawal or requisition;
- (b) all conditions required by the Lease and the Indenture to be met prior to the disbursement of the above amount have been satisfied;
- (c) the disbursement requested is due and payable and will be used for the “Costs of the Project” permitted under the Lease and the Indenture;
- (d) the Town is not in breach of any of the agreements contained in the Lease;
- (e) no Event of Default or Event of Nonappropriation has occurred and is continuing; and
- (f) with respect to the disbursement of funds by the Trustee from the Construction Fund pursuant to this Construction Fund Requisition, on behalf of the Town, the undersigned Town Representative hereby: (a) certifies that the Town has reviewed the wire instructions set forth in this Construction Fund Requisition, and confirms that, to the best of the Town’s knowledge, such wire instructions are accurate; (b) agrees that, to the extent permitted by law, the Town will indemnify and hold harmless the Trustee from and against any and all claims, demands, losses, liabilities, and expenses sustained, including, without limitation, attorney fees,

arising directly or indirectly from the Trustee's disbursement of funds from the Construction Fund in accordance with this Construction Fund Requisition and the wiring instructions provided herein; and (iii) agrees that the Town will not seek recourse from the Trustee as a result of losses incurred by the Town arising from the Trustee's disbursement of funds in accordance with this Construction Fund Requisition.

**TOWN OF BRECKENRIDGE, COLORADO**

By: \_\_\_\_\_  
Town Representative

**EXHIBIT F**

**CERTIFICATE OF COMPLETION**

To: UMB Bank, n.a., as Trustee  
Attention: Corporate Trust and Escrow Services

The undersigned hereby states and certifies that:

1. I am the Town Representative (the “Town Representative”) of and for the Town of Breckenridge, Colorado (the “Town”), acting as the lessee’s representative under the Lease Purchase Agreement, dated as of [closing date], 2022 (the “Lease”), between UMB Bank, n.a., as trustee, as lessor, and the Town, as lessee. I am familiar with the facts herein certified and am authorized and qualified to certify the same.

2. The Project described in the Lease is substantially complete and all Costs of the Project as described therein have been paid except for the following amounts to be set aside by the Trustee to pay remaining Costs of the Project: \$\_\_\_\_\_. This Certificate shall constitute the Certificate of Completion for the purposes of the Lease and the definition of “Certificate of Completion” therein.

3. Notwithstanding the foregoing, this Certificate shall not prejudice any rights against third parties which exist at the date hereof or which may subsequently come into being.

4. In accordance with Section 7.3 of the Lease and Section 3.06 of the Indenture, the Town hereby directs the Trustee to apply any balance remaining in the Construction Fund as follows: \_\_\_\_\_

\_\_\_\_\_.

**TOWN OF BRECKENRIDGE, COLORADO**

By: \_\_\_\_\_  
Town Representative

---

---

**INDENTURE OF TRUST**

**DATED AS OF [CLOSING DATE], 2022**

**BY**

**UMB BANK, N.A.,  
AS TRUSTEE**

---

---

This Table of Contents is not a part of this Indenture and is only for convenience of reference.

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS.....	7
Section 1.01    Certain Funds and Accounts.....	7
Section 1.02    Definitions.....	7
ARTICLE 2 THE CERTIFICATES.....	15
Section 2.01    Amount of the Certificates; Nature of the Certificates.....	15
Section 2.02    Forms, Denominations, Maturities and Other Terms of Certificates.....	15
Section 2.03    Execution; Global Book-Entry System.....	17
Section 2.04    Delivery of Certificates.....	18
Section 2.05    Mutilated, Lost, Stolen or Destroyed Certificates.....	19
Section 2.06    Registration of Certificates; Persons Treated as Owners; Transfer and Exchange of Certificates.....	19
Section 2.07    Cancellation of Certificates.....	20
Section 2.08    Additional Certificates.....	20
Section 2.09    Uniform Commercial Code.....	21
ARTICLE 3 REVENUES AND FUNDS.....	22
Section 3.01    Segregation and Disposition of Proceeds of Certificates.....	22
Section 3.02    Application of Revenues and Other Moneys.....	22
Section 3.03    Base Rentals Fund.....	22
Section 3.04    Rebate Fund.....	23
Section 3.05    Costs of Execution and Delivery Fund.....	23
Section 3.06    Construction Fund.....	24
Section 3.07    Moneys to be Held in Trust.....	24
Section 3.08    Nonpresentment of Certificates.....	25
Section 3.09    Repayment to the Town from the Trustee.....	25
ARTICLE 4 REDEMPTION OF CERTIFICATES.....	26
Section 4.01    Optional Redemption.....	26
Section 4.02    Mandatory Sinking Fund Redemption.....	26
Section 4.03    Extraordinary Mandatory Redemption.....	27
Section 4.04    Partial Redemption.....	28
Section 4.05    Notice of Redemption.....	28
Section 4.06    Redemption Payments.....	29
ARTICLE 5 INVESTMENTS.....	30
Section 5.01    Investment of Moneys.....	30
Section 5.02    Method of Valuation and Frequency of Valuation.....	31
ARTICLE 6 DEFEASANCE AND DISCHARGE.....	32
Section 6.01    Defeasance and Discharge.....	32

ARTICLE 7 EVENTS OF INDENTURE DEFAULT AND REMEDIES .....	34
Section 7.01    Events of Indenture Default Defined .....	34
Section 7.02    Remedies.....	34
Section 7.03    Legal Proceedings by Trustee.....	34
Section 7.04    Discontinuance of Proceedings by Trustee.....	35
Section 7.05    Owners of Certificates May Direct Proceedings .....	35
Section 7.06    Limitations on Actions by Owners of Certificates .....	35
Section 7.07    Trustee May Enforce Rights Without Possession of Certificates.....	35
Section 7.08    Remedies Not Exclusive .....	36
Section 7.09    Delays and Omissions Not to Impair Rights.....	36
Section 7.10    Application of Moneys in Event of Indenture Default .....	36
Section 7.11    Nondisturbance of Certain Subleases. ....	36
ARTICLE 8 CONCERNING THE TRUSTEE .....	37
Section 8.01    Duties of the Trustee.....	37
Section 8.02    Liability of Trustee; Trustee’s Use of Agents.....	37
Section 8.03    Representations and Covenants of Trustee .....	40
Section 8.04    Compensation .....	40
Section 8.05    Notice of Default; Right to Investigate.....	41
Section 8.06    Obligation to Act on Defaults.....	41
Section 8.07    Reliance on Requisition, etc .....	41
Section 8.08    Trustee May Own Certificates.....	42
Section 8.09    Construction of Ambiguous Provisions.....	42
Section 8.10    Resignation of Trustee .....	42
Section 8.11    Removal of Trustee.....	42
Section 8.12    Appointment of Successor Trustee .....	42
Section 8.13    Qualification of Successor .....	42
Section 8.14    Instruments of Succession.....	43
Section 8.15    Merger of Trustee .....	43
Section 8.16    Intervention by Trustee.....	43
Section 8.17    Books and Records of the Trustee; Trustee Record Keeping.....	43
Section 8.18    Environmental Matters.....	43
ARTICLE 9 SUPPLEMENTAL INDENTURES AND AMENDMENTS OF THE LEASE AND SITE LEASE .....	45
Section 9.01    Supplemental Indentures and Amendments Not Requiring Certificate Owners’ Consent.....	45
Section 9.02    Supplemental Indentures and Amendments Requiring Certificate Owners’ Consent.....	45
Section 9.03    Amendment of the Lease and the Site Lease .....	46
ARTICLE 10 MISCELLANEOUS .....	48
Section 10.01    Evidence of Signature of Owners and Ownership of Certificates .....	48
Section 10.02    Inspection of the Leased Property.....	48
Section 10.03    Parties Interested Herein .....	48
Section 10.04    Titles, Headings, Etc .....	49
Section 10.05    Severability .....	49

Section 10.06	Governing Law .....	49
Section 10.07	Execution in Counterparts.....	49
Section 10.08	Notices .....	49
Section 10.09	Successors and Assigns.....	49
Section 10.10	Payments Due on Saturdays, Sundays and Holidays.....	49
Section 10.11	Undertaking to Provide Ongoing Disclosure.....	50
Section 10.12	Electronic Storage.....	50
EXHIBIT A	FORM OF CERTIFICATE .....	A-1

## INDENTURE OF TRUST

**THIS INDENTURE OF TRUST** dated as of [closing date], 2022 (this “Indenture”), is executed and delivered by **UMB BANK, N.A.**, duly organized and existing under the laws of the United States of America, acting solely in its role as trustee (the “Trustee”) for the benefit of the Owners of the Certificates as set forth in this Indenture.

### PREFACE

All capitalized terms used herein will have the meanings ascribed to them in Article 1 of this Indenture.

### RECITALS

1. This Indenture is being executed and delivered to provide for the execution, delivery and payment of and security for the Certificates, the proceeds of which will be used to finance the Project. The Certificates evidence undivided interests in the right to receive Revenues under the Lease.

2. Pursuant to the Lease, and subject to the rights of the Town to not appropriate the Base Rentals and Additional Rentals thereunder and, therefore, to not renew and to terminate the Lease and other limitations as therein provided, the Town is to pay certain Base Rentals directly to the Trustee, for the benefit of the Owners of the Certificates, in consideration of the Town’s right to possess and use the Leased Property.

3. The Trustee has entered into this Indenture for and on behalf of the Owners of the Certificates and the Trustee will hold the Revenues and the Leased Property and will exercise the Trustee’s rights under the Site Lease and the Lease for the equal and proportionate benefit of the Owners of the Certificates as described herein, and will disburse money received by the Trustee in accordance with this Indenture.

4. The proceeds from the sale of the Certificates to the Owners will be disbursed by the Trustee to implement the Project as described herein and in the Lease and for other purposes set forth herein.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that the Trustee, in consideration of the premises, the purchase of the Certificates by the Owners and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Certificates and all other amounts payable to the Owners with respect to the Certificates, to secure the performance and observance of all the covenants and conditions set forth in the Certificates and the Indenture, and to declare the terms and conditions upon and subject to which the Certificates are executed, delivered and secured, has executed and delivered this Indenture and has granted, assigned, pledged, bargained, sold, alienated, remised, released, conveyed, set over and confirmed, and by these presents does grant, assign, pledge, bargain, sell, alienate, remise, release, convey, set over and confirm, in trust upon the terms set forth herein all and singular the following described property, franchises and income, including any title or interest therein acquired after these

presents, all and singular the following described property, franchises and income, including any title therein acquired after these presents (collectively, the “Trust Estate”):

(a) all rights, title and interest of the Trustee in, to and under the Site Lease and the Lease relating to the Leased Property, subject to Permitted Encumbrances (other than the Trustee’s rights to payment of its fees and expenses under the Site Lease and the Lease and the rights of third parties to Additional Rentals payable to them under the Lease);

(b) all Revenues and any other receipts receivable by or on behalf of the Trustee pursuant to the Lease, including without limitation, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds;

(c) the Project Documents, including all extensions and renewals of the terms thereof, if any, together with the rights, titles and interests of the Town in and to the Project Documents, including, but not limited to, the present and continuing right to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Project Documents, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Town under the Project Documents is or may become entitled to; provided, however, that for so long as the Lease is in effect, the Town shall retain the right to bring actions and proceedings under the Project Documents and enforce the provisions thereof against the parties thereto other than the Town; and

(d) all money and securities from time to time held by the Trustee under this Indenture in the Base Rentals Fund, Construction Fund and the Costs of Execution and Delivery Fund (but not the Rebate Fund, or any defeasance escrow fund or account), any and all other property, revenues or funds from time to time hereafter by delivery or by writing of any kind specially granted, assigned or pledged as and for additional security hereunder, by any Person in favor of the Trustee, which shall accept any and all such property and hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD IN TRUST, NEVERTHELESS, the Trust Estate for the equal and ratable benefit and security of all Owners of the Certificates, without preference, priority or distinction as to lien or otherwise of any one Certificate over any other Certificate upon the terms and subject to the conditions hereinafter set forth.

PROVIDED, HOWEVER, that if the principal of the Certificates, the premium, if any, and the interest due or to become due thereon, shall be paid at the times and in the manner mentioned in the Certificates, according to the true intent and meaning thereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then, upon such final payments, this Indenture and the rights hereby granted shall cease, terminate and be void, otherwise this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH and it is expressly declared, that all Certificates are to be executed and delivered and all said property, rights, interests, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms,

conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Trustee has agreed and covenanted, and does hereby agree and covenant, for the benefit of the Owners, as follows:

**ARTICLE 1  
DEFINITIONS**

**Section 1.01 Certain Funds and Accounts.** All references herein to any Funds and Accounts shall mean the Funds and Accounts so designated which are established pursuant to Article 3 hereof.

**Section 1.02 Definitions.** All capitalized terms defined in Article 1 of the Lease shall have the same meaning in this Indenture. In addition, the following capitalized terms shall have the following meanings under this Indenture, provided, however, that in the event of any inconsistency, any term defined below shall have the meaning ascribed to it in the Lease.

*“Additional Certificates”* means Additional Certificates which may be executed and delivered pursuant to this Indenture.

*“Additional Rentals”* means the payment or cost of all:

(a) (i) reasonable expenses and fees of the Trustee related to the performance or discharge of its responsibilities under the provisions of the Lease, the Site Lease or this Indenture, including the reasonable fees and expenses of any person or firm employed by the Town to make rebate calculations under the provisions of Section 3.04 of this Indenture and the expenses of the Trustee in respect of any policy of insurance obtained in respect of the Certificates executed and delivered with respect to the Lease, (ii) the cost of insurance premiums and insurance deductible amounts under any insurance policy reasonably deemed to protect the Trustee from any liability under the Lease, approved by the Town Representative, which approval shall not be unreasonably withheld, (iii) reasonable legal fees and expenses incurred by the Trustee to defend the Trust Estate or the Trustee from and against any legal claims, and (iv) reasonable expenses and fees of the Trustee incurred at the request of the Town Representative;

(b) taxes, assessments, insurance premiums, utility charges, maintenance, upkeep, repair and replacement with respect to the Leased Property and as otherwise required under the Lease;

(c) payments into the Rebate Fund for rebate payments as provided in the Lease; and

(d) all other charges and costs (together with all interest and penalties that may accrue thereon in the event that the Town shall fail to pay the same, as specifically set forth in the Lease) which the Town agrees to assume or pay as Additional Rentals under the Lease.

Additional Rentals shall not include Base Rentals.

*“Approval of Special Counsel”* means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of the Base Rentals paid by the Town under the Lease.

*“Authorized Denominations”* means \$5,000 or integral multiples of \$5,000.

“*Base Rentals*” means the rental payments payable by the Town during the Lease Term, which constitute payments payable by the Town for and in consideration of the right to possess and use the Leased Property as set forth in **Exhibit C** (Base Rentals Schedule) of the Lease. Base Rentals does not include Additional Rentals.

“*Base Rentals Fund*” means the fund created under Section 3.03 hereof.

“*Beneficial Owners*” means any person for which a DTC Participant acquires an interest in the Certificates.

“*Business Day*” means any day, other than a Saturday, Sunday or legal holiday or a day (a) on which banks located in Denver, Colorado are required or authorized by law or executive order to close or (b) on which the Federal Reserve System is closed.

“*Cede & Co.*” means DTC’s nominee or any new nominee of DTC.

“*Certificate Purchase Agreement*” means the Certificate Purchase Agreement between the Underwriter and the Trustee relating to the Certificates.

“*Certificates*” means the “Certificates of Participation, Series 2022, Evidencing Proportionate Interests in the Base Rentals and other Revenues under an annually renewable Lease Purchase Agreement, dated as of [closing date], 2022, between UMB Bank, n.a., solely in its capacity as trustee under the Indenture, as lessor, and the Town of Breckenridge, Colorado, as lessee,” dated as of their date of delivery, executed and delivered pursuant to this Indenture.

“*Charter*” means the home rule charter of the Town, and any amendments or supplements thereto.

“*Closing*” means the date of execution and delivery of the Certificates.

“*Completion Date*” means the earlier of (a) December 1, 2022, or such later date established by the Town with the Approval of Special Counsel, or (b) any date on which the Certificate of Completion is delivered by the Town Representative to the Trustee pursuant to Section 7.3 of the Lease.

“*Construction Fund*” means the Construction Fund created by Section 3.06 of this Indenture.

“*Costs of Execution and Delivery*” means all items of expense directly or indirectly payable by the Trustee (under the provisions set forth under Section 3.05 hereof) related to the authorization, execution and delivery of the Site Lease and the Lease and related to the authorization, sale, execution and delivery of the Certificates and to be paid from the Costs of Execution and Delivery Fund, including but not limited to, survey costs, title insurance premiums, closing costs and other costs relating to the leasing of the Leased Property under the Site Lease and the Lease, costs of preparation and reproduction of documents, costs of printing the Certificates and the Preliminary and final Official Statements prepared in connection with the offering of the Certificates, costs of Rating Agencies and costs to provide information required by Rating Agencies for the rating or proposed rating of Certificates, initial fees and charges of the Trustee and Paying Agent, legal fees and charges, including fees and expenses of Bond

Counsel, Special (Disclosure) Counsel, and Counsel to the Trustee, fees and disbursements of professionals and the Underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, premiums for insurance on the Certificates, and any other cost, charge or fee in connection with the original sale and the execution and delivery of the Certificates; provided, however, that Additional Rentals shall not be Costs of Execution and Delivery of the Certificates and are to be paid by the Town as provided in the Lease.

“*Costs of Execution and Delivery Fund*” means the fund created under Section 3.05 hereof.

“*Costs of the Project*” means all costs and expenses incurred in connection with the Project, including without limitation:

- (a) any costs paid or incurred for the acquisition of any real estate acquired as part of the Leased Property;
- (b) obligations paid, incurred or assumed for labor, materials and equipment in connection with the construction, acquisition, installation, equipping and improvement of the Project;
- (c) the cost of performance and payment bonds and of insurance of all kinds (including, without limitation, title insurance) that may be necessary or appropriate in connection with the Project;
- (d) the costs of engineering, architectural and other professional and technical services including obligations incurred or assumed for preliminary design and development work, test borings, soils tests, surveys, environmental review, estimates and plans and specifications;
- (e) administrative costs incurred in connection with the leasing of the Leased Property and the construction of the Project incurred prior to the Completion Date, including supervision of the construction, acquisition, installation and equipping as well as the performance of all of the other duties required by or consequent upon the construction, acquisition, installation and equipping of the Project, including, without limitation, costs of preparing and securing all Project Documents, architectural, engineering and other professional and technical fees, building permit fees, water tap fees, sanitary sewer and wastewater fees, legal fees and expenses, appraisal fees, independent inspection fees, auditing fees and advertising expenses in connection with the Project;
- (f) costs incurred in connection with the Certificates, including the initial compensation and expenses of the Trustee, legal fees and expenses, costs incurred in obtaining ratings from rating agencies, the premium for a qualified surety bond, if any, and accounting fees;
- (g) all costs which are required to be paid under the terms of any Project Contract;

- (h) any costs associated with the leasing of the Site pursuant to the Site Lease;
- (i) costs related to the preparation of the Site for construction of the Project, including, but not limited to, the costs of demolition and cleanup of any existing improvements on the Site and costs associated with the provision of sewer, water, gas, electricity and other infrastructure improvements and services to the Site;
- (j) payments to a reserve fund to the extent necessary to establish or maintain a reserve requirement, if any;
- (k) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under the Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel; and
- (l) any and all other costs necessary to effect the Trustee's leasing of the Site and the implementation and completion of the Project to the extent the same are permitted by the laws of the State of Colorado and will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel.

“*Council*” means the Town Council of the Town or any successor to its functions.

“*C.R.S.*” means Colorado Revised Statutes.

“*Depository*” means any securities depository as the Trustee may provide and appoint pursuant to Section 2.03 hereof, in accordance with then current guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Certificates.

“*DTC*” means the Depository Trust Company, New York, New York, and its successors and assigns.

“*DTC Participant(s)*” means any broker-dealer, bank or other financial institution from time to time for which DTC holds Certificates as Depository.

“*Electronic Means*” or “electronic means” means telecopy, facsimile transmission, email transmission or other similar electronic means of communication providing evidence of transmission.

“*Event(s) of Indenture Default*” means those defaults specified in Section 7.01 of this Indenture.

“*Extraordinary Mandatory Redemption*” means any redemption made pursuant to Section 4.03 hereof.

“*Federal Securities*” means non-callable bills, certificates of indebtedness, notes or bonds which are direct obligations of, or the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“*Finance Director*” means the Finance Director of the Town or his or her successor in functions, if any.

“*Fiscal Year*” means the Town’s fiscal year, which begins on January 1 of each calendar year and ends on December 31 of the same calendar year, or any other twelve month period which the Town or other appropriate authority hereafter may establish as the Town’s fiscal year.

“*Indenture*” means this Indenture of Trust dated as of [closing date], 2022, executed and delivered by the Trustee as the same may be hereafter amended or supplemented.

“*Interest Payment Date*” means, in respect of the Certificates, June 1 and December 1, commencing \_\_\_ 1, 2023.

“*Lease*” means the Lease Purchase Agreement dated as of [closing date], 2022, between the Trustee, as lessor, and the Town, as lessee, as the same may be amended.

“*Leased Property*” means the Site and the premises, buildings and improvements situated thereon, including all fixtures attached thereto, as more particularly described in **Exhibit A** to the Lease, together with any and all additions and modifications thereto and replacements thereof, including, without limitation, the easements, rights of way, covenants and other rights set forth in the documents listed on **Exhibit B** attached thereto, and any New Facility.

“*Mayor*” means the Mayor of the Town, or his or her successor in duties.

“*New Facility*” means any real property, buildings or equipment leased by the Town to the Trustee pursuant to a future amendment to the Site Lease and leased back by the Town from the Trustee pursuant to a future amendment to the Lease in connection with the issuance of Additional Certificates.

“*Optional Redemption*” means any redemption made pursuant to Section 4.01 hereof and as provided in the form of the Certificates set forth in **Exhibit A** hereto.

“*Optional Redemption Date*” means the date of redemption of the Certificates upon Prepayment of Base Rentals or the payment of the Purchase Option Price under the Lease.

“*Outstanding*” means, with respect to the Certificates, all Certificates executed and delivered pursuant to this Indenture as of the time in question, except:

(a) all Certificates theretofore canceled or required to be canceled under Section 2.07 of this Indenture;

(b) Certificates in substitution for which other Certificates have been executed and delivered under Sections 2.05 or 2.06 of this Indenture;

(c) Certificates which have been redeemed as provided in Article 4 of this Indenture;

(d) Certificates for the payment or redemption of which provision has been made in accordance with Article 6 of this Indenture; provided that, if such Certificates are being redeemed, the required notice of redemption has been given or provision satisfactory to the Trustee has been made therefor; and

(e) Certificates deemed to have been paid pursuant to Section 6.01 of this Indenture.

“*Owners*” means the registered owners of any Certificates.

“*Paying Agent*” means the Trustee or any successor or additional paying agent appointed pursuant to this Indenture.

“*Permitted Investments*” means those investments the Town is authorized to make under the Charter and the laws of the State of Colorado

“*Prepayment*” means any amount paid by the Town pursuant to the provisions of the Lease as a prepayment of the Base Rentals due thereunder.

“*Project*” means, to the extent financed with the proceeds of the Certificates, the construction and equipping of “for rent” workforce housing on the Site.

“*Project Contract*” means any contract entered into before the Completion Date by the Town regarding the design, acquisition, construction, improvement or installation of any portion of the Project, including, without limitation, the design contracts between the Town and the design consultants, the construction contracts between the Town and the contractors, and any other contracts between the Town and anyone performing work or providing services in connection with the implementation and completion of the Project.

“*Project Documents*” means the following: (a) plans, drawings and specifications for the Project, when and as they are approved by the Town, including change orders, if any; (b) any necessary permits for the Project, including any building permits and certificates of occupancy; (c) the Project Contracts; (d) policies of title insurance, insurance policies required under the Project Contracts, including general liability, property damage and automobile, worker’s compensation and builders’ risk insurance policies in respect of the general contractor for construction of the Project and, on and after the Completion Date of the Project, insurance policies required under Article 9 of the Lease, including commercial general liability and public liability, property and worker’s compensation insurance policies, or certificates of insurance for any of such policies thereof, as required by the Lease; (e) contractor’s performance and payment bonds with respect to the Project; and (f) any and all other documents executed by or furnished to the Town or the Trustee in connection with the Project.

“*Rating Agency*” or “*Rating Agencies*” means Moody’s Investors Service or other nationally recognized securities rating agency or agencies as may be directed by the Town in writing to the Trustee.

“*Rebate Fund*” means the fund created under Section 3.04 hereof.

“*Regular Record Date*” means the close of business on the 15<sup>th</sup> day of the calendar month immediately preceding the Interest Payment Date (or the Business Day immediately preceding such 15<sup>th</sup> day, if such 15<sup>th</sup> day is not a Business Day).

“*Revenues*” means (a) all amounts payable by or on behalf of the Town or with respect to the Leased Property pursuant to the Lease including, but not limited to, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds, but not including Additional Rentals; (b) any portion of the proceeds of the Certificates deposited into the Base Rentals Fund created under this Indenture; (c) any moneys which may be derived from any insurance in respect of the Certificates; and (d) any moneys and securities, including investment income, held by the Trustee in the Funds established under this Indenture (except for moneys and securities held in the Rebate Fund or any defeasance escrow account).

“*Site*” means the real property owned by the Town and leased by the Town to the Trustee under the Site Lease and subleased by the Trustee to the Town under the Lease, the legal description of which is set forth in **Exhibit A** to the Lease.

“*Site Lease*” means the Site Lease Agreement, dated as of [closing date], 2022, between the Town and Summit County, as lessors, and the Trustee, as lessee, as the same may hereafter be amended.

“*Special Counsel*” means any counsel experienced in matters of municipal law and listed in the list of municipal bond attorneys, as published semiannually by *The Bond Buyer*, or any successor publication. So long as the Lease Term is in effect, the Town shall have the right to select Special Counsel.

“*Supplemental Act*” means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

“*Tax Certificate*” means the Tax Certificate entered into by the Town with respect to the Lease.

“*Tax Code*” means the Internal Revenue Code of 1986, as amended, and all regulations and rulings promulgated thereunder.

“*Town*” means the Town of Breckenridge, Colorado.

“*Town Manager*” means the Town Manager of the Town or the Town Manager’s successor in functions, if any.

“*Town Representative*” means the Mayor, the Town Manager, or the Finance Director or such other person at the time designated to act on behalf of the Town for the purpose of performing any act under the Lease, the Site Lease or this Indenture by a written certificate furnished to the Trustee containing the specimen signature of such person or persons and signed on behalf of the Town by the Mayor.

“*Trust Estate*” means all of the property placed in trust by the Trustee pursuant to the Granting Clauses hereof.

“*Trustee*” means UMB Bank, n.a., solely in its capacity as Trustee under this Indenture for the benefit of the Owners of the Certificates and any Additional Certificates, and its successors and assigns.

“*Underwriter*” means Stifel, Nicolaus & Company Incorporated, Denver, Colorado.

## ARTICLE 2 THE CERTIFICATES

**Section 2.01 Amount of the Certificates; Nature of the Certificates.** Except as provided in Section 2.08 hereof, the aggregate original principal amount of Certificates that may be executed and delivered pursuant to this Indenture shall be \$[PAR]. The Certificates shall constitute proportionate interests in the Trustee's right to receive the Base Rentals under the Lease and other Revenues. The Certificates shall constitute a contract between the Trustee and the Owners. In no event shall any decision by the Council not to appropriate any amounts payable under the Lease be construed to constitute an action impairing such contract.

The Certificates shall not constitute a mandatory charge or requirement of the Town in any ensuing Fiscal Year beyond the current Fiscal Year, and shall not constitute or give rise to a general obligation or other indebtedness of the Town or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town, within the meaning of any constitutional, home rule charter or statutory debt provision or limitation. No provision of the Certificates shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. The execution and delivery of the Certificates shall not directly or indirectly obligate the Town to renew the Lease from Fiscal Year to Fiscal Year or to make any payments beyond those appropriated for the Town's then current Fiscal Year.

**Section 2.02 Forms, Denominations, Maturities and Other Terms of Certificates.** The Certificates shall be in substantially the form attached hereto as **Exhibit A** and all provisions and terms of the Certificates set forth therein are incorporated in this Indenture.

The Certificates shall be executed and delivered in fully registered form in Authorized Denominations not exceeding the aggregate principal amount stated to mature on any given date. The Certificates shall be numbered consecutively in such manner as the Trustee shall determine; provided that while the Certificates are held by a Depository, one Certificate shall be executed and delivered for each maturity bearing interest at the same interest rate of the Outstanding Certificates.

The Certificates are executed and delivered under the authority of the Supplemental Act and shall so recite. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the execution and delivery of the Certificates after their delivery for value.

The Certificates shall be dated [closing date], 2022. The Certificates bear interest from their date to maturity or prior redemption at the rates per annum set forth below, payable on each Interest Payment Date and calculated on the basis of a 360-day year of twelve 30-day months. The payment of principal, premium, if any, and interest represented by the Certificates shall be made in lawful money of the United States of America.

The Certificates shall mature on the dates and in the amounts, with interest thereon, at the rates per annum set forth below:

<u>Maturity Date</u> <u>(December 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
<u>2041</u>		
TOTAL	\$[PAR]	

The Certificates are subject to redemption prior to maturity, all as provided in Article 4 hereof.

Except for any Certificates for which DTC is acting as Depository or for an Owner of \$1,000,000 or more in aggregate principal amount of Certificates, the principal of, premium, if any, and interest on all Certificates shall be payable to the Owner thereof at its address last appearing on the registration books maintained by the Trustee. In the case of any Certificates for which DTC is acting as Depository, the principal of, premium, if any, and interest on such Certificates shall be payable as directed in writing by the Depository. In the case of an Owner of \$1,000,000 or more in aggregate principal amount of Certificates, the principal of, premium, if any, and interest on such Certificates shall be payable by wire transfer of funds to a bank account located in the United States designated by the Certificate Owner in written instructions to the Trustee.

Interest shall be paid to the Owner of each Certificate, as shown on the registration books kept by the Trustee, as of the close of business on the Regular Record Date, irrespective of any transfer of ownership of Certificates subsequent to the Regular Record Date and prior to such Interest Payment Date, or on a special record date, which shall be fixed by the Trustee for such purpose, irrespective of any transfer of ownership of Certificates subsequent to such special record date and prior to the date fixed by the Trustee for the payment of such interest. Notice of the special record date and of the date fixed for the payment of such interest shall be given by providing a copy thereof by electronic means or by first class mail postage prepaid at least ten (10) days prior to the special record date, to the Owner of each Certificate upon which interest will be paid, determined as of the close of business on the day preceding the giving of such notice.

**Section 2.03 Execution; Global Book-Entry System.** Each Certificate shall be executed with the manual signature of a duly authorized representative of the Trustee. It shall not be necessary that the same authorized representative of the Trustee sign all of the Certificates executed and delivered hereunder. In case any authorized representative of the Trustee whose signature appears on the Certificates ceases to be such representative before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such authorized representative had remained as such authorized representative until delivery.

No Certificate shall be valid or obligatory for any purpose or entitled to any security or benefit hereunder unless and until executed in the manner prescribed by this Section, and such execution of any Certificate shall be conclusive evidence that such Certificate has been properly executed and delivered hereunder.

DTC may act as Depository for any Certificates. The Certificates for which DTC is acting as Depository shall be initially executed and delivered as set forth herein with a separate fully registered certificate (in printed or type-written form) for each of the maturities bearing interest at the same interest rate of the Certificates. Upon initial execution and delivery, the ownership of any Certificates for which DTC is acting as Depository shall be registered in the registration books kept by the Trustee, in the name of Cede & Co., as the nominee of DTC or such other nominee as DTC shall appoint in writing.

The Trustee is hereby authorized to take any and all actions as may be necessary and not inconsistent with this Indenture in order to qualify any Certificates for the Depository's book-entry system, including the execution of the Depository's form of Representation Letter.

With respect to any Certificates which shall or may be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, the Trustee shall not have any responsibility or obligation to any DTC Participants or to any Beneficial Owners. Without limiting the immediately preceding sentence, the Trustee shall not have any responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (b) the delivery to any DTC Participant, any Beneficial Owner or any other person, other than DTC, of any notice with respect to the Certificates, including any notice of redemption, or (c) the payment to any DTC Participant, any Beneficial Owner or any other person, other than DTC, of any amount with respect to the principal of and premium, if any, or interest on the Certificates; except that so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, any Beneficial Owner of \$1,000,000 or more in aggregate principal amount of Certificates who has filed a written request to receive notices, containing such Beneficial Owner's name and address, with the Trustee shall be provided with all notices relating to such Certificates by the Trustee.

Except as set forth above, the Trustee may treat as and deem DTC to be the absolute Owner of each Certificate for which DTC is acting as Depository for all purposes, including payment of the principal of and premium and interest on such Certificate, giving notices of redemption and registering transfers with respect to such Certificates. The Trustee shall pay all principal of and interest on the Certificates only to or upon the order of the Owners as shown on the registration books kept by the Trustee or their respective attorneys duly authorized in writing and all such payments shall be valid and effective to fully satisfy and discharge the obligations

with respect to the principal of and interest on the Certificates to the extent of the sum or sums so paid.

No person other than an Owner, as shown on the registration books kept by the Trustee, shall receive a Certificate. Upon delivery by DTC to the Beneficial Owner and the Trustee, a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.06 hereof, references to “Cede & Co.” in this Section shall refer to such new nominee of DTC.

DTC may determine to discontinue providing its services with respect to any Certificates at any time after giving written notice to the Trustee and discharging its responsibilities with respect thereto under applicable law. The Trustee, upon the written direction of the Town, may terminate the services of DTC with respect to any Certificates if it determines that DTC is unable to discharge its responsibilities with respect to such Certificates or that continuation of the system of book-entry transfers through DTC is not in the best interests of the Beneficial Owners, and the Trustee shall provide notice of such termination to the Depository.

Upon the termination of the services of DTC as provided in the previous paragraph, and if no substitute depository willing to undertake the functions of DTC in respect of the Certificates can be found which, in the opinion of the Town is willing and able to undertake such functions upon reasonable or customary terms, or if the Town determines that it is in the best interests of the Beneficial Owners of the Certificates that they be able to obtain certificated Certificates, the Certificates shall no longer be restricted to being registered in the registration books of the Trustee in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owners shall designate at that time, in accordance with Section 2.06. To the extent that the Beneficial Owners are designated as the transferee by the Owners, in accordance with Section 2.06, the Certificates will be delivered to the Beneficial Owners.

**Section 2.04 Delivery of Certificates.** Upon the execution and delivery of this Indenture, the Trustee is authorized to execute and deliver the Certificates to DTC or the purchaser thereof in the aggregate principal amounts, maturities and interest rates set forth in Section 2.01 hereof, as provided in this Section:

(a) Before or upon the delivery by the Trustee of any of the Certificates, there shall be filed with the Trustee an originally executed counterpart of this Indenture, the Lease, the Site Lease and a title insurance commitment or commitments (with a title insurance policy to be delivered in a timely fashion after the delivery of the Certificates) under which the Trustee’s leasehold interests in the Leased Property are insured; and

(b) Thereupon, the Trustee shall execute and deliver the Certificates to DTC or the purchasers thereof, upon payment to the Trustee of the purchase price set forth in the Certificate Purchase Agreement. Portions of such amounts so received shall be deposited in the Base Rentals Fund, Construction Fund and the Cost of Execution and Delivery Fund, all as provided in Article 3 hereof and in the Lease. Notwithstanding anything herein to the contrary, the Trustee is authorized to execute and transfer or cause to be transferred to DTC in advance of the date of execution and delivery of the Certificates, Certificates to effect the registration and delivery thereof to the Owners

pending and subject to the delivery of the opinion of Special Counsel necessary to effect the delivery of the Certificates.

**Section 2.05 Mutilated, Lost, Stolen or Destroyed Certificates.** In the event the Certificates are in the hands of DTC or Owners and one or more of the Certificates is mutilated, lost, stolen or destroyed, a new Certificate may be executed by the Trustee, of like date, series, maturity, interest rate and denomination as that mutilated, lost, stolen or destroyed; provided that the Trustee shall have received indemnity from DTC or the Owner of the Certificate, as the case may be, satisfactory to it and provided further, in case of any mutilated Certificate, that such mutilated Certificate shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Certificate, that there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. In the event that any such Certificate shall have matured, instead of executing and delivering a duplicate Certificate, the Trustee may pay the same without surrender thereof. The Trustee may charge DTC or the Owner of the Certificate, as the case may be, with its reasonable fees and expenses in connection herewith.

**Section 2.06 Registration of Certificates; Persons Treated as Owners; Transfer and Exchange of Certificates.** Books for the registration and for the transfer of Certificates shall be kept by the Trustee which is hereby appointed the registrar. Upon surrender for transfer of any Certificate at the principal corporate trust office of the Trustee or at such other location as it shall designate, the Trustee shall execute and deliver in the name of the transferee or transferees a new Certificate or Certificates of the same series, of a like aggregate principal amount and interest rate and of the same maturity.

Certificates may be exchanged at the principal corporate trust office of the Trustee or at such other location as it shall designate for an equal aggregate principal amount of Certificates of the same series, interest rate, and the same maturity of other Authorized Denominations. The Trustee shall execute and deliver Certificates which the Owner making the exchange is entitled to receive, bearing numbers not contemporaneously outstanding.

All Certificates presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Trustee, duly executed by the Owner or by his or her attorney duly authorized in writing.

The Trustee shall not be required to transfer or exchange any Certificate during the period of fifteen (15) days next preceding any Interest Payment Date nor to transfer or exchange any Certificate after providing of notice calling such Certificate for redemption has been made as herein provided, nor during the period of fifteen (15) days next preceding the provision of such notice of redemption.

New Certificates delivered upon any transfer or exchange shall evidence the same obligations as the Certificates surrendered, shall be secured by this Indenture and entitled to all of the security and benefits hereof to the same extent as the Certificates surrendered. The person in whose name any Certificate shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest on any Certificate shall be made only to or upon the written order of the Owner thereof or his, her or its legal representative, but such registration may be changed as hereinabove provided. All such

payments shall be valid and effectual to satisfy and discharge such Certificate to the extent of the sum or sums paid.

The Trustee shall require the payment, by any Owner requesting exchange or transfer of Certificates, of any transfer fees, tax, fee or other governmental charge required to be paid with respect to such exchange or transfer as a precondition to such exchange or transfer.

**Section 2.07 Cancellation of Certificates.** Whenever any outstanding Certificates shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment thereof or for or after replacement pursuant to Sections 2.05 or 2.06 hereof, such Certificates shall be promptly canceled and destroyed by the Trustee in accordance with customary practices of the Trustee and applicable record retention requirements.

**Section 2.08 Additional Certificates.** So long as no Event of Indenture Default, Event of Nonappropriation or Event of Lease Default has occurred and is continuing and the Lease Term is in effect, one or more series of Additional Certificates may be executed and delivered upon the terms and conditions set forth herein. The principal of any Additional Certificates shall mature on December 1 and the Interest Payment Dates therefor shall be the same as the Interest Payment Dates for the Certificates; otherwise the times and amounts of payment of Additional Certificates shall be as provided in the supplemental ordinance or indenture and amendment to the Lease entered into in connection therewith.

Additional Certificates may be executed and delivered without the consent of or notice to the Owners of Outstanding Certificates, to provide moneys to pay any one or more of the following:

- (a) the costs of acquiring, constructing, improving and installing any capital improvements of the Town or any New Facility, or of acquiring a Site for any New Facility (and costs reasonably related thereto);
- (b) the costs of completing the Project or making, at any time or from time to time, such substitutions, additions, modifications and improvements for or to the Leased Property as the Town may deem necessary or desirable, and as in accordance with the provisions of the Lease; or
- (c) for the purpose of refunding or refinancing all or any portion of Outstanding Certificates or Additional Certificates.

In such case, the Costs of Execution and Delivery of the Additional Certificates and other costs reasonably related to the purposes for which Additional Certificates are being executed and delivered may be included.

Additional Certificates may be executed and delivered only upon there being furnished to the Trustee:

- (a) Originally executed counterparts of a supplemental Indenture and related and necessary amendments to the Site Lease and the Lease (including any necessary amendment to the Base Rentals Schedule); and

(b) A commitment or other evidence that the amount of the title insurance policy delivered in respect of the Certificates will be increased, if necessary, to reflect the amount of the Additional Certificates and all other Outstanding Certificates (or such lesser amount as shall be the maximum insurable value of the real property included in the Leased Property); and

(c) A written opinion of Special Counsel to the effect that:

(i) the execution and delivery of Additional Certificates have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled;

(ii) the excludability of interest from gross income for federal income tax purposes on Outstanding Certificates will not be adversely affected by the execution and delivery of the Additional Certificates being executed and delivered; and

(iii) the sale, execution and delivery of the Additional Certificates, in and of themselves, will not constitute an Event of Indenture Default or an Event of Lease Default nor cause any violation of the covenants or representations herein or in the Lease; and

(d) Written directions from the underwriter, placement agent or financial advisor with respect of the Additional Certificates, together with written acknowledgment of the Town Representative, to the Trustee to deliver the Additional Certificates to the purchaser or purchasers therein identified upon payment to the Trustee of a specified purchase price.

Each Additional Certificate executed and delivered pursuant to this Section shall evidence a proportionate interest in the rights to receive the Revenues under this Indenture and shall be ratably secured with all Outstanding Certificates and in respect of all Revenues, and shall be ranked *pari passu* with such Outstanding Certificates and with Additional Certificates that may be executed and delivered in the future, if any.

**Section 2.09 Uniform Commercial Code.** Subject to the registration provisions hereof, the Certificates shall be fully negotiable and shall have all the qualities of negotiable paper, and the owner or owners thereof shall possess all rights enjoyed by the holders or owners of investment securities under the provisions of the Uniform Commercial Code-Investment Securities. The principal of and interest on the Certificates shall be paid, and the Certificates shall be transferable, free from and without regard to any equities, set-offs or cross-claims between or among the Town, the Trustee and the original or any intermediate owner of any Certificates.

**ARTICLE 3  
REVENUES AND FUNDS**

**Section 3.01 Segregation and Disposition of Proceeds of Certificates.** The proceeds of the Certificates (net of Underwriter's discount plus original issue premium) shall be accounted for as follows:

(a) \$\_\_\_\_\_ shall be deposited in the Construction Fund and used to finance the Project in accordance with this Indenture and the Tax Certificate.

(b) \$\_\_\_\_\_ shall be deposited in the Costs of Execution and Delivery Fund and applied to the Costs of Execution and Delivery of the Lease, the Site Lease and the Certificates.

(c) [capitalized interest?]

**Section 3.02 Application of Revenues and Other Moneys.**

(a) All Base Rentals payable under the Lease and other Revenues shall be paid directly to the Trustee. If the Trustee receives any other payments on account of the Lease, the Trustee shall immediately deposit the same as provided below.

(b) Except for Net Proceeds to be applied pursuant to Section 10.02 of the Lease, the Trustee shall deposit all Revenues and any other payments received in respect of the Lease, immediately upon receipt thereof, to the Base Rentals Fund in an amount required to cause the aggregate amount on deposit therein to equal the amount then required to make the principal and interest payments due on the Certificates on the next Interest Payment Date. In the event that the Trustee receives Prepayments under the Lease, the Trustee shall apply such Prepayments to the Optional Redemption of the Certificates or portions thereof in accordance with Section 4.01 hereof.

**Section 3.03 Base Rentals Fund.** A special fund is hereby created and established with the Trustee designated the "Town of Breckenridge, Colorado, 2022 Lease Purchase Agreement, Base Rentals Fund" which shall be used for the deposit of all Revenues, upon receipt thereof by the Trustee, except for Net Proceeds to be applied pursuant to Section 10.02 of the Lease. Moneys in the Base Rentals Fund shall be used solely for the payment of the principal of and interest on the Certificates whether on an Interest Payment Date, at maturity or upon prior redemption, except as provided in Section 3.04 hereof.

The Base Rentals Fund shall be in the custody of the Trustee. Base Rental payments are due and payable to the Trustee on or before each May 21 and November 20 of each year during the Lease Term. The Trustee shall withdraw sufficient funds from the Base Rentals Fund to pay the principal of and interest on the Certificates as the same become due and payable whether on an Interest Payment Date, at maturity or upon prior redemption, which responsibility, to the extent of the moneys therein, the Trustee hereby accepts.

Any moneys held in the Base Rentals Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.04 Rebate Fund.** A special fund is hereby created and established to be held by the Trustee, and to be designated the “Town of Breckenridge, Colorado, 2022 Lease Purchase Agreement, Rebate Fund” (the “Rebate Fund”). To the extent necessary to comply with the provisions of the Tax Certificate, the Trustee shall transfer into the Rebate Fund investment income on moneys in any fund created hereunder (except defeasance escrows). In addition to the deposit of investment income as provided herein, there shall be deposited into the Rebate Fund moneys received from the Town as Additional Rentals for rebate payments pursuant to the Lease; moneys transferred to the Rebate Fund from any other fund created hereunder pursuant to the provisions of this Section; and all other moneys received by the Trustee when accompanied by directions not inconsistent with the Lease or this Indenture that such moneys are to be paid into an account of the Rebate Fund. The Town will cause (or direct the Trustee to cause) amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury at the address and times provided in the Tax Certificate, and in the amounts calculated to ensure that the Town’s rebate obligations are met, in accordance with the Town’s tax covenants in Section 11.5 of the Lease. Amounts on deposit in the Rebate Fund shall not be subject to the lien of this Indenture to the extent that such amounts are required to be paid to the United States Treasury.

If, at any time after the Trustee receives instructions by the Town to make any payments from the Rebate Fund, the Trustee determines that the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, and if the Trustee does not receive Additional Rentals or there is insufficient investment income on moneys in any fund create hereunder so as to make the amount on deposit in the appropriate account in the Rebate Fund sufficient for its purpose, the Trustee shall transfer moneys to the Rebate Fund from the Base Rentals Fund. Any moneys so advanced from the Base Rentals Fund shall be included as an Additional Rental for the current Fiscal Year pursuant to the Lease, and shall be repaid to the fund from which advanced upon payment to the Trustee of such Additional Rentals. Upon receipt by the Trustee of an opinion of Special Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be therein pursuant to the provisions of the Tax Certificate, such excess shall be transferred to the Base Rentals Fund.

The Trustee shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report. The Town may, at its own expense, retain an independent firm of professionals in such area to calculate such rebate amounts.

Notwithstanding the foregoing, in the event that the Lease has been terminated or the Town has failed to comply with Section 11.5 thereof so as to make the amount on deposit in the Rebate Fund sufficient for its purpose, the Trustee shall make transfers of investment income or of moneys from the Base Rentals Fund in such combination as the Trustee shall determine to be in the best interests of the Certificate Owners.

**Section 3.05 Costs of Execution and Delivery Fund.** A special fund is hereby created and established with the Trustee and designated the “Town of Breckenridge, Colorado, 2022 Lease Purchase Agreement Costs of Execution and Delivery Fund.” Upon the delivery of the Certificates there shall be deposited into the Costs of Execution and Delivery Fund from the proceeds of the Certificates the amounts directed by Section 3.01(b) hereof. Payments from the

Costs of Execution and Delivery Fund shall be made by the Trustee upon either (i) receipt of a requisition for the provision of Costs of Execution and Delivery of the Certificates approved in writing by the Town Representative in accordance with the closing memorandum prepared by the Underwriter and (a) stating the payee, the amount to be paid, method of payment, and the purpose of the payment and (b) certifying that the amount to be paid is due and payable, has not been the subject of any previous requisition and is a proper charge against the Costs of Execution and Delivery Fund or (ii) as provided in a closing memorandum signed by the Town Representative. The Trustee may conclusively rely on requisitions (or the closing memorandum) submitted in accordance with this Section as complete authorization for the disbursements made pursuant thereto and shall not be responsible for any representations or certifications made therein.

Any moneys held in the Costs of Execution and Delivery Fund shall be invested by the Trustee in accordance with Article 5 hereof.

The Trustee shall transfer all moneys remaining in the Costs of Execution and Delivery Fund to the Town upon the final payment of all Costs of Execution and Delivery (and in any event not later than ninety (90) days following the Closing), as certified in writing by the Town Representative. Any such remaining amounts so transferred to the Town shall be deposited by the Town in the Base Rentals Fund or applied by the Town to pay costs of the Project.

### **Section 3.06 Construction Fund.**

(a) A special fund is hereby created and established with the Trustee to be designated as the “Town of Breckenridge, Colorado, Series 2022 Lease Purchase Agreement Construction Fund.”

(b) Moneys on deposit in the Construction Fund shall be disbursed by the Trustee, upon the written direction of the Town Representative, to pay the Costs of the Project as set forth in Article 7 of the Lease.

(c) Prior to the Completion Date, (i) all income earned from the investment of moneys in the Construction Fund shall be retained in the Construction Fund; provided, however, income from the Construction Fund may be transferred to the Rebate Fund if required by Section 3.04 hereof, and (ii) all such income shall be reinvested or used for purposes of the Construction Fund until transferred, if applicable, as provided in subsections (d) and (e) of this Section.

(d) Any moneys remaining in the Construction Fund on the Completion Date, except for amounts set aside by the Trustee to pay remaining Costs of the Project as provided in the Certificate of Completion (in form as provided in **Exhibit F** to the Lease) filed with the Trustee by the Town Representative, shall be transferred to the Base Rentals Fund and used for the purposes of such Fund.

(e) Any moneys held in the Construction Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.07 Moneys to be Held in Trust.** The ownership of the Base Rentals Fund, Construction Fund, the Costs of Execution and Delivery Fund, and all accounts within such Funds and any other fund or account created hereunder (except defeasance escrow account) shall be held in trust by the Trustee for the benefit of the Owners of the Certificates; provided that moneys in the Rebate Fund shall be used only for the specific purpose provided in Section 3.04 hereof.

**Section 3.08 Nonpresentment of Certificates.** Any moneys deposited with the Trustee pursuant to the terms of this Indenture to be used for the payment of principal of, premium, if any, or interest on any of the Certificates and remaining unclaimed by the Owners of such Certificates for a period of three (3) years after the final due date of any Certificate (during which three-year period such moneys shall not be required to be invested by the trustee), whether the final date of maturity or the final redemption date, shall, if the Town shall not at the time, to the knowledge of the Trustee, be in default with respect to any of the terms and conditions contained in this Indenture, in the Certificates or under the Lease, be paid to the Town and such Owners shall thereafter look only to the Town for payment and then only (a) to the extent of the amounts so received by the Town from the Trustee without interest thereon, (b) subject to the defense of any applicable statute of limitations and (c) subject to the Town's Appropriation of such payment. After payment by the Trustee of all of the foregoing, if any moneys are then remaining under this Indenture, the Trustee shall pay such moneys to the Town as an overpayment of Base Rentals.

**Section 3.09 Repayment to the Town from the Trustee.** After payment in full of the Certificates, the interest thereon, any premium thereon, the fees, charges and expenses of the Trustee, any amount required to be deposited to the Rebate Fund, and all other amounts required to be paid hereunder, any amounts remaining in the Base Rentals Fund, Construction Fund, the Costs of Execution and Delivery Fund, or otherwise held by the Trustee pursuant hereto (but excluding the Rebate Fund and any defeasance escrow accounts) shall be paid to the Town upon the expiration or sooner termination of the Lease Term as a return of an overpayment of Base Rentals. After payment of all amounts due and owing the federal government held in the Rebate Fund, if any, any excess amounts in the Rebate Fund shall be paid to the Town.

**ARTICLE 4**  
**REDEMPTION OF CERTIFICATES**

**Section 4.01 Optional Redemption.** The Certificates maturing on or prior to December 1, 203\_ shall not be subject to optional redemption prior to their respective maturity dates. The Certificates maturing on and after December 1, 203\_ shall be subject to redemption prior to their respective maturity dates at the option of the Town, in whole or in part, in integral multiples of \$5,000, and if in part in such order of maturities as the Town shall determine and by lot within a maturity, on December 1, 2031\_, and on any date thereafter, at a redemption price equal to the principal amount of the Certificates so redeemed plus accrued interest to the redemption date without a premium.

In the case of a Prepayment in part of Base Rentals under the Lease, the Trustee shall confirm that the revised Base Rentals Schedule to be provided by the Town Representative pursuant to Section 6.2(a) of the Lease sets forth Principal Portions and Interest Portions of Base Rentals that are equal to the principal and interest due on the Certificates that remain Outstanding after such Optional Redemption. For such confirmation, the Trustee may rely on a certification of the Town Representative or other person as provided in Section 8.07 hereof.

**Section 4.02 Mandatory Sinking Fund Redemption.**

(a) The Certificates maturing on December 1, 204\_ (the “Term Certificates”) are subject to mandatory sinking fund redemption as follows:

The following principal amounts of the Certificates maturing December 1, 204\_, are subject to mandatory sinking fund redemption (after credit as provided below) on December 1 of the following years:

Redemption Date (December 1)	Principal Amount
2037	
2038	
2039	
2040	
2041*	

\*Final Maturity

(b) On or before the 30th day prior to each such sinking fund payment date, the Trustee shall proceed to call the Term Certificates indicated above (or any Term Certificate or Certificates issued to replace such Term Certificates) for redemption from the sinking fund on the next December 1, and give notice of such call without other instruction or notice from the Town. The amount of each sinking fund installment may be reduced by the principal amount of any Term Certificates of the maturity and interest rate which are subject to sinking fund redemption on such date and which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) or otherwise canceled and not theretofore applied as a credit against a sinking fund

installment. Such reductions, if any, shall be applied in such year or years as may be determined by the Town.

**Section 4.03 Extraordinary Mandatory Redemption.** If the Lease is terminated by reason of the occurrence of:

- (a) an Event of Nonappropriation, or
- (b) an Event of Lease Default, or
- (c) in the event that (1) the Leased Property is damaged or destroyed in whole or in part by fire or other casualty, or (2) title to, or the temporary or permanent use of, the Leased Property has been taken by eminent domain by any governmental body or (3) breach of warranty or any material defect with respect to the Leased Property becomes apparent or (4) title to or the use of all or any part of the Leased Property is lost by reason of a defect in title thereto, and the Net Proceeds of any insurance, performance bond or condemnation award, or Net Proceeds received as a consequence of defaults under contracts relating to the Leased Property, made available by reason of such occurrences, shall be insufficient to pay in full, the cost of repairing or replacing the Leased Property, and the Town does not appropriate sufficient funds for such purpose or cause the Lease to be amended in order that Additional Certificates may be executed and delivered pursuant to this Indenture for such purpose, then all Outstanding Certificates shall be required to be called for redemption. If called for redemption, as described herein, the Certificates are to be redeemed in whole on such date or dates as the Trustee may determine, for a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date (subject to the availability of funds described below).

If the Net Proceeds, including the Net Proceeds from the exercise of any Lease Remedy under the Lease, otherwise received and other moneys then available under this Indenture are insufficient to pay in full the principal of and accrued interest on all Outstanding Certificates, the Trustee may, or at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, and upon indemnification as provided in Section 8.01(d) of this Indenture, without any further demand or notice, shall, exercise all or any combination of Lease Remedies as provided in the Lease and the Certificates shall be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Certificates.

If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are insufficient to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys shall be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such excess moneys shall be paid to the Town as an overpayment of the Purchase Option Price. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee shall be entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for

all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys.

IF THE CERTIFICATES ARE REDEEMED PURSUANT TO THIS SECTION 4.03 FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT SHALL BE DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE RELATED CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO OWNER OF SUCH CERTIFICATES SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE CITY.

The Trustee shall deposit any Net Proceeds received hereunder in accordance with Section 7.15 of the Lease.

**Section 4.04 Partial Redemption.** The Certificates shall be redeemed only in integral multiples of \$5,000. The Trustee shall treat any Certificate of denomination greater than \$5,000 as representing that number of separate Certificates each of the denomination of \$5,000 as can be obtained by dividing the actual principal amount of such Certificate by \$5,000.

Upon surrender of any Certificate for redemption in part, the Trustee shall execute and deliver to the Owner thereof, at no expense of the Owner, a new Certificate or Certificates of Authorized Denominations in an aggregate principal amount equal to the unredeemed portion of the Certificates so surrendered.

**Section 4.05 Notice of Redemption.** Whenever Certificates are to be redeemed under any provision of this Indenture, the Trustee shall, not less than thirty (30) and not more than sixty (60) days prior to the redemption date (except for Extraordinary Mandatory Redemption under Section 4.03, which notice shall be immediate), give notice of redemption to all Owners of all Certificates to be redeemed by electronic means or by mail at their registered addresses, by first class mail, postage prepaid, or in the event that the Certificates to be redeemed are registered in the name of the Depository, such notice may, in the alternative, be given by electronic means in accordance with the requirements of the Depository. In addition, the Trustee shall at all reasonable times make available to the Town and any Certificate Owner, including the Depository, if applicable, information as to Certificates which have been redeemed or called for redemption. Any notice of redemption shall:

- (a) identify the Certificates to be redeemed;
- (b) specify the redemption date and the redemption price;
- (c) in the event the redemption is occurring under Section 4.01 hereof, state that the Town has given notice of its intent to exercise its option to purchase or prepay Base Rentals under the Lease;
- (d) state that such redemption is subject to the deposit of the funds related to such option by the Town on or before the stated redemption date; and

(e) state that on the redemption date the Certificates called for redemption will be payable at the principal corporate trust office of the Trustee and that from that date interest will cease to accrue.

The Trustee may use “CUSIP” numbers in notices of redemption as a convenience to Certificate Owners, provided that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Certificates or as contained in any notice of redemption and that reliance may be placed only on the identification numbers containing the prefix established pursuant to this Indenture.

Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Trustee of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Certificates so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the owners of the Certificates called for redemption in the same manner as the original redemption notice was given.

**Section 4.06 Redemption Payments.** On or prior to the Business Day preceding the date fixed for redemption, funds shall be deposited with the Trustee to pay the Certificates called for redemption, together with accrued interest thereon to the redemption date, and any required premium. Upon the giving of notice and the deposit of such funds as may be available for redemption pursuant to this Indenture (which, in certain cases as set forth above may be less than the full principal amount of the Outstanding Certificates and accrued interest thereon to the redemption date), interest on the Certificates or portions thereof thus called shall no longer accrue after the date fixed for redemption. Payments in full redemption shall be accompanied by a written designation prepared by the Trustee stating the portions of the payment representing principal, interest, and premium, if any.

## ARTICLE 5 INVESTMENTS

**Section 5.01 Investment of Moneys.** The Trustee shall be entitled to assume that any investment, which at the time of purchase is a Permitted Investment, remains a Permitted Investment absent a receipt of written notice or information to the contrary. All moneys held as part of the Base Rentals Fund, Construction Fund, the Rebate Fund, the Costs of Execution and Delivery Fund, or any other fund or account created hereunder (other than any defeasance escrow accounts) shall be deposited or invested and reinvested by the Trustee, at the written direction of the Town Representative, in Permitted Investments; provided, however, that the Trustee shall make no deposits or investments of any fund or account created hereunder which shall interfere with or prevent withdrawals for the purpose for which the moneys so deposited or invested were placed in trust hereunder or for payment of the Certificates at or before maturity or interest thereon as required hereunder. The Trustee may make any and all such deposits or investments through its own investment department or that of its affiliates or subsidiaries and may charge its ordinary and customary fees for such trades, including cash sweep account fees. Except as otherwise provided herein and Section 3.04 hereof, deposits or investments shall at all times be a part of the fund or account from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. Any interest or other gain from any fund or account created hereunder (except defeasance escrows) shall be deposited to the Rebate Fund to the extent required and permitted pursuant to Section 3.04 hereof. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in the Base Rentals Fund is insufficient to pay the principal of and interest on the Certificates when due, or whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

The Trustee hereby agrees to secure and retain the documentation with respect to investments of moneys in the funds and accounts created under this Indenture as required by and as described in the Tax Certificate.

The Trustee may rely upon the Town Representative's written direction as to both the suitability and the legality of the directed investments, and shall have no liability or responsibility for any loss or for failure to maximize earnings resulting from any investment made in accordance with the provisions of this Article 5.

The Trustee may transfer investments from any Fund or Account to any other Fund or Account in lieu of cash when a transfer is required or permitted by the provisions of this Indenture.

If the Trustee is not provided written directions concerning investment of moneys held in the Funds, the Trustee shall invest in a money market fund that qualifies as a Permitted Investment available to the Trustee, provided such investment matures or are subject to redemption prior to the date such funds will be needed. Unless otherwise confirmed or directed in writing, an account statement delivered periodically by the Trustee to the Town shall confirm that the investment transactions identified therein accurately reflect the investment directions of

the Town Representative, unless the Town Representative notifies the Trustee in writing to the contrary within thirty (30) days of the date of delivery of such statement.

The Trustee may purchase or invest in shares of any investment company provided that such investments are Permitted Investments at the time of such investment and that such investments: (i) is registered under the Investment Company Act of 1940, as amended (including both corporations and Massachusetts business trusts, and including companies for which the Trustee may provide advisory, administrative, custodial or other services for compensation); (ii) invests substantially all of its assets in short term high quality money market instruments, limited to obligations issued or guaranteed by the United States, or repurchase agreements backed by such obligations; and (iii) maintains a constant asset value per share.

The Trustee is specifically authorized to implement its automated cash investments system to assure that cash on hand is invested and to charge reasonable cash management fees, which may be deducted from income earned on investments.

**Section 5.02 Method of Valuation and Frequency of Valuation.** In computing the amount in any fund or account (except defeasance escrows), Permitted Investments shall be valued at the market price, exclusive of accrued interest. With respect to all funds and accounts (except defeasance escrows, and except as otherwise provided in the Tax Certificate with respect to the Rebate Fund), valuation shall occur as of December 31 of each year.

**ARTICLE 6**  
**DEFEASANCE AND DISCHARGE**

**Section 6.01 Defeasance and Discharge.**

(a) When the principal or redemption price (as the case may be) of, and interest on, all the Certificates executed and delivered hereunder have been paid or provision has been made for payment of the same (or, in the case of redemption of the Certificates pursuant to Section 4.03 of this Indenture, if full or partial payment of the Certificates and interest thereon is made as provided in Section 4.03 of this Indenture), together with all other sums payable hereunder relating to the Certificates (including the fees and expenses of the Trustee), then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Town to the Trustee and to the Owners shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Town shall prepare and the Trustee shall (1) release the Site Lease and transfer and convey the Trustee's leasehold interest in the Leased Property to the Town as provided by Article 12 of the Lease, (2) release the Lease and this Indenture, (3) execute such documents to evidence such releases as may be reasonably required by the Town, and (4) turn over to the Town all balances then held by the Trustee in the Funds hereunder except for amounts held in any defeasance escrow accounts. If payment or provision therefor is made with respect to less than all of the Certificates, the particular Certificates (or portion thereof) for which provision for payment shall have been considered made shall be selected by the Town.

(b) Provision for the payment of all or a portion of the Certificates shall be deemed to have been made when the Trustee holds in the Base Rentals Fund, or there is on deposit in a separate escrow account or trust account held by a trust bank or escrow agent, either moneys in an amount which shall be sufficient, and/or Federal Securities, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, concurrently deposited in trust, shall be sufficient to pay when due the principal of, premium, if any, and interest due and to become due on said Certificates on and prior to the redemption date or maturity date thereof, as the case may be. Prior to any discharge of this Indenture pursuant to this Section or the defeasance of any Certificates pursuant to this Section becoming effective, there shall have been addressed and delivered to the Trustee a report of an independent firm of nationally recognized certified public accountants verifying the sufficiency of the escrow established to pay the applicable Certificates in full on the maturity or redemption date thereof unless fully funded with cash.

(c) Neither the Federal Securities nor the moneys deposited in the Base Rentals Fund or separate escrow account or trust account pursuant to this Section shall be withdrawn or used for any purpose other than, and shall be segregated and held in trust for, the payment of the principal of, premium, if any, and interest on the Certificates or portions thereof; provided, however, that other Federal Securities and moneys may be substituted for the Federal Securities and moneys so deposited prior to their use for such purpose.

(d) Whenever moneys or Federal Securities shall be deposited with the Trustee or a separate escrow agent for the payment or redemption of any Certificates more than forty-five (45) days prior to the date that such Certificates are to mature or be redeemed, the Trustee shall provide a notice by electronic or other means stating that such moneys or Federal Securities have been deposited and identifying the Certificates for the payment of which such moneys or Federal Securities are being held, to all Owners of Certificates for the payment of which such moneys or Federal Securities are being held, or if such Certificates are registered in the name of the Depository, such notice may be sent, in the alternative, by electronic means in accordance with the regulations of the Depository.

(e) At such time as any Certificate shall be deemed paid as provided in (b) above, such Certificate shall no longer be secured by or entitled to the benefits of this Indenture, the Lease or the Site Lease, except for the purpose of exchange and transfer and any payment from such cash or Federal Securities deposited with the Trustee.

**ARTICLE 7**  
**EVENTS OF INDENTURE DEFAULT AND REMEDIES**

**Section 7.01 Events of Indenture Default Defined.** Each of the following shall be an Event of Indenture Default:

- (a) failure to pay the principal of or premium, if any, on any Certificate when the same shall become due and payable, whether at the stated maturity thereof or upon proceedings for redemption;
- (b) failure to pay any installment of interest on any Certificate when the same shall become due and payable;
- (c) the occurrence of an Event of Nonappropriation; or
- (d) the occurrence of an Event of Lease Default.

Upon the occurrence of any Event of Indenture Default of which the Trustee is required to take notice or receive notice pursuant to Section 8.05, the Trustee shall give notice thereof to the Owners of the Certificates. The Trustee shall waive any Event of Nonappropriation which is cured by the Town within thirty (30) days of the receipt of notice by the Trustee as provided by Section 6.4(b) of the Lease, by a duly effected Appropriation to pay all Base Rentals and sufficient amounts to pay reasonably estimated Additional Rentals coming due for such Renewal Term. The Trustee may waive any Event of Nonappropriation which is cured by the Town within a reasonable time with the procedure described in the preceding sentence.

**Section 7.02 Remedies.** If any Event of Indenture Default occurs and is continuing, the Trustee may, or shall at the request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding and upon indemnification as provided in Section 8.01(d) hereof, without any further demand or notice, enforce for the benefit of the Owners of the Certificates each and every right of the Trustee as the lessee under the Site Lease and the lessor under the Lease. In exercising such rights of the Trustee and the rights given the Trustee under this Article 7 and Article 8, the Trustee may, or shall at the request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding and upon indemnification as provided in Section 8.01(d) hereof, take such action as, in the judgment of the Trustee, upon advice of its counsel, would best serve the interests of the Owners of the Certificates, including calling the Certificates for redemption prior to their maturity in the manner and subject to the provisions of Article 4 hereof and exercising the Lease Remedies provided in the Lease, provided however that such action shall not include consequential or punitive damages against the Town.

**Section 7.03 Legal Proceedings by Trustee.** If any Event of Indenture Default has occurred and is continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of all Outstanding Certificates and receipt of indemnity to its satisfaction, shall, in its capacity as Trustee hereunder:

- (a) By mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners of the Certificates, including enforcing any rights of the

Trustee in respect of the Trustee's leasehold interests in the Leased Property including its rights as lessor under the Lease and as lessee under the Site Lease and its rights under this Indenture and to enforce the provisions of this Indenture and any collateral rights hereunder for the benefit of the Owners of the Certificates; or

(b) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Certificates; or

(c) Take any other action at law or in equity that may appear necessary or desirable to enforce the rights of the Owners of the Certificates.

**Section 7.04 Discontinuance of Proceedings by Trustee.** If any proceeding commenced by the Trustee on account of any Event of Indenture Default is discontinued or is determined adversely to the Trustee, then the Owners of the Certificates shall be restored to their former positions and rights hereunder as though no such proceeding had been commenced.

**Section 7.05 Owners of Certificates May Direct Proceedings.** The Owners of a majority in aggregate principal amount of Outstanding Certificates shall have the right, after furnishing indemnity satisfactory to the Trustee, to direct the method and place of conducting all remedial proceedings by the Trustee hereunder, provided that such direction shall not be in conflict with any rule of law or with this Indenture or unduly prejudice the rights of minority Owners of the Certificates.

**Section 7.06 Limitations on Actions by Owners of Certificates.** No Owner of the Certificates shall have any right to pursue any remedy hereunder unless:

(a) the Trustee shall have been given written notice of a default pursuant to Section 8.05, and such default becomes an Event of Indenture Default;

(b) the Owners of at least a majority in aggregate principal amount of all Outstanding Certificates shall have requested the Trustee, in writing, to exercise the powers hereinabove granted to or pursue such remedy in its or their name or names;

(c) the Trustee shall have been offered indemnity satisfactory to it as provided in Section 8.01(d) hereof; and

(d) the Trustee shall have failed to comply with such request within a reasonable time.

Notwithstanding the foregoing provisions of this Section or any other provision of this Indenture, the obligation of the Trustee shall be absolute and unconditional to pay hereunder, but solely from the Revenues pledged under this Indenture, the principal of, premium, if any, and interest on the Certificates to the respective Owners thereof on the respective due dates thereof, and nothing herein shall affect or impair the right of action, which is absolute and unconditional, of such Owners to enforce such payment.

**Section 7.07 Trustee May Enforce Rights Without Possession of Certificates.** All rights under this Indenture and the Certificates may be enforced by the Trustee without the possession of any Certificates or the production thereof at the trial or other proceedings relative

thereto, and any proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of the Owners of the Certificates.

**Section 7.08 Remedies Not Exclusive.** Subject to any express limitations contained herein, no remedy herein conferred is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 7.09 Delays and Omissions Not to Impair Rights.** No delays or omissions in respect of exercising any right or power accruing upon any default shall impair such right or power or be a waiver of such default, and every remedy given by this Article 7 may be exercised from time to time and as often as may be deemed expedient.

**Section 7.10 Application of Moneys in Event of Indenture Default.** Any moneys received, collected or held by the Trustee following an Indenture Event of Default and any other moneys held as part of the Trust Estate (except for moneys held in the Rebate Fund or any defeasance escrow account) shall be applied in the following order:

(a) To the payment of the reasonable costs of the Trustee, including, but not limited to, its Counsel fees and expenses, and disbursements of the Trustee, and expenses of the proceedings resulting in the collection of such moneys and of all fees, costs, expenses, liabilities and advances incurred or made by the Trustee, and the payment of its reasonable compensation and any advances, including any amounts remaining unpaid;

(b) To the payment of interest then owing on the Certificates, and in case such moneys shall be insufficient to pay the same in full, then to the payment of interest ratably, without preference or priority of one Certificate over another or of any installment of interest over any other installment of interest; and

(c) To the payment of principal or redemption price (as the case may be) then owing on the Outstanding Certificates, and in case such moneys shall be insufficient to pay the same in full, then to the payment of principal or redemption price ratably, without preference or priority of one Certificate over another.

The surplus, if any, shall be paid to the Town.

**Section 7.11 Nondisturbance of Certain Subleases.** The Town may in the future sublease a portion of the Leased Property to persons to occupy such portion for residential purposes pursuant to Section 13.2 of the Lease. Each of Trustee and the Owners consent to and agree not to disturb the use of any of the Leased Property by any such person pursuant to any such sublease, so long as the such person is in compliance with any such sublease.

**ARTICLE 8  
CONCERNING THE TRUSTEE**

**Section 8.01 Duties of the Trustee.**

(a) The Trustee hereby accepts the provisions of the Site Lease, the Lease and this Indenture and accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the express terms and conditions set forth in the Site Lease, the Lease and this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee.

(b) The Trustee hereby covenants for the benefit of the Owners of the Certificates that the Trustee will observe and comply with its obligations under the Site Lease, the Lease and this Indenture.

(c) The Trustee shall at all times, to the extent permitted by law, defend, preserve and protect its interest in the Leased Property and the other property or property rights included in the Trust Estate and all the rights of the Owners under this Indenture against all claims and demands of all persons whomsoever.

(d) The Trustee, prior to the occurrence of an Event of Indenture Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in the Lease and in this Indenture. If an Event of Indenture Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and power vested in it by the Lease, Site Lease, and this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in conducting such person's affairs in exercising any rights or remedies or performing any of its duties hereunder. Before taking any action hereunder the Trustee may require that satisfactory indemnity be furnished to it by the Certificate Owners for the reimbursement of all fees, costs and expenses (including, without limitation, attorney's fees and expenses) which it may incur and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or resolution related to the protection of the environment or hazardous substances, except liability which is adjudicated to have resulted may result from its negligence or willful misconduct, by reason of any action so taken.

**Section 8.02 Liability of Trustee; Trustee's Use of Agents.**

(a) The Trustee shall be liable only for its own negligence or willful misconduct. However, the Trustee shall not be liable for any error of judgment made in good faith, provided the Trustee was not negligent in ascertaining the pertinent facts.

(b) The Trustee may exercise any powers under this Indenture and perform any duties required of it through attorneys, agents, receivers, officers or employees, and shall be entitled to the advice or opinion of Counsel concerning all matters involving the Trustee's duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers, and employees as may reasonably be employed in

connection with the trusts hereof. The Trustee may rely and act upon the opinion or advice of Counsel engaged by the Trustee in the exercise of reasonable care without liability for any loss or damage resulting from any action or omission taken in good faith reliance upon that opinion or advice.

(c) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct, and shall not be answerable for any negligent act of its attorneys, agents or receivers which have been selected by the Trustee with due care.

(d) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing the Leased Property.

(e) The Trustee shall not be liable for actions taken at the direction of Owners pursuant to the provisions of Article 7.

(f) Any person hired by the Trustee to enforce Lease Remedies shall be considered the Trustee's agent for the purposes of this Section.

(g) The Trustee shall not be responsible for any recital herein or in the Certificates (except in respect to the execution of the Certificates on behalf of the Trustee), or for the recording or rerecording, filing or refiling of the Site Lease, the Lease or this Indenture or of any supplements thereto or hereto or any financing statement (other than continuation statements) in connection therewith, or for insuring the project, for collecting any insurance moneys, or for the sufficiency of the security for the Certificates issued hereunder or intended to be secured hereby, or for the value of or title to the Leased Property, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Town, except as provided herein; but the Trustee may require of the Town full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the Town under the Site Lease or the Lease; and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Indenture.

(h) The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof (except for funds and investments held by the Trustee), or the validity or sufficiency of this Indenture or of the Certificates. The Trustee shall not be accountable for the use of any Certificates executed and delivered hereunder. The Trustee shall not be accountable for the use or application of any Certificates or the proceeds thereof or of any money paid to or upon the order of the Town under any provisions of this Indenture or the Lease.

(i) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this

Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Town by the Town Representative or such other person as may be designated for such purpose by ordinance or resolution of the Council, as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in Section 8.05 or of which by said subsection it is deemed to have been notified, the Trustee may rely upon a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(j) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee shall not be under any liability for interest on any moneys received hereunder except that the Trustee is responsible for investing moneys in funds held hereunder in compliance with the written investment direction of the Town Representative.

(k) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand in respect of the execution and delivery of any Certificates, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Town to the execution and delivery of any Certificates, or the taking of any other action by the Trustee.

(m) Notwithstanding any other provision hereof, the Trustee shall not be required to advance any of its own funds in the performance of its obligations hereunder or any other documents related to this Indenture, but may if it has received assurances from the Owners of the Certificates or indemnity from the Owners of the Certificates satisfactory to it that it will be repaid. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Certificates. The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder.

(n) The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Certificates except to the extent that such statement was provided by the Trustee or describes the Trustee's duties under this Indenture.

(o) The Trustee is authorized and directed to enter into the Site Lease and the Lease, solely in its capacity as Trustee under this Indenture.

(p) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect any and all books, papers and records of the Town pertaining to the Leased Property and the Certificates, and to take such memoranda from and in regard thereto as may be desired.

**Section 8.03 Representations and Covenants of Trustee.** The Trustee represents, warrants and covenants as follows:

(a) So long as no Event of Indenture Default has occurred and is then continuing or existing, except as specifically provided in the Site Lease or the Lease or as necessary to transfer the Trust Estate to a successor Trustee, the Trustee shall not pledge or assign the Trustee's right, title and interest in and to (i) the Lease or the Site Lease, (ii) the Base Rentals, other Revenues and collateral, security interests and attendant rights and obligations which may be derived under the Lease or the Site Lease and/or (iii) the Leased Property and any reversion therein or any of the Trustee's other rights under the Lease or the Site Lease or assign, pledge, mortgage, encumber or grant a security interest in the Trustee's right, title and interest in, to and under the Lease or the Site Lease or the Leased Property except for Permitted Encumbrances.

(b) To the Trustee's knowledge, neither the execution and delivery of the Lease and the Site Lease or this Indenture by the Trustee, nor the fulfillment of or compliance with the terms and conditions thereof and hereof, nor the consummation of the transactions contemplated thereby or hereby conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitutes a default under any of the foregoing.

(c) To the Trustee's knowledge, there is no litigation or proceeding pending against the Trustee affecting the right of the Trustee to execute the Lease and the Site Lease or to execute this Indenture, and perform its obligations thereunder or hereunder, except such litigation or proceeding as has been disclosed in writing to the Town on or prior to the date this Indenture is executed and delivered.

(d) The Trustee covenants and agrees to comply with any applicable requirements for the Trustee set forth in the Tax Certificate as directed in writing by the Town.

**Section 8.04 Compensation.** The Trustee shall be entitled to payment and reimbursement for its reasonable fees and expenses for its ordinary services rendered hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and all advances, agent and counsel fees and other ordinary as and when the same become due and all expenses reasonably and necessarily made or incurred by the Trustee in connection with such ordinary services as and when the same become due, as provided in Section 6.2 of the Lease. Should it become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary costs and expenses are occasioned by negligence or

willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The rights of the Trustee to payments pursuant to this Section shall be superior to the rights of the Owners with respect to the Trust Estate.

**Section 8.05 Notice of Default; Right to Investigate.** If an Event of Indenture Default occurs of which the Trustee is deemed to have notice pursuant to this Section, the Trustee shall, within thirty (30) days after it receives notice thereof, give written notice by electronic means or first class mail to the Owners of the Certificates of all Events of Indenture Default known to the Trustee and send a copy of such notice to the Town, unless such defaults have been remedied. The Trustee shall not be required to take notice or be deemed to have notice of any default unless it has actual knowledge thereof or has been notified in writing of such default by the Town or the Owners of at least 25% in aggregate principal amount of the Outstanding Certificates. The Trustee may, however, at any time request the Town to provide full information as to the performance of any covenant under the Lease; and, if information satisfactory to it is not forthcoming, the Trustee may make or cause to be made an investigation into any matter related to the Site Lease, the Lease and the Leased Property.

**Section 8.06 Obligation to Act on Defaults.** If any Event of Indenture Default shall have occurred and be continuing of which the Trustee has actual knowledge or notice pursuant to Section 8.05, the Trustee shall exercise such of the rights and remedies vested in it by this Indenture and shall use the same degree of care in their exercise as a prudent person would exercise or use in the circumstances in the conduct of his or her own affairs; provided, that if in the opinion of the Trustee such action may tend to involve expense or liability, it shall not be obligated to take such action unless it is furnished with indemnity satisfactory to it for the reimbursement of all fees, costs and expenses (including, without limitation, attorney's fees and expenses) to which it may be put and to protect it against all liability which may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

**Section 8.07 Reliance on Requisition, etc.** The Trustee may conclusively rely and shall be fully protected from acting or refraining from acting on any written requisition, resolution, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, or other paper or document which it in good faith believes to be genuine and to have been passed or signed by the proper persons or to have been prepared and furnished pursuant to any of the provisions of this Indenture; and the Trustee shall be under no duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Certificate shall be conclusive and binding upon all future Owners of the same Certificate and upon any Certificates delivered in place thereof.

The Trustee shall be entitled to rely upon opinions of Counsel and shall not be responsible for any loss or damage resulting from reliance in good faith thereon, except for its own negligence or willful misconduct.

**Section 8.08 Trustee May Own Certificates.** The Trustee may in good faith buy, sell, own and hold any of the Certificates and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not the party to this Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the Town provided that if the Trustee determines that any such relation is in conflict with its duties under this Indenture, it shall eliminate the conflict or resign as Trustee.

**Section 8.09 Construction of Ambiguous Provisions.** The Trustee may construe any ambiguous or inconsistent provisions of this Indenture, and any such construction by the Trustee shall be binding upon the Owners. In construing any such provision, the Trustee will be entitled to rely upon opinions of Counsel and will not be responsible for any loss or damage resulting from reliance in good faith thereon, except for its own negligence or willful misconduct.

**Section 8.10 Resignation of Trustee.** The Trustee may resign and be discharged of the trusts created by this Indenture by written resignation filed with the Town not less than sixty (60) days before the date when it is to take effect; provided notice of such resignation is sent by electronic means or mailed by registered or certified mail to the Owner of each Outstanding Certificate at the address shown on the registration books. Such resignation shall take effect only upon the appointment of a successor Trustee. If no successor Trustee is appointed within sixty (60) days following the date designated for the resignation of the Trustee, the resigning Trustee may apply to a court of competent jurisdiction to appoint a successor Trustee. The rights of the Trustee to be held harmless, to insurance proceeds, or to other amounts due arising prior to the date of such resignation shall survive resignation.

**Section 8.11 Removal of Trustee.** Any Trustee hereunder may be removed at any time, after payment of all outstanding fees and expenses of the Trustee being so removed, by the Town or by the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, upon written notice being filed with the Trustee, the Town and the Owner of each Outstanding Certificate at the address shown on the registration books. Such removal shall take effect only upon the appointment of a successor Trustee. The rights of the Trustee to be held harmless, to insurance proceeds or to other amounts due arising prior to the date of such removal shall survive removal.

**Section 8.12 Appointment of Successor Trustee.** If the Trustee or any successor trustee resigns or is removed or dissolved, or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall forthwith exist in the office of the Trustee, and the Town shall appoint a successor, and shall cause a notice of such appointment to be mailed by registered or certified mail to the Owners of all Outstanding Certificates at the address shown on the registration books. If the Town fails to make such appointment within thirty (30) days after the date notice of resignation is filed, the Owners of a majority in aggregate principal amount of the Certificates then Outstanding may do so. If the Owners have failed to make such appointment within thirty (30) days after the date notice of resignation is filed, the Trustee may petition a court of competent jurisdiction to make such appointment.

**Section 8.13 Qualification of Successor.** Any successor trustee shall be a national or state bank with trust powers or a bank and trust company or a trust company, in each case having

capital and surplus of at least \$50,000,000, if there be one able and willing to accept the trust on reasonable and customary terms.

**Section 8.14 Instruments of Succession.** Any successor trustee shall execute, acknowledge and deliver to the Town an instrument accepting such appointment under this Indenture; and thereupon such successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in the trust under this Indenture, with like effect as if originally named Trustee herein and thereupon the duties and obligations of the predecessor shall cease and terminate. The Trustee ceasing to act under this Indenture shall, upon the payment of the fees and expenses owed to the predecessor Trustee, pay over to the successor trustee all moneys held by it under this Indenture; and, upon request of the successor trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to the successor trustee all the estates, properties, rights, powers and trusts under this Indenture of the Trustee ceasing to act.

**Section 8.15 Merger of Trustee.** Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any sale, merger or consolidation of its corporate trust business to which any Trustee hereunder shall be a party, shall be the successor trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

**Section 8.16 Intervention by Trustee.** In any judicial proceeding to which the Trustee or the Town is not a party and which, in the opinion of the Trustee and its Counsel, has a substantial bearing on the interests of Owners of the Certificates, the Trustee may intervene on behalf of the Owners and shall do so if requested in writing by the Owners of at least a majority in aggregate principal amount of Outstanding Certificates and upon being furnished satisfactory indemnity. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

**Section 8.17 Books and Records of the Trustee; Trustee Record Keeping.** The Trustee shall keep such books and records relating to the Site Lease and the Lease and Funds and Accounts created under this Indenture as shall be consistent with industry practice and make such books and records available for inspection by the Town, at all reasonable times and for six years following the discharge of this Indenture according to Article 6 hereof.

**Section 8.18 Environmental Matters.** Any real property or interest in real property constituting any portion of the Trust Estate shall be subject to the following provisions:

(a) The Trustee's responsibilities for any interest in real property constituting any portion of the Trust Estate, prior to an Event of Indenture Default, shall be performed as Trustee on behalf of the Owners of the Certificates without any duty to monitor or investigate whether the real property constituting any portion of the Trust Estate complies with environmental laws or is subject to any Hazardous Substance.

(b) Following an Event of Indenture Default, if the Trustee determines that the release, threatened release, use, generation, treatment, storage or disposal of any Hazardous Substance on, under or about real property constituting any portion of the

Trust Estate gives rise to any liability or potential liability under any federal, State of Colorado, local or common law, or devalues or threatens to devalue such real property, the Trustee may take whatever action is deemed necessary by the Trustee to address the threatened or actual releases of Hazardous Substances, or to bring about or maintain such real property's compliance with federal, State of Colorado, or local environmental laws and regulations.

**ARTICLE 9  
SUPPLEMENTAL INDENTURES AND  
AMENDMENTS OF THE LEASE AND SITE LEASE**

**Section 9.01 Supplemental Indentures and Amendments Not Requiring Certificate Owners' Consent.** The Trustee may, with the written consent of the Town, but without the consent of or notice to the Owners, enter into such indentures or agreements supplemental hereto, for any one or more or all of the following purposes:

- (a) to grant additional powers or rights to the Trustee;
- (b) to make any amendments necessary or desirable to obtain or maintain a rating from any Rating Agency rating the Certificates;
- (c) to authorize the execution and delivery of Additional Certificates for the purposes and under the conditions set forth in Section 2.08 hereof;
- (d) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest portion of the Base Rentals allocable to the Certificates; or
- (e) for any purpose not inconsistent with the terms of this Indenture or to cure any ambiguity, or to correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein or to make such other amendments to this Indenture which do not materially adversely affect the interests of the Owners of the Certificates.

**Section 9.02 Supplemental Indentures and Amendments Requiring Certificate Owners' Consent.**

- (a) Exclusive of supplemental indentures and amendments covered by Section 9.01 hereof, the written consent of the Town and the consent of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, shall be required for any indenture or indentures supplemental hereto.
- (b) Notwithstanding the foregoing, without the consent of the Owners of all of the Certificates at the time Outstanding, nothing herein contained shall permit, or be construed as permitting:
  - (i) A change in the terms of redemption or maturity of the principal amount of or the interest on any Outstanding Certificate, or a reduction in the principal amount of or premium payable upon any redemption of any Outstanding Certificate or the rate of interest thereon, without the consent of the Owner of such Certificate;
  - (ii) The deprivation of the Owner of any Certificate then Outstanding of the interest created by this Indenture (other than as originally permitted hereby) without the consent of the Owner of such Certificate;

(iii) A privilege or priority of any Certificate or Certificates over any other Certificate or Certificates (except with respect to the possible subordination of Additional Certificates); or

(iv) A reduction in the aggregate principal amount of the Certificates required for consent to such supplemental indenture.

If at any time the Town shall request the Trustee to enter into a supplemental indenture which requires the consent of the Certificate Owners as provided herein, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be given by electronic means or mailed to the Owners of the Certificates at the addresses last shown on the registration records of the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Certificate Owners. If, within 60 days or such longer period as shall be prescribed by the Town following the provision of such notice, the required consents have been furnished to the Trustee as herein provided, no Certificate Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee from executing the same or from taking any action pursuant to the provisions thereof.

**Section 9.03 Amendment of the Lease and the Site Lease.**

(a) The Trustee and the Town shall have the right to amend the Lease and the Site Lease without the consent of or notice to the Owners of the Certificates, for one or more of the following purposes:

(i) to add covenants of the Trustee or the Town or to grant additional powers or rights to the Trustee;

(ii) to make any amendments necessary or desirable to obtain or maintain a rating from any Rating Agency of the Certificates;

(iii) in order to more precisely identify the Leased Property, including any substitutions, additions or modifications to the Leased Property as the case may be, as may be authorized under the Site Lease and the Lease;

(iv) to make additions to the Leased Property, amend the schedule of Base Rentals and make all other amendments necessary for the execution and delivery of Additional Certificates in accordance with Section 2.08 hereof;

(v) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest portion of the Base Rentals allocable to the Certificates; or

(vi) for any purpose not inconsistent with the terms of this Indenture or to cure any ambiguity or to correct or supplement any provision contained therein or in any amendment thereto which may be defective or inconsistent with any

other provision contained therein or herein or in any amendment thereto or to make such other amendments to the Lease or the Site Lease which do not materially adversely affect the interests of the Owners of the Certificates.

(b) If Town proposes to amend the Lease or the Site Lease in such a way as would materially adversely affect the interests of the Owners of the Certificates, the Trustee shall notify the Owners of the Certificates of the proposed amendment and may consent thereto only with the consent of the Owners of a majority in aggregate principal amount of the Outstanding Certificates; provided, that the Trustee shall not, without the unanimous consent of the Owners of all Certificates Outstanding, consent to any amendment which would (1) decrease the amounts payable in respect of the Lease, or (2) change the Base Rentals Payment Dates or (3) change any of the prepayment provisions of the Lease.

**ARTICLE 10  
MISCELLANEOUS**

**Section 10.01 Evidence of Signature of Owners and Ownership of Certificates.** Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Certificates shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Owner or his attorney of such instrument may be proved by the certificate of any officer authorized to take acknowledgments in the jurisdiction in which he purports to act that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public.

(b) The fact of the owning by any person of Certificates and the amounts and numbers of such Certificates, and the date of the owning of the same, may be proved by a certificate executed by any trust company, bank or bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank or to such bankers, as the property of such party, the Certificates therein mentioned, if such certificate shall be deemed by the Trustee to be satisfactory. The Trustee may, in its discretion, require evidence that such Certificates have been deposited with a bank, bankers or trust company before taking any action based on such ownership. In lieu of the foregoing the Trustee may accept other proofs of the foregoing as it shall deem appropriate.

Any request or consent of the Owner of any Certificate shall be conclusive upon and shall bind all future owners of such Certificate and of any Certificate issued upon the transfer or exchange of such Certificate in respect of anything done or suffered to be done by the Town, the Trustee in accordance therewith, whether or not notation of such consent or request is made upon any such Certificate.

**Section 10.02 Inspection of the Leased Property.** Under the Lease, the Trustee and its duly authorized agents (a) have the right, but not the duty, on reasonable notice to the Town, at all reasonable times, to examine and inspect the Leased Property (subject to such regulations as may be imposed by the Town for security purposes) and (b) are permitted, but have no obligation, at all reasonable times, to examine the books, records, reports and other papers of the Town with respect to the Leased Property.

**Section 10.03 Parties Interested Herein.** Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the Town, the Trustee, and the Owners any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation of this Indenture; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Trustee shall be for the sole and exclusive benefit of the Town, the Trustee, and the Owners.

**Section 10.04 Titles, Headings, Etc.** The titles and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions of this Indenture.

**Section 10.05 Severability.** In the event any provision of this Indenture shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Indenture.

**Section 10.06 Governing Law.** This Indenture shall be governed and construed in accordance with the laws of the State of Colorado without regard to choice of law analysis.

**Section 10.07 Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 10.08 Notices.** All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by any party to the other parties shall be in writing and shall be sufficiently given and served upon the other parties if (i) delivered personally or (ii) if mailed by certified or registered mail, postage prepaid, or (iii) by private courier service which provides evidence of delivery, or (iv) sent by electronic transmission which produces evidence of transmission, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission. All such communications will be addressed as follows:

If to the Trustee:

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Attention: Corporate Trust and Escrow Services  
Email: Jonathan.Fernandez@umb.com  
Phone: (303) 764-3607

If to the Town:

Town of Breckenridge, Colorado  
150 Ski Hill Road  
P. O. Box 168  
Breckenridge, Colorado 80424  
Attention: Finance Director  
Email: rickh@townofbreckenridge.com  
Phone: (970) 453-3171

The Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 10.09 Successors and Assigns.** All the covenants, promises and agreements in this Indenture contained by or on behalf of the Trustee shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

**Section 10.10 Payments Due on Saturdays, Sundays and Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Indenture, shall be a day other than a Business Day such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture.

**Section 10.11 Undertaking to Provide Ongoing Disclosure.** The Town has covenanted in Section 11.6 of the Lease to comply with the terms of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure by the Town to comply with the Continuing Disclosure Certificate shall not be considered an Event of Indenture Default and the rights and remedies provided by this Indenture upon the occurrence of an Event of Indenture Default shall not apply to any such failure. The Trustee shall have no power or duty to enforce the obligations of the Town under the Continuing Disclosure Certificate.

**Section 10.12 Electronic Storage.** The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, the Trustee has caused this Indenture to be executed all as of the date first above written.

**UMB BANK, N.A., AS TRUSTEE**

By: \_\_\_\_\_  
Vice President

**EXHIBIT A  
FORM OF CERTIFICATE**

---

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Authority (“DTC”), to the Trustee for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

---

**CERTIFICATE OF PARTICIPATION,  
SERIES 2022**

**Evidencing a Proportionate Interest in the  
Base Rentals and other Revenues under an Annually  
Renewable Lease Purchase Agreement, dated [closing date], 2022, between  
UMB Bank, n.a., solely in its capacity as trustee under the Indenture,  
as lessor,  
and the Town of Breckenridge, Colorado, as lessee**

No. R-1 \$ \_\_\_\_\_

Interest Rate	Maturity Date	Dated Date	CUSIP Number
_____ %	December 1, 20__	[closing date], 2022	

Registered Owner: CEDE & CO.

Principal Amount: DOLLARS

THIS CERTIFIES THAT the Registered Owner (specified above), or registered assigns, as the Registered Owner (the “Owner”) of this Certificate of Participation, Series 2022 (this “Certificate”), is the Owner of a proportionate interest in the right to receive certain designated Revenues, including Base Rentals, under and as defined in the Lease Purchase Agreement (the “Lease”) dated as of [closing date], 2022, between UMB Bank, n.a., Denver, Colorado, as Trustee (the “Trustee”), as lessor, and the Town of Breckenridge, Colorado (the “Town”), as lessee. This Certificate is secured as provided in the Lease and the Indenture of Trust (the “Indenture”) dated as of [closing date], 2022, by the Trustee, for the registered owners of the Certificates of Participation, Series 2022 (the “Certificates”). All terms capitalized but not defined herein shall have the meanings given to them in the Indenture.

This Certificate bears interest, matures, is payable, is subject to redemption, and is transferable as provided in the Indenture.

Under the Site Lease, certain Leased Property described therein (the “Leased Property”) has been leased by the Town, as lessor, to the Trustee, as lessee. Under the Lease, the Leased Property has been leased back by the Trustee, as lessor, to the Town, as lessee, and the Town has agreed to pay directly to the Trustee Base Rentals in consideration of the Town’s right to possess and use the Leased Property. Certain Revenues, including Base Rentals, are required under the Indenture to be distributed by the Trustee for the payment of the Certificates and interest thereon. The Lease is subject to annual appropriation, non-renewal and, in turn, termination by the Town.

This Certificate has been executed and delivered pursuant to the terms of the Indenture. Reference is hereby made to the Site Lease, the Lease and the Indenture (copies of which are on file in the offices of the Trustee) for a description of the terms on which the Certificates are delivered, and the rights thereunder of the Owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the Town under the Site Lease and the Lease, to all of the provisions of which Site Lease, Lease and Indenture the Owner of this Certificate, by acceptance hereof, assents and agrees.

Additional Certificates may be executed and delivered pursuant to the Indenture without consent of or notice to the owners of the Certificates and upon the satisfaction of certain conditions and limitations. Such Additional Certificates, together with the Certificates, are referred to herein as the “Certificates.” Additional Certificates will evidence interests in rights to receive Revenues, including Base Rentals, without preference, priority or distinction of any Certificates, including the Certificates, over any others, however, insurance and other credit facilities may be applicable only to particular series of Certificates or portions thereof.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture may be amended by the Trustee with the written consent of the Owners of a majority in aggregate principal amount of the Certificates outstanding, and may be amended without such consent under certain circumstances described in the Indenture but in no event such that the interests of the Owners of the Certificates are materially adversely affected, provided that no such amendment is to impair the right of any Owner to receive in any case such Owner’s proportionate share of any payment of Revenues in accordance with the terms of such Owner’s Certificate.

THE OWNER OF THIS CERTIFICATE IS ENTITLED TO RECEIVE, SUBJECT TO THE TERMS OF THE LEASE, THE PRINCIPAL AMOUNT (SPECIFIED ABOVE), ON THE MATURITY DATE (SPECIFIED ABOVE), AND IS ENTITLED TO RECEIVE INTEREST ON THE PRINCIPAL AMOUNT AT THE INTEREST RATE (SPECIFIED ABOVE). The interest hereon is payable at the interest rate from the Dated Date (specified above) on December 1, 2022, and semiannually thereafter on June 1 and December 1 in each year (the “Interest Payment Dates”) and thereafter (A) from the Execution Date (specified below), if this Certificate is executed on an Interest Payment Date or (B) from the last preceding Interest Payment Date to which interest has been paid in all other cases, until the Principal Amount is paid as set forth herein. Interest is to be calculated on the basis of a 360-day year consisting of twelve 30-day months.

THIS CERTIFICATE IS PAYABLE SOLELY FROM THE BASE RENTALS PAYABLE TO THE TRUSTEE PURSUANT TO THE LEASE AND OTHER REVENUES AS DEFINED IN THE INDENTURE. NEITHER THE LEASE, THIS CERTIFICATE, OR THE OBLIGATION OF THE CITY

TO PAY BASE RENTALS OR ADDITIONAL RENTALS CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE CITY OR A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL, HOME RULE CHARTER OR STATUTORY DEBT LIMITATION. NEITHER THE LEASE NOR THE CERTIFICATES HAVE DIRECTLY OR INDIRECTLY OBLIGATED THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR THE CITY'S THEN CURRENT FISCAL YEAR.

As long as Cede & Co., as the nominee for The Depository Trust Company, New York, New York ("DTC") is the Owner hereof, the Principal Amount or redemption price hereof and interest hereon are payable by wire transfer as directed by DTC in writing to the Trustee. If not executed and delivered in book-entry form, the Principal Amount or redemption price hereof and interest hereon are payable by check or draft mailed to the Owner at its address last appearing on the registration books maintained by the Trustee or, in the case of Owners of \$1,000,000 or more in aggregate principal amount of the Certificates, by wire transfer of funds to a bank account located in the United States designated by the Owner in written instructions furnished to the Trustee.

Interest hereon is payable to the Owner, as shown on the registration books kept by the Trustee as of the close of business on the "regular record date," which is the 15th day of the calendar month immediately preceding the month of the Interest Payment Date (or the Business Day immediately preceding such 15th day, if such 15th day is not a Business Day) or on a "special record date" established in accordance with the Indenture. The Trustee may treat the Owner of this Certificate appearing on the registration books maintained by the Trustee as the absolute owner hereof for all purposes and is not to be affected by any notice to the contrary. The Principal Amount or redemption price hereof and interest hereon are payable in lawful money of the United States of America.

This Certificate is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, on the registration books kept at the corporate trust office of the Trustee. Upon such transfer, a new fully registered Certificate of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange for this Certificate, all upon payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof, whether or not this Certificate shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the Town nor the Trustee shall be affected by any notice to the contrary.

*Optional Redemption.* The Certificates maturing on or prior to December 1, 203\_, shall not be subject to optional redemption prior to their respective maturity dates. The Certificates maturing on and after December 1, 203\_, shall be subject to redemption prior to their respective maturity dates at the option of the Town, in whole or in part, in integral multiples of \$5,000, and if in part in such order of maturities as the Town shall determine and by lot within a maturity, on December 1, 203\_, and on any date thereafter, at a redemption price equal to the principal amount of the Certificates so redeemed plus accrued interest to the redemption date without a premium.

*Mandatory Sinking Fund Redemption.* The Certificates maturing on December 1, 204\_ (the “Term Certificates”) are subject to mandatory sinking fund redemption as follows:

The following principal amounts of the Certificates maturing December 1, 204\_, are subject to mandatory sinking fund redemption (after credit as provided below) on December 1 of the following years:

Redemption Date (December 1)	Principal Amount
2037	
2038	
2039	
2040	
2041*	

---

\*Final Maturity

*Extraordinary Mandatory Redemption.* If the Lease is terminated by reason of the occurrence of (a) an Event of Nonappropriation, or (b) an Event of Lease Default, or (c) the Trustee, at the direction of the Town, fails to repair or replace the Leased Property if: (1) the Leased Property is damaged or destroyed in whole or in part by fire or other casualty; (2) title to, or the temporary or permanent use of, the Leased Property, or any portion thereof, has been taken by eminent domain by any governmental body; (3) breach of warranty or any material defect with respect to the Leased Property becomes apparent; or (4) title to or the use of all or any portion of the Leased Property is lost by reason of a defect in title thereto, and the Net Proceeds (as defined in the Lease) of any insurance, performance bond or condemnation award, or Net Proceeds received as a consequence of defaults under contracts relating to the Leased Property, made available by reason of such occurrences, are insufficient to pay in full, the cost of repairing or replacing the Leased Property and the Town does not appropriate sufficient funds for such purpose or cause the Lease to be amended in order that Additional Certificates may be executed and delivered pursuant to the Indenture for such purpose, the Certificates are required to be called for redemption. If called for redemption, as described herein, the Certificates are to be redeemed in whole on such date or dates as the Trustee may determine, for a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date (subject to the availability of funds as described below).

If the Net Proceeds, including the Net Proceeds from the exercise of any Lease Remedy under the Lease, otherwise received and other moneys then available under the Indenture are insufficient to pay in full the principal of and accrued interest on all Outstanding Certificates, the Trustee may, or at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, and upon indemnification as to costs and expenses as provided in the Indenture, without any further demand or notice, is to exercise all or any combination of Lease Remedies as provided in the Lease and the Certificates are to be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Certificates.

If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are insufficient to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are to be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such excess moneys are to be paid to the Town as an overpayment of the Purchase Option Price in respect of the Leased Property. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee is entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys.

IF THE CERTIFICATES ARE REDEEMED FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT IS DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO OWNER OF SUCH CERTIFICATES, SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE CITY.

*Partial Redemption.* If less than all of the Certificates are to be redeemed, the Certificates are to be redeemed only in integral multiples of \$5,000. The Trustee is to treat any Certificates of denomination greater than \$5,000 as representing that number of separate Certificates each of the denomination of \$5,000 as can be obtained by dividing the actual principal amount of such Certificates by \$5,000. Upon surrender of any Certificate for redemption in part, the Trustee is to execute and deliver to the Owner thereof, at no expense of the Owner, a new Certificate or Certificates of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Certificates so surrendered.

*Notice of Redemption.* Whenever Certificates are to be redeemed, the Trustee is required to, not less than thirty (30) and not more than sixty (60) days prior to the redemption date (except for Extraordinary Mandatory Redemption notice which is required to be immediate), give notice of redemption to all Owners of all Certificates to be redeemed at their registered addresses, by electronic means or by first class mail, postage prepaid, or in the event that the Certificates to be redeemed are registered in the name of the Depository, such notice may, in the alternative, be given by electronic means in accordance with the requirements of the Depository. Any notice of redemption is to (1) be given in the name of the Trustee, (2) identify the Certificates to be redeemed, (3) specify the redemption date and the redemption price, (4) in the event of Optional Redemption, state that the Town has given notice of its intent to exercise its option to purchase or prepay Base Rentals under the Lease, (5) state that such redemption is subject to the deposit of the funds related to such option by the Town on or before the stated redemption date and (6) state that on the redemption date the Certificates called for redemption will be payable at the corporate trust office of the Trustee and that from that date interest will cease to accrue. The Trustee may use "CUSIP" numbers in notices of redemption as a convenience to Certificates Owners, provided that any such notice is required to state that no representation is made as to the

correctness of such numbers either as printed on the Certificates or as contained in any notice of redemption and that reliance may be placed only on the identification numbers containing the prefix established under the Indenture.

This Certificate is executed and delivered under the authority of Part 2 of Article 57, Title 11, C.R.S. (the "Supplemental Act"). Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Certificate after its delivery for value.

This Certificate is executed with the intent that the laws of the State of Colorado shall govern its legality, validity, enforceability and construction. The Town has determined that this Certificate is authorized and issued under the authority of and in full conformity with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Lease or the Indenture, until executed by the Trustee.

The Trustee has executed this Certificate solely in its capacity as Trustee under the Indenture and not in its individual or personal capacity. The Trustee is not liable for the obligations evidenced by the Certificates except from amounts held by it in its capacity as Trustee under the Indenture.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all things, conditions and acts required by the Constitution and the statutes of the State of Colorado and the Indenture to exist, to have happened and to have been performed precedent to and the execution and delivery of this Certificate, do exist, have happened and have been performed in due time, form and manner, as required by law.

IN WITNESS WHEREOF, this Certificate has been executed with the manual signature of an authorized representative of the Trustee.

Execution Date: [closing date], 2022

UMB BANK, N.A., as Trustee

By: \_\_\_\_\_  
Vice President

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Certificate and hereby irrevocably constitutes and appoints \_\_\_\_\_-Attorney, to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

\_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
Signature must be guaranteed by a member  
of a Medallion Signature Program

Address of Transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other tax  
identification number of transferee:

\_\_\_\_\_

**NOTE:** The signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

(End Form of Assignment)

(Form of Prepayment Panel)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this certificate have been prepaid in accordance with the terms of the Indenture, as amended, authorizing the issuance of this certificate.

---

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>

---

(End of Form of Prepayment Panel)

(End Form of Certificates)

**SPECIAL WARRANTY DEED**

**THIS DEED** is made this \_\_\_\_ day of October, 2022, between the TOWN OF BRECKENRIDGE, a Colorado home rule municipal corporation, whose address is P.O. Box 168, Breckenridge, Colorado 80424 (“Grantor”) and SUMMIT COUNTY, COLORADO, ACTING BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO, whose address is P.O. Box 68, Breckenridge, Colorado 80424 and the Town (“Grantees”).

**WITNESSETH**, that the Grantor, pursuant to the provisions of the Intergovernmental Agreement, dated January 11, 2022 (“IGA”), between the Grantor and Summit County, Colorado, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, hereby grants, sells, and conveys to Grantees, and Grantees’ successors and assigns forever, as tenants in common, the following real property in Town of Breckenridge, Summit County, Colorado described as follows:

A PORTION OF GOVERNMENT LOT 47  
SECTION 30, TOWNSHIP 5 SOUTH, RANGE 77 WEST OF THE 6TH P.M.  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF LOT 4, BLOCK 1, AN AMENDED PLAT OF PARKWAY CENTER SUBDIVISION, FILING NO. 1, ACCORDING TO THE PLAT RECORDED 07/26/1985 AT RECEPTION NO. 300636; THENCE N19°00'04"W A DISTANCE OF 43.81 FEET TO THE SOUTHWEST CORNER OF TRACT A, KINGDOM PARK TOWNHOMES, ACCORDING TO THE PLAT RECORDED 2/26/1999 AT RECEPTION NO. 589574; THENCE S88°49'04"E A DISTANCE OF 330.10 FEET TO THE SOUTHEAST PROPERTY CORNER OF SAID TRACT A, KINGDOM PARK TOWNHOMES; THENCE S00°40'38"E A DISTANCE OF 27.68 FEET TO THE NORTHEAST PROPERTY CORNER OF SAID LOT 4, BLOCK 1, AN AMENDED PLAT OF PARKWAY CENTER SUBDIVISION, FILING NO. 1; THENCE S88°44 '33"W A DISTANCE OF 316.17 FEET TO THE POINT OF BEGINNING, CONTAINING 11,162 SQUARE FEET OR 0.256 ACRE MORE OR LESS.

**TOGETHER** with all its appurtenances and warrants the title against all persons claiming under Grantor, subject to statutory exceptions and subject to the provisions of the IGA.

GRANTOR:

TOWN OF BRECKENRIDGE

SPECIAL WARRANTY DEED

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022 by Eric S. Mamula, Mayor, and Helen Cospolich, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

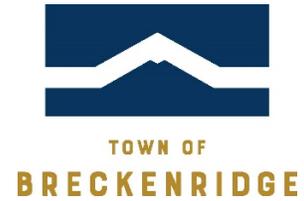
SPECIAL WARRANTY DEED

Page 2 of 3

00-121\Special Warranty Deed to County (10-01-18)

SPECIAL WARRANTY DEED

Page 3 of 3



# Memo

To: Breckenridge Town Council  
From: Dave Byrd, Finance Director  
Date: 11.8.22  
Subject: 2023 Property Tax Mill Levy

---

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

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

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

# FOR WORKSESSION/FIRST READING – NOV. 8

COUNCIL BILL NO. XX

Series 2022

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

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

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

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

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 8th day of November, 2022. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 8<sup>th</sup> day of November, 2022, at 7:00 p.m., or as soon thereafter as possible.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_  
Helen Cospolich, Town Clerk

\_\_\_\_\_  
Eric Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Date



Memo

To: Town Council  
From: Stefi Szrek, AICP, Planner II  
Date: November 1, 2022 (for meeting of November 8, 2022)  
Subject: 1<sup>st</sup> Reading: Repealing Policy 4, Mass Bonus Code Amendment

---

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

Based on Council's direction, staff proposes to eliminate Policies 4A (Absolute) and 4R (Relative) from the Development Code. Since all interior square footage will now count as density, staff has moved over relevant sections from Policy 4, such as the home size policy and exemptions for renewable energy mechanical rooms, into Policy 3: Density. The proposed amendments included in the Bill are listed below:

- Repealed Policies 4A and 4R from the Development Code. All interior space will now count as density
- Amended the "Density" definition to include interior spaces that previously only counted as Mass. Also provided clarification in the definition regarding open-aired structures such as parking structures and trash enclosures.
- Moved the home size limitations for single-family and duplex homes on lots that do not have building or disturbance envelopes (home size policy) from Policy 4A to Policy 3A.
- Eliminated the 900 sq. ft. garage exemption that was previously included in the home size policy.
- Moved the exemption for renewable energy mechanical rooms from Policy 4A to Policy 3A.
- Added a 500 sq. ft. garage and shed exemption for deed restricted properties in the Wellington and Lincoln Park Neighborhoods from being counted as density. Market Rate properties, most of which are owned by members of the local workforce, are excluded from this exemption. Staff wanted to note that this may prevent market rate owners from adding a carriage house, which are allowed in the Wellington Neighborhood master plan.
- Added an exemption for historic garages, barns, and sheds, not used as living space from being counted as density. All non-historic garage, barn and shed space will count as density.
- Removed section A of Policy 24A from the Development Code. This section required one square foot of meeting or recreation and leisure amenity area be provided for every thirty five (35) square feet of gross dwelling area.

In summary, policies that will be impacted from this proposed code change include: Policy 4A/R: Mass, Policy 3A/R: Density and Policy 24R: Social Community, all of which are addressed in the proposed Bill.

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

2  
3 Series 2022

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

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

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

11 9-1-5:DEFINITIONS:

12 ~~DENSITY: The preparation of drawings and other documents illustrating the scale and~~  
13 ~~relationship of the components of a development; or the preparation of drawings and other~~  
14 ~~documents to fix and describe the size and character of the development as to structural,~~  
15 ~~mechanical and electrical systems, materials and such other essentials as may be appropriate.~~  
16 The computation of units per acre for residential development or floor area ratio for commercial  
17 development based on a fully enclosed space within the surrounding exterior walls (including  
18 the exterior wall itself) that extend to a roof of a building or portion thereof including dwelling  
19 areas of the building, closets, bathrooms, living room, garage space, interior hallways, interior  
20 common spaces and areas of the building that are unfinished but have a floor to ceiling height of  
21 five feet (5') or greater. Building areas that are not fully enclosed and feature portions of open or  
22 mesh wall that exceeds 12" vertically and are entirely permeable across at least one façade  
23 such as trash dumpster enclosures, parking garages, porches and similar areas shall not be  
24 counted as density.

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

28 **9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY:**

29 C. General Provisions:

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

3 Residential:

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

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

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

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

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

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

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

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

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

H. Aboveground Density In Historic District:

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

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

2. a. Within the eastside residential, north end residential, and the North Main Street residential character areas, a maximum of 9.0 units per acre for aboveground density for new construction is allowed, except for those developments described in subsection H(2)b of this section. Projects within such areas which contain 9.01 units per acre, or more, of aboveground density shall be deemed to have failed this policy for failing to meet a priority policy.

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

1           3. For the purposes of this chapter, "aboveground density" shall mean that portion of  
 2 the density of a structure that is above finished grade. If a structure has a foundation wall that is  
 3 exposed more than two feet (2') above finished grade, a portion of the allowable above grade  
 4 density for such structure shall be assessed to the floor which is partially below grade in  
 5 accordance with priority policy 80B of the "Handbook of Design Standards" adopted by section  
 6 9-5-3 of this title.

7           Within the Historic District a one thousand six hundred (1,600) square foot multiplier is  
 8 used to calculate the allowed aboveground density for any use. For example, a typical fifty foot  
 9 by one hundred twenty five foot (50' x 125') aboveground density for any use (0.143 acre x  
 10 1,600 x 9 UPA).

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

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

15           1. For any development permit application submitted on or after November 11,  
 16 2009, the maximum aboveground square footage of a single-family or duplex structure located  
 17 on a lot, tract or parcel without a platted building or disturbance envelope shall be the lesser of:

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>	
<u>Breckenridge South</u>	<u>1:5.00</u>	<u>Or</u>	<u>6,000</u>
<u>Brooks Hill</u>	<u>1:5.00</u>	<u>Or</u>	<u>7,000</u>
<u>Christie Heights</u>	<u>1:3.50</u>	<u>Or</u>	<u>6,500</u>
<u>Gold Flake</u>	<u>1:4.50</u>	<u>Or</u>	<u>9,000</u>

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>	
<u>Gold King</u>	<u>1:8.50</u>	<u>Or</u>	<u>7,000</u>
<u>Highlands, filing 1</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Highlands, filing 2</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Highlands, filing 3</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Highlands, filing 4</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Peaks</u>	<u>1:1.75</u>	<u>Or</u>	<u>6,500</u>
<u>Penn Lode</u>	<u>1:3.00</u>	<u>Or</u>	<u>6,000</u>
<u>Sunbeam Estates</u>	<u>1:3</u>	<u>Or</u>	<u>7,000</u>
<u>Sunrise Point</u>	<u>1:2.00</u>	<u>Or</u>	<u>6,500</u>
<u>Trafalgar</u>	<u>1:2.00</u>	<u>Or</u>	<u>7,500</u>
<u>Tyra</u>	<u>1:2.00</u>	<u>Or</u>	<u>6,000</u>
<u>Warrior's Mark</u>	<u>1:2.00</u>	<u>Or</u>	<u>4,000</u>
<u>Warrior's Mark West</u>	<u>1:2.00</u>	<u>Or</u>	<u>4,500</u>

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>
<u>Weisshorn</u>	<u>1:4.00</u>	<u>Or</u> <u>8,000</u>
<u>Yingling &amp; Mickles</u>	<u>1:1.30</u>	<u>Or</u> <u>5,600</u>

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

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

11 2. Damage Or Destruction: If a single-family or duplex structure that was lawfully  
12 constructed before the date described in subsection A of this section is damaged or destroyed  
13 by fire or other calamity it may be rebuilt to the same size that existed immediately prior to the  
14 fire or other calamity. However, except as provided in the preceding sentence, the provisions of  
15 section 9-1-12 of this chapter shall apply to the repair or reconstruction of such single-family or  
16 duplex structure.

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

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

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

3           c. Alternative Allocation Of Additional Square Footage: For any duplex structure that is  
4 subject to the provisions of subsection D(1) of this section, if each duplex unit has the same  
5 aboveground square footage each duplex unit shall be allocated an additional two hundred fifty  
6 (250) square feet of allowed aboveground square footage. If either of the duplex units has a  
7 greater amount of aboveground square footage than the other duplex unit, the smaller duplex  
8 unit shall receive so much of the additional aboveground square footage as is required to make  
9 it equal to the aboveground square footage of the larger duplex unit, and the remaining  
10 additional aboveground square footage shall be divided equally between the two (2) duplex  
11 units. If both duplex owners agree to an alternative allocation of the duplex's additional five  
12 hundred (500) square feet of allowed aboveground square footage, the town may approve such  
13 alternative allocation if both owners submit an agreement in a form acceptable to the town  
14 attorney prior to the submission of any application for a development permit that involves the  
15 use of any of the duplex's additional five hundred (500) square feet of aboveground square  
16 footage. The duplex owners' agreement for an alternative allocation of the additional  
17 aboveground square footage must be recorded in the real property records of the Clerk and  
18 Recorder of Summit County prior to the issuance of a development permit for the use of such  
19 additional square footage, and must run with the land and be binding upon all subsequent  
20 owners of the two (2) duplex units.

21           d. Density Allowance For On Site Renewable Energy Mechanical System In Multifamily  
22 And Commercial Uses: The goal of this subsection is to encourage renewable energy  
23 production in existing multifamily and commercial structures. This subsection is not applicable to  
24 new construction. This subsection seeks to improve energy efficiency by permitting existing  
25 nonconforming structures to install appropriate on site renewable energy mechanical systems to  
26 help protect the health, safety, and welfare of the community.

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

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

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

3           ii. Design Standards:

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

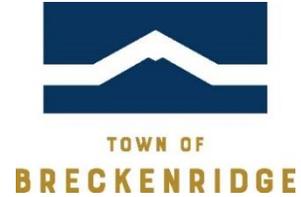
12           b. Any structural modifications or additions made for a renewable energy mechanical  
13 system shall meet the intent of policy 5 (absolute) architectural compatibility and policy 5  
14 (relative) architectural compatibility, in addition to all other applicable policies of this code.

15

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

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

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



# Memo

TO: Breckenridge Town Council Members  
FROM: Kirsten J. Crawford, Town Attorney  
DATE: November 8, 2022  
RE: Resolution of Eligibility of the Entrada Property for Annexation.

---

Attached you will find a proposed Resolution of Eligibility of the Entrada Property for purposes of the Municipal Annexation Statute. Staff proposes that Town Council approve the Resolution of Eligibility and the findings of fact and conclusions that the Property is eligible for annexation to the Town of Breckenridge and all requirements of the law have been met for annexation.

This Resolution does not bind Town Council to approve annexation of the property nor grant other approvals related to the proposed development agreement. Separate bills will be brought forward pertaining to the annexation, proposed development agreement, and rezoning in the event the parties reach terms on the proposed development agreement currently under review by Town Council.

Staff recommends that Town Council approve the Resolution tonight as the property meets the criteria for eligibility and by doing so the process will be more efficient on staff time and resources related to procedural and publication requirements.

1 RESOLUTION

2  
3 SERIES 2022

4  
5 **A RESOLUTION TO SET FORTH FINDINGS OF FACT AND CONCLUSIONS**  
6 **AS TO THE ELIGIBILITY OF THE UNDEVELOPED LAND KNOWN AS THE**  
7 **ENTRADA PROPERTY.**  
8

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

12 WHEREAS, the Petition has been referred to the Town Council of the Town of  
13 Breckenridge, Colorado; and

14 WHEREAS, the Town Council found substantial compliance of said petition with  
15 Colo.Rev.Stat. § 31-12-107; and

16 WHEREAS, the Town Council conducted a public hearing as required by law to  
17 determine the eligibility of for annexation of the property;

18 WHEREAS, public notice of such public hearing was given as required by law;

19 WHEREAS, the public hearing on the annexation petition was conducted in accordance  
20 with the requirements of the law; and

21 WHEREAS, pursuant to Colo.Rev.Stat. §31-12-110, the Town Council is required to set  
22 forth its finding of fact and its conclusion as to the eligibility of the Property for annexation to the  
23 Town of Breckenridge;

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

26 **Section 1.** A service plan for that area encompassing the Property has been adopted  
27 by the Town Council, pursuant to Colo.Rev.Stat. § 31-12-105(1)(e).

28 **Section 2.** Not less than one-sixth (1/6<sup>th</sup>) of the perimeter of the Property is contiguous  
29 with the existing boundaries of the Town of Breckenridge, as required by law.

30 **Section 3.** A community of interest exists between the Property and the Town of  
31 Breckenridge, and the Property is ripe for development in the near future.

32 **Section 4.** The Property is integrated or is capable of being integrated with the Town of  
33 Breckenridge.

34 **Section 5.** The limitations of the Municipal Annexation Act and the Constitution of the  
35 State of Colorado do not prevent the annexation of the Property or any oart thereof since:

36 a. No land in the territory to be annexed which is held in identical ownership and  
37 consists of either a single tract or parcel, or two or more contiguous tracts or parcels has been  
38 divided or portion thereof excluded from the area to be annexed without the written consent of  
39 the owners thereof;

40 b. No land in the territory to be annexed which is held in identical ownership  
41 comprises twenty (20) or more acres, having an assessed valuation for ad valorem tax  
42 purposes in excess of \$200,000.00 in the year next preceding the annexation has been included  
43 in the area to be annexed without the written consent of the landowners;

44 c. No proceedings have been commenced by another municipality for the  
45 annexation of all or part of the territory to be annexed by the Town of Breckenridge;

46 d. The annexation will not result in the detachment of the area from the school  
47 district in which is currently located.

1           **Section 6.**    The petition for the annexation of the Property meets the requirements of  
2 the law and are in proper order for annexation of the Property.

3           **Section 7.**    No election is required pursuant to Colo.Rev.Stat. § 31-12-107 or any  
4 other law of the State of Colorado or the Town of Breckenridge, and no additional terms and  
5 conditions with the meaning of § 31-12-111 are to be imposed on the annexation of the  
6 Property.

7           **Section 8.**    The proposed annexation will not have the effect of extending the  
8 municipal boundary more than three (3) miles in any direction from any point of the Town  
9 boundary in any one year.

10          **Section 9.**    The entire width of any street or alley to be annexed is included within the  
11 annexation.

12          **Section 10.**   The Property is eligible for annexation to the Town of Breckenridge and  
13 all requirements of the law have been met for annexation, including the requirements of Colo.  
14 Rev.Stat. §§ 31-12-104 and 31-12-105, as amended.

15          **Section 11.**   The ordinance annexing the Property to the Town of Breckenridge shall  
16 be considered by the Town Council, pursuant to Colo.Rev.Stat. § 31-12-111.

17          **Section 12.**   This resolution shall become effective upon its adoption.

18

19                 RESOLUTION APPROVED AND ADOPTED THIS 25<sup>th</sup> DAY OF OCTOBER 2022.

20





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



**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**

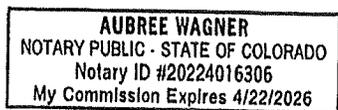
STATE OF Colorado )  
 ) ss.  
COUNTY OF Summit )

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 13<sup>th</sup> 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 13<sup>th</sup> 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](mailto:gfrank@breckenridgegrandvacations.com)  
[ndoran@breckenridgegrandvacations.com](mailto: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](mailto: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:

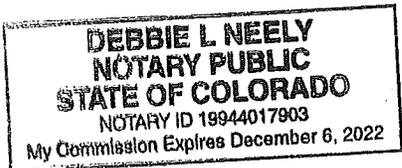
BGV PARTNERS ENTRADA LLC,  
a Colorado limited liability company

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

STATE OF Colorado  
COUNTY OF Summit ss.

The foregoing instrument has been acknowledged before me this 13<sup>th</sup> 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



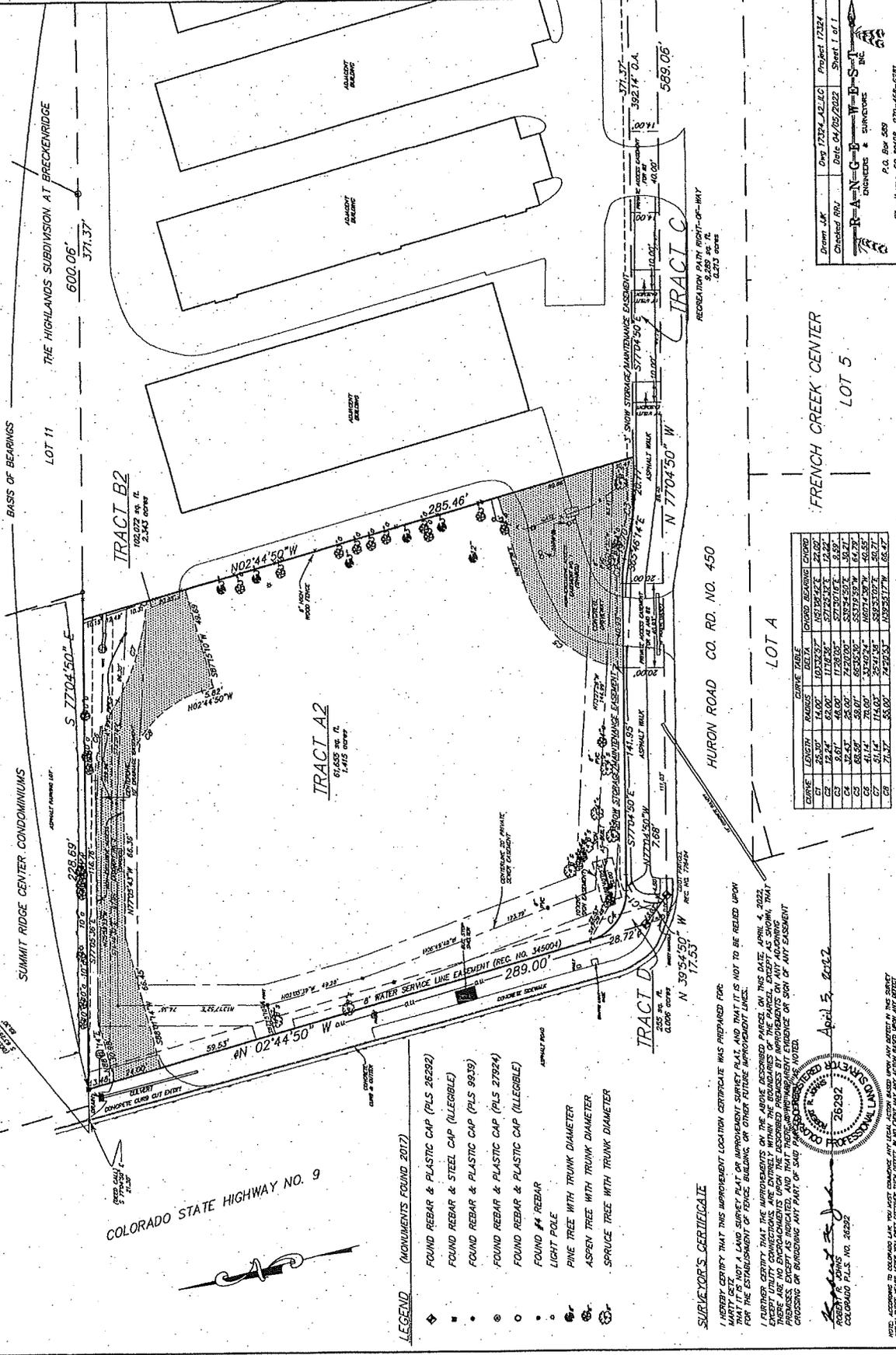
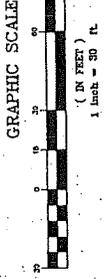
[Signature]  
Notary Public



**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 99319)
- 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 ASSISTANT SURVEYOR, 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 PARCEL BY IMPROVEMENTS ON ADJACENT OR SURROUNDING CROSSING OR BURDENING ANY PART OF SAID PARCEL OR OTHERWISE AS NOTED.

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

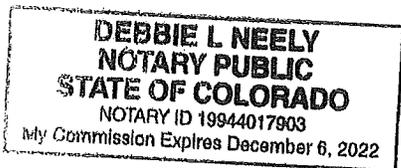
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	25.30'	14.00'	103°32'37"	157°34'42"	22.00'
C2	19.24'	68.00'	171°30'36"	57°32'11"	9.88'
C3	28.24'	25.00'	74°20'00"	233°24'50"	30.81'
C4	68.84'	38.00'	65°32'50"	55°37'52" W	64.79'
C5	41.14'	76.00'	33°22'24"	165°14'39" W	40.89'
C6	51.14'	114.00'	25°18'31"	143°23'11" W	65.47'

Drawn LRF  
 Directed DRJ  
 Date 04/05/2022  
 Project 17324  
 Sheet 1 of 1  
 R-A-N-C-B-W-E-S-J  
 Architects & 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 13<sup>th</sup> 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 )

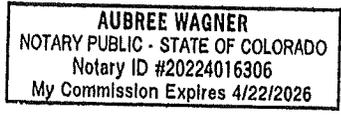
The foregoing instrument was acknowledged before me this 26 day of August, 2022 by Michael A. Dudick as Manager of BGV Partners Entrada LLC, a Colorado limited liability company.

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.

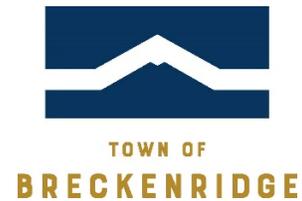
CONTAINING A TOTAL OF 255 SQUARE FEET OR 0.006 ACRE.

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  
From: Finance Department  
Date: 11.08.22  
Subject: 2023 Budget Document

---

## **2023 BUDGET HIGHLIGHTS**

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

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

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

## CHANGES

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

1. **Parking and Transportation Fund:** Corrected 2022 projected revenue entry for Sustainability (EV charges): \$30,426. Net impact for the ending 2023 Fund Balance: \$30,426 improvement.
2. **Childcare Fund:** Added \$20K for 2022 projection and \$60K for the 2023 for the Circle Grant. Reclassed \$26,364 in IT allocations to the Affordable Housing Fund. Net impact for the ending 2023 Fund Balance: \$106,364 improvement. This amount has been added to the restriction for the new childcare facility. Net fund balance after restriction is unchanged.
3. **Special Projects Fund:** Reduced the capital improvement budget for Breckenridge History by \$37,500. Added \$50,000 to the Breckenridge History Capital Reserve to account for 2 draws in 2022. Net impact for the ending 2023 Fund Balance: (\$12,500) reduction.
4. **Open Space Fund:** Removed \$75,000 for the Wellington Oro Plant Reserve and \$600,000 for the Rec Path Reserve in the 2022 projection. Removed these reserves in the 2023 budget. Net impact for the ending 2023 Fund Balance: \$675,000 improvement.
5. **Affordable Housing Fund:** See attached reconciliation.
6. **Excise Tax:** Added Affordable Housing Transfer (Loan): (\$14,362,188). Reduced transfer to Capital Fund for Block 11 True Up: \$3,700,000. Reduced projection for Comcast Franchise Fees: (\$14,632). Net impact to the ending 2023 Fund Balance: (\$10,676,820) reduction.
7. **Capital:** Reduced Bock 11 final project expense: \$2,000,000. Added transfer from Affordable Housing for Block 11: \$1,700,000. Reduced Excise Fund transfer: (\$3,700,000). Net impact to ending 2023 Fund Balance: \$0.
8. **General Fund:** (\$224,179) reduction due to payroll balance sheet reconciliations.

Please find the budget document linked [here](#).

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

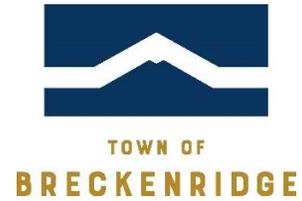
	2023 BUDGET RETREAT	2023 UPDATED BUDGET	VARIANCE
<b>REVENUE SUMMARY</b>			
PROPERTY TAX	\$ 3,865,040	\$ 3,865,040	\$ -
SALES TAX	\$ 42,780,973	\$ 42,780,973	\$ -
ACCOMMODATION TAX	\$ 8,700,930	\$ 8,700,930	\$ -
CIGARETTE & NICOTINE TAX	\$ 844,035	\$ 844,035	\$ -
FRANCHISE TAX	\$ 907,020	\$ 907,020	\$ -
CABLE PEG TAX	\$ 11,720	\$ 11,720	\$ -
MARIJUANA TAX	\$ 640,000	\$ 640,000	\$ -
REAL ESTATE TRANSFER TAX	\$ 5,405,283	\$ 5,405,283	\$ -
LICENSES AND PERMITS	\$ 1,509,242	\$ 1,509,242	\$ -
INTERGOVERNMENTAL REVENUE	\$ 6,661,951	\$ 6,721,951	\$ 60,000
CHARGES FOR SERVICES	\$ 21,461,507	\$ 21,461,507	\$ -
FINES AND FORFEITS	\$ 389,400	\$ 389,400	\$ -
PLANT INVESTMENT FEES	\$ 1,000,000	\$ 1,000,000	\$ -
RECREATION FEES	\$ 3,722,925	\$ 3,722,925	\$ -
GOLF COURSE REVENUE	\$ 3,745,500	\$ 3,745,500	\$ -
ADVERTISING REVENUE	\$ 13,000	\$ 13,000	\$ -
PARKING DISTRICT ASSESSMENT	\$ -	\$ -	\$ -
INVESTMENT INCOME	\$ 1,015,753	\$ 1,015,753	\$ -
DEBT PROCEEDS	\$ 6,500,000	\$ 6,500,000	\$ -
SALE OF ASSETS	\$ 58,000	\$ 58,000	\$ -
MCCAIN RENT/ROYALTIES	\$ -	\$ -	\$ -
BGVCC NAMING AGREEMENT	\$ 50,000	\$ 50,000	\$ -
LOAN PAYMENTS	\$ 187,139	\$ 187,139	\$ -
RENTAL INCOME	\$ 1,814,421	\$ 1,814,421	\$ -
RECOVERIES & CONTRIBUTIONS	\$ 41,570	\$ 41,570	\$ -
REFUND OF EXPENDITURES	\$ 2,470,943	\$ 2,470,943	\$ -
INTERNAL SERVICE REVENUE	\$ 10,954,496	\$ 10,954,496	\$ -
MISCELLANEOUS INCOME	\$ 1,058,368	\$ 1,058,368	\$ -
<b>TOTAL REVENUES</b>	<b>\$ 125,809,216</b>	<b>\$ 125,869,216</b>	<b>\$ 60,000</b>
<b>EXPENDITURES</b>			
PERSONNEL	\$ 33,549,005	\$ 33,549,005	\$ -
MATERIALS & SUPPLIES	\$ 3,649,489	\$ 3,649,489	\$ -
CHARGES FOR SERVICES	\$ 28,090,918	\$ 30,384,118	\$ (2,293,200)
MINOR CAPITAL	\$ 63,737,928	\$ 56,713,146	\$ 7,024,782
FIXED CHARGES	\$ 801,442	\$ 801,442	\$ -
DEBT SERVICES	\$ 9,418,493	\$ 9,419,243	\$ (750)
GRANTS/CONTINGENCIES	\$ 3,504,189	\$ 3,504,189	\$ -
ALLOCATION	\$ 6,807,830	\$ 6,807,830	\$ -
<b>TOTAL EXPENDITURES</b>	<b>\$ 149,559,294</b>	<b>\$ 144,828,462</b>	<b>\$ 4,730,832</b>
<b>EXPENDITURES BY PROGRAM (GF=programs in the General Fund)</b>			
GENERAL GOVERNMENT (GF)	\$ 5,468,680	\$ 5,468,680	\$ -
FINANCE (GF)	\$ 1,398,677	\$ 1,398,677	\$ -
PUBLIC SAFETY (GF)	\$ 5,026,393	\$ 5,026,393	\$ -
COMMUNITY DEVELOPMENT (GF)	\$ 2,184,586	\$ 2,184,586	\$ -
PUBLIC WORKS (GF)	\$ 10,356,805	\$ 10,356,805	\$ -
RECREATION (GF)	\$ 8,066,075	\$ 8,066,075	\$ -
UTILITY FUND	\$ 13,099,832	\$ 13,099,832	\$ -
CAPITAL FUND	\$ 20,771,483	\$ 20,771,483	\$ -
MARKETING FUND	\$ 4,835,755	\$ 4,835,755	\$ -
GOLF COURSE FUND	\$ 3,234,950	\$ 3,234,950	\$ -
EXCISE TAX FUND	\$ 510,775	\$ 510,775	\$ -
HOUSING FUND	\$ 42,549,076	\$ 37,832,108	\$ (4,716,968)
OPEN SPACE ACQUISITION FUND	\$ 2,653,707	\$ 2,653,707	\$ -
CONSERVATION TRUST FUND	\$ -	\$ -	\$ -
GARAGE SERVICES FUND	\$ 4,339,486	\$ 4,339,486	\$ -
INFORMATION TECHNOLOGY FUND	\$ 1,521,454	\$ 1,521,454	\$ -
FACILITIES MAINTENANCE FUND	\$ 818,164	\$ 818,164	\$ -
SPECIAL PROJECTS FUND	\$ 3,540,000	\$ 3,552,500	\$ 12,500
MARIJUANA FUND	\$ 158,311	\$ 158,311	\$ -
CEMETERY FUND	\$ 18,500	\$ 18,500	\$ -
CHILD CARE FUND	\$ 1,049,843	\$ 1,023,479	\$ (26,364)
PARKING & TRANSPORTATION FUND	\$ 12,972,892	\$ 12,972,892	\$ -
HEALTH BENEFITS FUND	\$ 4,500,000	\$ 4,500,000	\$ -
ACCOMMODATION UNIT COMPLIANCE FUNC	\$ 483,850	\$ 483,850	\$ -
<b>TOTAL EXPENDITURES</b>	<b>\$ 149,559,294</b>	<b>\$ 144,828,462</b>	<b>\$ (4,730,832)</b>
<b>Net Revenues minus Expenditures</b>	<b>(23,750,078)</b>	<b>(18,959,246)</b>	

**ALL FUNDS**  
**GOVERNMENTAL AND PROPRIETARY FUND BALANCE ROLL-FORWARD**

BUDGET RETREAT REVIEW				UPDATED 2023 BUDGET		
FUND	2023 FUND BALANCE	2023 RESTRICTED	2023 ENDING BALANCE	FUND	2023 ENDING BALANCE	VARIANCE
<b>GOVERNMENTAL FUNDS</b>				<b>GOVERNMENTAL FUNDS</b>		
<u>DISCRETIONARY</u>				<u>DISCRETIONARY</u>		
001 - GENERAL	\$ 14,338,958	\$ 12,924,006	\$ 1,414,952	001 - GENERAL	\$ 1,190,774	\$ (224,179)
006 - EXCISE TAX	\$ 68,524,449	\$ 49,284,600	\$ 19,239,849	006 - EXCISE TAX	\$ 8,563,029	\$ (10,676,820)
013 - SPECIAL PROJECTS	\$ 720,744	\$ -	\$ 720,744	013 - SPECIAL PROJECTS	\$ 708,244	\$ (12,500)
014 - MARIJUANA	\$ 280,582	\$ -	\$ 280,582	014 - MARIJUANA	\$ 280,582	\$ -
016 - CHILD CARE	\$ 4,932,617	\$ 4,432,617	\$ 500,000	016 - CHILD CARE	\$ 500,000	\$ -
017 - PARKING & TRANSPORTATION	\$ 6,359,686	\$ 4,636,300	\$ 1,723,386	017 - PARKING & TRANSPORTATION	\$ 1,753,811	\$ 30,425
003 - CAPITAL	\$ 529,280	\$ -	\$ 529,280	003 - CAPITAL	\$ 529,280	\$ -
TOTAL DISCRETIONARY FUND BALANCE	\$ 95,686,315	\$ 71,277,523	\$ 24,408,792	TOTAL DISCRETIONARY FUND BALANCE	\$ 13,525,719	\$ (10,883,073)
<u>SPECIAL REVENUE</u>				<u>SPECIAL REVENUE</u>		
020 - ACCOMMODATION UNIT COMPLIANCE	\$ 7,353,612	\$ 7,353,612	\$ 0	020 - ACCOMMODATION UNIT COMPLIANCE	\$ 0	\$ -
007 - AFFORDABLE HOUSING	\$ 22,978,363	\$ 29,600,018	\$ (6,621,655)	007 - AFFORDABLE HOUSING	\$ 0	\$ 6,621,655
008 - OPEN SPACE	\$ 9,518,292	\$ -	\$ 9,518,292	008 - OPEN SPACE	\$ 10,193,292	\$ 675,000
004 - MARKETING	\$ 5,341,893	\$ -	\$ 5,341,893	004 - MARKETING	\$ 5,341,893	\$ -
009 - CONSERVATION TRUST	\$ 12,612	\$ -	\$ 12,612	009 - CONSERVATION TRUST	\$ 12,612	\$ -
TOTAL SPECIAL REVENUE FUND BALANCE	\$ 45,204,773	\$ 36,953,630	\$ 8,251,143	TOTAL SPECIAL REVENUE FUND BALANCE	\$ 15,547,798	\$ 7,296,655
<b>TOTAL GOVERNMENTAL FUND BALANCE</b>	<b>\$ 140,891,088</b>	<b>\$ 108,231,153</b>	<b>\$ 32,659,935</b>	<b>TOTAL GOVERNMENTAL FUND BALANCE</b>	<b>\$ 29,073,517</b>	<b>\$ (3,586,418)</b>
<b>PROPRIETARY FUNDS</b>				<b>PROPRIETARY FUNDS</b>		
<u>ENTERPRISE</u>				<u>ENTERPRISE</u>		
002 - UTILITY	\$ 60,924,055	\$ 41,998,519	\$ 18,925,536	002 - UTILITY	\$ 18,925,536	\$ -
005 - GOLF	\$ 10,729,727	\$ 7,747,985	\$ 2,981,742	005 - GOLF	\$ 2,981,742	\$ -
015 - CEMETERY	\$ 225,808	\$ -	\$ 225,808	015 - CEMETERY	\$ 225,808	\$ -
TOTAL ENTERPRISE FUND BALANCE	\$ 71,879,590	\$ 49,746,505	\$ 22,133,085	TOTAL ENTERPRISE FUND BALANCE	\$ 22,133,085	\$ -
<u>INTERNAL SERVICES</u>				<u>INTERNAL SERVICES</u>		
010 - GARAGE	\$ 14,580,527	\$ 4,504,965	\$ 10,075,562	010 - GARAGE	\$ 10,075,562	\$ -
012 - FACILITIES	\$ 5,230,112	\$ 51,697	\$ 5,178,415	012 - FACILITIES	\$ 5,178,415	\$ -
011 - IT	\$ 1,048,439	\$ 0	\$ 1,048,438	011 - IT	\$ 1,048,438	\$ -
018 - HEALTH BENEFITS	\$ 1,799,990	\$ -	\$ 1,799,990	018 - HEALTH BENEFITS	\$ 1,799,990	\$ -
TOTAL INTERNAL SERVICE FUND BALANCE	\$ 22,659,067	\$ 4,556,662	\$ 18,102,405	TOTAL INTERNAL SERVICE FUND BALANCE	\$ 18,102,405	\$ -
<b>TOTAL PROPRIETARY FUND BALANCE</b>	<b>\$ 94,538,657</b>	<b>\$ 54,303,167</b>	<b>\$ 40,235,490</b>	<b>TOTAL PROPRIETARY FUND BALANCE</b>	<b>\$ 40,235,490</b>	<b>\$ -</b>
<b>TOTAL FUND BALANCE</b>	<b>\$ 235,429,745</b>	<b>\$ 162,534,319</b>	<b>\$ 72,895,426</b>	<b>TOTAL FUND BALANCE</b>	<b>\$ 69,309,007</b>	<b>\$ (3,586,418)</b>

**TOWN OF BRECKENRIDGE  
2023 BUDGET RECONCILIATION**

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



# Memo

**To:** Breckenridge Town Council Members  
**From:** Mark Truckey, Director of Community Development  
**Date:** November 2, 2022  
**Subject:** Planning Commission Decisions of the November 1, 2022 Meeting

---

## ***DECISIONS FROM THE PLANNING COMMISSION MEETING, November 1, 2022:***

**CLASS A APPLICATIONS:** None.

### **CLASS B APPLICATIONS:**

1. Father Dyer Addition & Remodel, 310 Wellington Rd., PL-2022-0461

A proposal to expand the Church through a 635 sq. ft. addition to the non-historic part of the existing building. The footprint of the proposed expansion area is in a portion of a non-compliant sunken terrace. The addition will accommodate an elevator, revised stairways, an expanded office and a waste and recycling room. The elevator will allow the church to provide ADA access. *Approved, see second memo.*

### **CLASS C APPLICATIONS:**

1. Gold Pan Exterior Food & Beverage, 103 N. Main Street, PL-2022-0479

A proposal to convert 253 sq. ft. of exterior courtyard and parking located on the west side of the saloon to a food and beverage service area. The conversion of parking and exterior space to a food and beverage service area is subject to Policies 24A and 52A and requires employee housing mitigation. To meet the necessary required onsite parking and employee mitigation requirements of Policy 24A the applicant proposes to deed restrict a 1955.5 sq. ft. second floor residential unit of the Gold Pan Saloon to serve as workforce housing in perpetuity. *Called up and approved.*

2. Climax Jerky Wagon Small Vendor Cart Permit Renewal, 100 S. Main Street, PL-2022-0485

A proposal to renew the existing small vendor cart permit for Climax Jerky, Inc., a retail business that sells a variety of dried meats, known as jerky. The existing vendor cart is 8'4" long, 4'4" wide and about 8' tall, 35.69 sq. ft. total. The wagon is made of fiberglass but is wrapped with wood finish. *Approved.*

**TOWN PROJECT HEARINGS:** None.

**OTHER:** None.

# Memo

To: Town Council  
From: Chris Kulick, AICP, Planning Manager  
Date: November 2, 2022, for meeting of November 8, 2022  
Subject: Father Dyer Addition and Remodel Class B Planning Commission Approval Summary

---



A Final Hearing for the Father Dyer Addition and Remodel, PL-2022-0461, located at 310 Wellington Road, was held by the Planning Commission on November 1, 2022. This application proposes to expand the Church through a 635 sq. ft. addition to the non-historic part of the existing building. The footprint of the proposed expansion area is in a portion of a non-compliant sunken terrace. The addition will accommodate an elevator, revised stairways, an expanded office and a waste and recycling room. The elevator will allow the church to provide ADA access.

Since the addition does not propose any additional seating, no additional parking spaces are required. Parking for churches is based on a ratio of 1 parking space per 6 seats. The design retains 49 parking spaces which meets the required onsite parking. Town Engineering Regulations prohibit the backing onto public streets and only allow for a single curb cut per lot unless permitted by the Town Engineer. In response to this application, the Town Engineer is supportive of providing a waiver of the Town of Breckenridge Engineering Regulations: "10-2-1-7 Access Control," and 5.4 of the Town of Breckenridge Street Standards. The Engineering department supported this waiver because the perpendicular parking adjacent to Briar Rose Lane has been used for over 40 years without incident. They also felt the two curb cuts on Wellington Road aided circulation through the site and found the third access point off Briar Rose Lane is primarily used as a service access, provides access to a low service road and has been used without incident throughout church's history.

This application is independent of the previously approved 2,496 sq. ft. addition, Plan Case PL-2021-0373, that was subject to a Development Agreement. Plan Case PL-2021-0373 is currently vested through December 14, 2024, and the applicants wish to retain that vesting independent of the current application. Staff has confirmed the retention of the previous approval's vesting is permissible by Code.

The Commission found the proposal complied with all Priority Design Standards and Absolute Policies, and assigned a total cumulative score of zero (0) points under the Relative Policies. The Commission approved the application 7-0.

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



## PLANNING COMMISSION MEETING

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

### ROLL CALL

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

### APPROVAL OF MINUTES

With no changes, the October 18, 2022, Planning Commission Minutes were approved.

### APPROVAL OF AGENDA

Mr. Kulick added the Appointment of Chair and Vice Chair under Other Matters, as well as general information about the upcoming Saving Places conference.

With those changes, the November 1, 2022, Planning Commission Agenda was approved.

### PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

### CONSENT CALENDAR:

1. Gold Pan Exterior Food & Beverage (SVC), 103 N. Main Street, PL-2022-0479
2. Climax Jerky Wagon Small Vendor Cart Permit Renewal (CC), 100 S. Main Street, PL-2022-0485

Mr. Leas made motion to call up Gold Pan Exterior Food & Beverage (SVC), 103 N. Main Street, PL-2022-0479, Seconded by Mr. Gerard.

The proposal is to add 253 sq ft of exterior food and beverage service area. Ms. Crump made a short presentation reviewing the floor plan of the employee unit proposed for deed restriction.

#### *Commissioner Questions:*

Mr. Leas: Are there egress windows in the two bedrooms? (Ms. Crump: This is the upper-level floor plan for the remodel completed in 2018. It is just used here to show the floor area that will be deed restricted. This work is already complete and the upstairs qualifies as residential with bedrooms meeting the Building Code definition.)

#### Ms. Matthews-Leidal, applicant:

I want to thank staff for helping us be the first application through this process, there was a lot of time spent crunching numbers. Happy to answer any specific questions.

Mr. Gerard: Will there be any external amplified music? (Mr. Chris Butler, Applicant: No.)

#### *Commissioner Comments:*

Mr. Guerra: None.

Mr. Leas: None.

Mr. Gerard: Good use of outdoor space, people really like it especially in the summer and some in the winter. Good idea. It meets standards.

Mr. Frechter: None.

Mr. Giller: Snow storage is on the back, may not work well in winter, table and chairs might need to be moved.

Ms. Propper: None.

Ms. Delahoz: Great use of space, COVID got us outside. Places are repurposing spaces.

Mr. Gerard moved to approve Gold Pan Exterior Food & Beverage (SVC), 103 N. Main Street, PL-2022-0479 with the attached finding and conditions and a passing score of zero, seconded by Mr. Leas. The motion passed 7 to 0.

The Climax Jerky Wagon Small Vendor Cart Renewal was approved as presented.

**FINAL HEARINGS:**

1. Father Dyer Addition & Remodel (CK), 310 Wellington Rd., PL- 2022-0461

Mr. Kulick presented a proposal to expand the church through a 635 sq. ft. addition to the non-historic part of the existing building. The footprint of the proposed expansion area is in a portion of a non-compliant sunken terrace. The addition will accommodate an elevator, revised stairways, an expanded office and a waste and recycling room. The elevator will allow the church to provide ADA access. The following specific questions were asked of the Commission:

1. Building Materials: Staff finds the proposed materials comply with Priority Design Standard 145 and 146. Does the Commission Concur?
2. Does the Commission have any additional comments on the proposed project design or point analysis?

*Commissioner Questions:*

Mr. Leas: Allowed density is unlimited with the footnote? (Mr. Kulick: Since it's institutional, there are no overall density limits. Defaults to allowed above ground density.)

Mr. Gerard: Findings, applicants to retain vested development plan, should we recommend that they be allowed to keep it? (Mr. Kulick: They are entitled by code to keep their existing vested development permit; the purpose of the finding is we wanted to make it clear this is a new standalone development permit.) We all agree with that.

Mr. Giller: I still see ADA issues, even though they are not our purview. Distances to the accessible parking are far, curb cuts. (Mr. Kulick: ADA is addressed under building permitting but the applicant can discuss.)

Nick Johnson, Arapahoe Architects, Applicant:

I wasn't going to present but I am here to answer questions. There is no problem moving the handicap spot closer to the elevator. (Mr. Giller: The handicap route has a curb, make sure it is an accessible route.) That is definitely the intent.

*Commissioner Comments:*

Mr. Guerra: 1. I concur. 2. No additional comments.

Mr. Leas: 1. Meets the standards. 2. No other comments.

Mr. Gerard: 1. Yes, to materials. 2. I continue to believe this is a clever way of being able to value engineer this to the funds you have and still expand later if possible. It is a good plan.

Mr. Frechter: 1. Yes, I approve 2. Thank you to the applicant and staff for simplifying, hope you can do the bigger project later on.

Mr. Giller: 1. Yes 2. Sidewalk could be too narrow for accessibility on the West.

Ms. Propper: 1. I concur. 2. No additional comments.

Ms. Delahoz: 1. Compliant, yes 2. I do think this is a good way to get where you need to be. If it solves the needs, then fantastic. If you get to do the big project after you get all the funding, that would be awesome.

Mr. Giller made a motion to approve the Father Dyer Addition & Remodel, seconded by Mr. Gerard. The motion passed 7 to 0.

**OTHER MATTERS:**

1. Town Council Summary
2. Appointment of Planning Commission Chair and Vice Chair

Mr. Gerard made a motion to appoint Mr. Frechter as Chair of the Planning Commission, seconded by Ms. Delahoz. The motion passed 7 to 0.

Mr. Gerard made a motion to appoint Mr. Leas as Vice Chair of the Planning Commission, seconded by Ms. Delahoz. The motion passed 7 to 0.

**ADJOURNMENT:**

The meeting was adjourned at 6:29 pm.

---

Tanya Delahoz, Chair

**Town Council De Novo Staff Report**

**Subject:** Breckenridge Ski Area (Peak 8 and Mountain Activities) Master Sign Plan (Class C Minor, PL-2022-0439)

**Proposal:** The proposed Master Sign Plan (MSP) will serve as the primary document regulating property signage and will provide an organizational framework that is tailored to the resort and the activities that occur through various seasons. This MSP is intended to capture signage not previously approved or permitted through other sign approval processes. Included in this proposal are two (2) LED signs, two (2) corbel freestanding signs, and requests for five (5) variances from the Town Code (see below). Any deviations from the Town Code are to promote guest safety, accommodate safe and efficient resort operations and to address resort specific situations such as signage at high elevations anticipating snow and other inclement weather during winter operations.

The applicant is requesting the following variances:

1. Materials
2. Height (Freestanding Signs)
3. Quantity (Freestanding Signs)
4. Temporary and/ or Movable Directional Signs
5. Electronic Signs

**Date:** November 2, 2022 (For meeting of November 8, 2022)

**Project Manager:** Clif Cross, Planner I

**Applicant/Owner:** Vail Summit Resorts, Inc.

**Agent:** Jim Testin, Director of Mountain Planning, Vail Resorts

**Address:** 1521 Ski Hill Road

**Legal Description:** TRACT C PEAK 8 SUB # 1 REMAINDER AFTER PLAT 1187721  
TRACT C PEAK 8 SUB # 1 AKA PART OF REMAINDER OF TRACT  
C TRIANGLE PARCEL IN ALPINE METRO DISTRICT  
ONE SKI HILL PLACE COMMON AREA  
LOT 4 PEAK 8 SUB # 1  
TR 7-78 Sec 01 Qtr 2 Acres 8.5315 AKA SKI AREA PARCEL S  
REMAINING AFTER TR C PEAKS 7 AND 8 PLAT FKA TRACT IN  
ADA PL MS 13774  
TR 7-78 Sec 01 Qtr 2 Acres 1.0460 AKA SKI AREA PARCEL P WEST  
AKA FOUR OCLOCK RUN

TR 7-78 Sec 01 Qtr 2 Acres 17.6035 AKA SKI AREA PARCEL R TRACT  
IN ADA PL MS 13774  
TR 7-78 Sec 01 Qtr 2 Acres 20.5562 AKA SKI AREA PARCEL H  
MAINTENANCE BLDG  
TR 6-78 Sec 36 Qtr 4 Acres 4.3519 AKA SKI AREA PARCEL P EAST  
AKA FOUR OCLOCK RUN  
LOT 1 BLOCK 3 PARKWAY CENTER SUB AMENDED # 1  
In GRAND COLORADO ON PEAK 8 FIRST SUPPLEMENT COMMON  
AREA  
TRACT C SKYWAY RIDGE PRIVATE SKI TRAIL  
TRACT D SKYWAY RIDGE PRIVATE SKI TRAIL

**Site Area:** 168 acres within the Town of Breckenridge (7,143,840 sq. ft.)  
Access to 3,000 acres of Forest Service Recreational Land (130,680,000 sq.  
ft.)

**Site Conditions:** The area includes 168 acres of land within the town limits of Breckenridge primarily located in Land Use Districts 1 and 39. This area is a mix of resort development and recreational land. During the summer months, Peak 8 hosts “Epic Discovery” with includes attractions: like Alpine Slide, Zipline, Bike Trails, Kids Base Camp, Climbing Wall, Lookout Tower, and other activities. During the winter months, the area is utilized for recreational winter sports with Peak 8 being a main base area with multiple different lifts to access different points of the mountain within the large national forest parcel. Peak 8 is a mixed use area that includes multiple buildings connected by a large promenade with commercial restaurant/retail spaces, residential units, and a transit gondola connecting to the downtown area. Directly adjacent to the land within the Town of Breckenridge is the 3,000 acres of national land managed by the Forest Service and utilized for year-round recreation.

**Adjacent Uses:** Multifamily Residential and Recreational

### **Item History**

Establishing a Master Sign Plan for the Breckenridge Ski Resort has been a goal for many years of both the resort and the Town. Considering the complexity and size of the resort, the creation of a framework to guide both existing and future needs is a large task and staff understands the continued partnership this endeavor will require. This Master Sign Plan includes signage that already exists within the Breckenridge base areas and/or mountain operation that was previously approved by the Town under separate permits to maintain an efficient and safe operation for both summer and winter months. In addition to capturing previously approved permits, this plan’s purpose is to establish a framework to regulate ski resort signage within the Town boundaries. A summary of recent sign permits can be found below:

1. LED/Electronic Sign in the Colorado Superchair Lift Maze (PL-2021-0617)

2. Epic Discovery Summer Signage (PL-2018-0117, PL-2018-0118, and PL-2018-0119)
3. Summer and Winter Ticket Office Signs (PL-2018-0426)
4. Grand Colorado Peak 8 Sign (PL-2019-0498)
5. Kingdom of Breckenridge Sign (PL-2018-0149)
6. Vehicle Display Signs at various locations (PL-2017-0594, PL-2017-0690, PL-2018-0527, PL-2018-0528, PL-2022-0286)

The Breckenridge Ski Area (Peak 8 and Mountain Activities) Master Sign Plan was included in the consent calendar for the October 17, 2022, Planning Commission meeting. At the meeting the Planning Commission called up the Master Sign Plan for review. After discussing the project and asking questions of staff and the applicant, the Planning Commission formally approved the application by a 6-0 vote. A week later the Town Council voted 6-0 to call up the Planning Commission's approval for a de novo hearing scheduled for November 8, 2022.

### **Staff Comments**

This Master Sign Plan (MSP) is designed to be a living document encompassing the current and future signage needs for the winter and summer operations of the mountain. Although this application only covers the mountain operations area and Peak 8 base, subsequent applications will be submitted to add the remaining Peak 7 and Peak 9 base areas.

The Master Sign Plan is structured into four zones of operation: On-Mountain, Snowfront, Arrival Plaza, and Food & Beverage. Each of these zones have different signage needs depending on the activities that occur in the respective areas. Page 6 of the attached Master Sign Plan includes a map showing the locations of each of these four zones. Below is an overview of each area:

1. On-Mountain Zone
  - a. This is the largest zone and the primary recreation area. This zone requires safety and wayfinding signage for both winter and summer operations. A majority of signage in the winter operations is exempt by section 9-15-9 of the Town Code that gives exemptions for any signage required by Local, State, or Federal law. These signs are required by the Colorado Ski Safety Act.
2. Snowfront Zone
  - a. This is the base areas of the mountain (Peak 7, 8, & 9); generally extending from the paved area of the Food & Beverage Zone to the base of the chairlifts. This zone requires safety, wayfinding, and informational signage to guide guests to the correct lift, lift queuing lines, and other rendezvous points such as ski school meeting areas.
3. Arrival Plaza Zone
  - a. This zone encompasses the area directly surrounding the gondola entry/exit points at Peak 7, Peak 8, and the North Gondola Lot in Town. This zone requires wayfinding and informational signage to move people efficiently and safely on the Gondola system.
4. Food & Beverage Zone

- a. This zone is the paved portion of the base areas and the adjacent buildings providing indoor and outdoor dining options. Signage in this zone varies widely as it is the primary location for mountain entry, dining, ticketing, restroom access, and equipment rentals. This zone requires informational and wayfinding signs to guide guests through the busy area. Additional signage for retail and dining will be in this zone.

**Per the Development Code:**

**9-1-19-12A: POLICY 12 (ABSOLUTE) SIGNS:** *All signs shall be in compliance with the provisions of the Breckenridge Sign Code. (Ord. 3, Series 2019).*

*The Sign Code is under Title 9, Chapter 15, of the Town Code.*

**Per the Sign Code:**

**9-15-3: LEGISLATIVE FINDINGS AND PURPOSE:**

- A. *The town council finds and determines as follows:*
  1. *The town is widely known for its high mountain setting, its natural beauty, and its aesthetic charm.*
  2. *The town's economy is tourist-based, and it is essential to the continued economic vitality of the town that the aesthetic appeal of the town be preserved and enhanced.*
  3. *If not properly regulated, signs can create a distraction for motorists and pedestrians, impede traffic circulation, and contribute to accidents.*
  
- B. *The primary purpose of this chapter is to create a legal framework for a comprehensive and balanced system of signage in the town. **These regulations are intended to provide an easy and pleasant communication between people and their environment, and to avoid visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance.***
  
- C. *This chapter is adopted specifically to serve the public interest by:*
  1. *Encouraging signs that maintain and enhance the unique aesthetics, beauty, and charm of the town.*
  2. *Protecting and enhancing the economic viability of the town's commercial areas by attempting to assure the town's continued aesthetic appeal to the residents and the many tourists who annually visit the town.*
  3. ***Promoting the use of aesthetically pleasing sign materials, colors, designs, and types.***
  4. *Encouraging signs that are architecturally and cosmetically compatible with the surrounding area, and that are of a quality design and character that do not detract from the overall appearance of the town.*
  5. *Enhancing traffic and pedestrian safety by attempting to ensure that signage does not distract motorists or pedestrians, or obstruct or otherwise impede traffic circulation.*

6. *Protecting the town's Historic District, including that portion of the town designated by the Secretary of the Interior as a National Historic District, by avoiding damage to the town's sense of history, and by reinforcing the character of the town's Historic District and its visual elements.*
7. *Assisting in wayfinding, and promoting the efficient communication of messages.*
8. *Enhancing the overall property values in the town by discouraging signs that contribute to the visual clutter of the streetscape.*
9. *Implementing the town of Breckenridge Comprehensive Plan, one goal of which is to protect the unique and highly valuable aesthetic character of the town, as well as protecting the public by encouraging traffic safety.*
10. *Providing fair and consistent enforcement of this chapter. (Emphasis Added).*

*D. In adopting this chapter it is the intent of the town to address problems caused by signs wholly apart from any message conveyed by signs, and to protect and promote the town's compelling governmental interests in a way that is unrelated to the topic discussed, the idea or message conveyed, the speaker's viewpoint, or any other content of the message displayed on a sign. It is neither the purpose nor the intent of this chapter to stymie any sign because of the town's disagreement with the message or idea it conveys. (Ord. 3, Series 2019)*

Staff and the Commission finds the mountain resort operations and those of other commercial establishments in Town differ drastically from one another. Signage for the operation of mountain activities needs to display information necessary for safety and wayfinding regardless of weather conditions, visibility, access, and elevation. Further, signage must remain dynamic due to parameters like trail closures, grooming operations, and ski boundaries.

**9-15-9: EXEMPT SIGNS:**

- A. *Government signs;*
- B. *Signs required by Federal, State, or local law;*

Staff and the Commission finds that a majority of signage within the On Mountain and Snowfront zones are required by Federal or State law for the operation of a ski resort which is exempt under section 9-15-9, Exempt Signs. Below are sections of the Colorado State Ski Safety Act that outline the requirements for instructional signage for lift riders, directional signage related to run difficulty, and additional parameters for closed runs, navigation and direction, and information for skier safety. A complete copy of the Colorado Skier Safety Act is attached in the packet.

***The Ski Safety Act, Colorado Revised Statutes, Title 33 Wildlife and Parks and Outdoor Recreation, Article 44 Ski Safety and Liability:***

**33-44-106. Duties of operators - signs.**

1. ***Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers.***

**33-44-107. Duties of ski area operators - signs and notices required for skiers' information.**

1. *Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.*

Beyond signs that are required by law there are many signs that are necessary for the operation of the resort that normally would not be permitted by the Code and therefore will require a variance. Per the Town of Breckenridge Sign Code, The Community Development Director is allowed to grant variances based on specific criteria within section 9-15-13.

**9-15-13: VARIANCES:**

- A. *Variances Authorized; Standards: The Director may grant a variance from any of the regulations contained in this chapter, except the maximum allowed sign area.*
- B. *Approval Standards: The Director may grant a variance authorized by this section if the variance requested is required by special or unique hardship because of:*
  1. *Exceptional narrowness, shallowness, or shape of the premises on which a sign is to be located; or*
  2. *Exceptional topographic conditions or physical features uniquely affecting the premises on which the sign is to be located.*

*The Director may not grant a variance solely because the display of a sign would be more profitable or valuable if the variance were granted.*

The applicant is requesting variances from five (5) design aspects, under sections 9-15-11, 9-15-18 and 9-15-20 of the Town of Breckenridge Sign Code, due to the differences between common operations of commercial establishments in the Town and the physical features and logistics that uniquely affect the daily operations of a mountain recreational area. The five design aspects requiring variances are listed below:

1. Materials
2. Height (Freestanding)
3. Quantity (Freestanding)
4. Temporary and/or Moveable
5. Electronic

**VARIANCE #1: MATERIALS**

The applicant is requesting signage that utilize metal, fabric, and vinyl which do not comply with the material guidelines set forth by 9-15-18A.

**9-15-18: SIGN DESIGN STANDARDS – GENERALLY:**

- a. *Signs must be constructed predominantly of natural materials, such as rough cedar, redwood, pine, or other types of solid wood. Wood or alternative materials that mimic wood grain (e.g., high density urethane) are encouraged. Metal may be used as an accent (maximum of 25 percent of sign area) on wood relief signs.*

The proposed metal (3mm Alupanel) signs include safety and informational signs on and around the lift systems. The Alupanel will be used for the display area on freestanding signs and are also attached to chair lift stanchions.

The proposed fabric and vinyl signs include the temporary signage for safety, lift information and wayfinding. A majority of the signage that would be utilizing these materials are exempt from the Town Code per State and Federal regulations, especially for wayfinding and informational signage in the On-Mountain Zone. In regard to the remaining signs that are not exempt from the Town Code, the materials variance is being requested due to the dynamic nature of the operations and the need to daily or weekly relocate the signage for navigation and safety. The signage would be located in the On-Mountain and Snowfront Zones; examples of this signage are identification and information for lifts, feather flags for ski school or line queuing, and directional sandwich boards signs.

Staff and the Commission finds the material variance requested necessary for the dynamic nature of the signage within the On-Mountain and Snowfront Zones. The use of these materials allows for the easier relocation of signage to allow for nightly grooming which ensures a navigable and safe environment as well as providing flexible signage for safety and mobility of mountain staff.

Further, staff and the Commission believes the material variance should not apply to signage that is permanently affixed to a building/structure and/or signage that is only changed once per season. Examples of this signage are signs changed seasonally from Ski Resort to Epic Adventure (or vice-versa) or directional signage that is wall mounted around the base area.

Staff and the Commission supports the granting of this variance for the use of metal, fabric, and vinyl primarily in the On-Mountain and Snowfront area. Staff and the Commission also supports the granting of this variance for the use of these materials in the Arrival Plaza and Food & Beverage Zones but only for signs that need to remain moveable and temporary like feather flags, directional sandwich board signs, and other wayfinding/informational signage.

#### **VARIANCE #2: HEIGHT (FREESTANDING SIGNS)**

The applicant is requesting a variance from the allowed maximum height of 10 feet for freestanding signs located in the On-Mountain and Snowfront Zones set forth by 9-15-20D3 to a height of 20 feet to accommodate the additional snowpack depth in the winter season.

#### **9-15-20: STANDARDS FOR SPECIFIC TYPES OF SIGNS:**

##### *D. Freestanding Signs:*

- 3. No freestanding sign outside the Conservation District shall exceed ten feet (10') in height. No freestanding sign within the Conservation District shall exceed eight feet (8') in height.*

The applicant requests the additional height to accommodate overhead clearance for snowcats, grooming equipment, and skiers passing underneath a sign with varying snow heights throughout the winter. Further, the additional height allows for visibility over other guests on busy days which provides a more effective display of information.

Staff and the Commission supports the granting of the requested height variance within the On-Mountain and Snowfront Zones because it is necessary for the continued operations of the ski area year-round.

**VARIANCE #3: QUANTITY (FREESTANDING SIGNS)**

The applicant is requesting a variance to allow a maximum of ten (10) freestanding signs in the Snowfront Zone and an unlimited number of signs in the On-Mountain Zone. The Town Code establishes an allowed number of one (1) freestanding sign for each lot or building set forth by 9-15-20D1.

**9-15-20: STANDARDS FOR SPECIFIC TYPES OF SIGNS:**

*D. Freestanding Signs:*

- 1. There shall be no more than one freestanding sign for each lot or building, except as otherwise provided in this chapter.*

The applicant is anticipating the need for ten (10) freestanding signs in the Snowfront Zone to display safety, directional, and resort information to visitors efficiently and effectively. The existing LED/Electronic sign showing lift/run conditions, trail map signage, and other permanently installed signage would be included in the ten (10) freestanding signs.

Staff and the Commission note the existing count of freestanding signs in the Snowfront Zone is eight (8). Staff and the Commission support this variance and find adding up to two additional freestanding signs may be necessary to provide an efficient and effective distribution of information across the Snowfront Zone.

Further, the applicant is requesting a second variance for an unlimited number of freestanding signs within the On-Mountain Zone. Although a majority of the signage within this zone is exempt per 9-15-9 of Town Code, the variance is being requested to ensure the flexibility to respond to changes in the high alpine environment and provide the highest level of safety on the mountain.

Staff and the Commission find the requested variance for unlimited freestanding signs in the On-Mountain Zone to be necessary for safe operation in both winter and summer seasons and supports the granting of this variance for freestanding signs.

Staff and the Commission added a condition of approval that all proposed freestanding signs require a Class D minor permit and Town approval prior to installation. With that, staff and the Commission support granting the requested variance for ten (10) freestanding signs in the Snowfront Zone and an unlimited number of freestanding signs in the On-Mountain Zone.

**VARIANCE #4: TEMPORARY AND/OR MOVEABLE DIRECTIONAL**

The applicant is requesting a variance to allow temporary and/or moveable signage primarily for improving the wayfinding and directional signage for guests. Although a majority of the temporary and/or moveable signage is exempt per 9-15-9 of the Town Code, this variance is more specifically

for the signage within the Arrival Plaza, Food & Beverage, and Snowfront Zones. This type of signage is regulated by 9-15-11 of the Town Code and is prohibited.

**9-15-11: PROHIBITED SIGNS:** *The following signs and types of signs are inconsistent with the purposes and standards of this chapter and, as such, are prohibited within the town without reference to their content:*

- C. Temporary signs, except as specifically authorized by this chapter;*
- K. Off-premises commercial message signs, except as provided in subsection 9-15-17C of this chapter;*
- O. Sandwich board signs;*
- T. Banner signs (unless authorized by a permit issued pursuant to title 4, chapter 13 of this Code or as authorized pursuant to section 11-8-7 of this Code);*

Per the Town Code, temporary and/or moveable signage is not allowed; this includes sandwich board signs, feather flags, and banner signs. The applicant is requesting this variance because of the ever changing nature of the mountain and the necessity to have efficient and effective wayfinding and directional signage. Further, the use of temporary and/or moveable signage would allow the removal of unnecessary signage from areas of operation when the mountain shifts from winter to summer activities. Examples of this type of signage include feather flags for line queuing, sandwich boards for guiding guests on and off lifts, and banner signs informing guests of more difficult terrain ahead.

Staff and the Commission find the temporary and/or moveable signs to provide the required flexibility to account for the fluctuations in visitors, resort activities, snow clearing, and weather conditions while still providing an efficient and effective wayfinding and informational experience for guests.

Staff and the Commission has one concern in regard to the retail/commercial advertising signage that will also occur with the Arrival Plaza, Food & Beverage, and Snowfront Zones. Staff and the Commission want to be clear that this variance does not apply to the advertising signage within the base areas; this includes, but is not limited to: promotional deals, dining menus, drink menus, etc. Only directional, wayfinding, informational, and safety signage is eligible to utilize temporary and/or moveable signage under this variance.

Considering the unique year-round operational requirements of the Breckenridge Ski Area, Staff and the Commission support granting the variance for temporary and/or moveable signage depicted in the Master Sign Plan to provide wayfinding, directional, and informational signs directly relating to the safe operation of the mountain activities.

#### **VARIANCE #5: ELECTRONIC**

The applicant is requesting a variance for LED/Electronic signage to be allowed strictly for informational and safety purposes, specifically by informing guests of lift and terrain status. With this application, there are two proposed LED signs located in the Snowfront Zone (F9 and F10 on Inventory Map). The applicant says, “Electronic signs shall have automatic dimmer software or solar sensors to control brightness for low-light viewing. The intensity of the light source shall not

produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety, or welfare.” A Condition of Approval has been added that all Electronic/LED signs will be operated on a timer and automatically turn off outside of ski resort operating hours.

Electronic signage or signage that utilizes back lit illumination are not allowed per the Code sections below:

**9-15-11: PROHIBITED SIGNS:**

*H. Electronic message signs;*

**9-15-18: SIGN DESIGN STANDARDS – GENERALLY:**

*C. Lighting Standards:*

*4. Internally Lit Signs: No sign that is placed on the exterior of a building or on the interior of the building within five feet (5') of a window shall be internally lit.*

The Town previously approved an LED Sign (PL-2021-0617) with a variance for informational and safety purposes, as previously discussed. Irrespective of the content of the sign, staff and the Commission finds the electronic construction of the sign allows increased visibility during extreme weather conditions, which is essential for providing updated skier information. The improved visibility of the sign during extreme weather conditions enhances the guest experience and streamlines the operations over the property, allowing guest services and information staff of the resort to be available to assist with more pressing operational items. For these reasons, staff and the Commission support continuing to grant a variance for LED/Electronic signs under this Master Sign Plan.

**9-1-17-3: Point Analysis:** As Policy 12, Signs, is an absolute policy and there is no related relative policy, no negative points were assigned in association with the variance request. If the Town Council supports the requested variances from sections 9-15-11, 9-15-18 and 9-15-20 of the Town of Breckenridge Sign Code, the proposal would pass the point analysis with a passing score of zero (0) points.

**Staff and Planning Commission Recommendation**

The Planning Department and Planning Commission recommend the Town Council approve the Breckenridge Ski Area (Peak 8 and Mountain Activities) Master Sign Plan and Variance Request (PL-2022-0439) showing a passing score of zero (0) points along with the prepared Decision Document.

October 12, 2022

Clif Cross, Planner I  
Community Development  
Town of Breckenridge  
150 Ski Hill Road  
Breckenridge, CO 80424

**Re: Breck Ski Area Master Sign Plan | Application Narrative**

**Project Team**

Applicant

Vail Resorts, Inc.  
Contact: Jim Testin  
970.496-3277  
jptestin@vailresorts.com

Applicant's Representative

Norris Design  
Contact: Elena Scott  
409 E Main St., Suite 207  
Frisco, CO 80443  
970.368.7068  
escott@norris-design.com

**Application Summary**

Norris Design, on behalf of Vail Resorts, is pleased to submit this application for the Breck Ski Area Master Sign Plan (MSP). The MSP encompasses all Vail Resorts property within Town of Breckenridge limits at Peaks 7, 8, and 9, the primary mountain activities areas at the resort. Signage is a crucial component of mountain safety, operations and activities throughout the resort and is especially important for providing clear and consistent information for visitors, residents, and resort staff. This Class C development application focuses on the Peak 8 base area as it is a good example of the sign types and purposes that occur at the other base areas. Peaks 7 and 9 will be added to the final MSP through a separate Class C application process.

The proposed MSP will serve as the primary document regulating property signage and will provide an organizational framework that is tailored to the resort and the activities that occur throughout various seasons. This MSP is intended to capture signage not previously approved or permitted through other sign approval processes. For additional information regarding previously permitted signs, please see more information below. The regulations contained in the MSP are primarily focused on safety, information, and wayfinding while accounting for the unique needs of a mountain resort. Any signage containing commercial information (business names, logos, etc.) are related to sponsored resort activities (i.e., slalom course, terrain park, and special events) or are located within a gondola or chair lift and will be viewed only by ski resort patrons. These are not intended for general commercial advertising. Any deviations from the Town code are to promote guest safety, accommodate safe and efficient resort operations and to address resort-specific situations such as signage at high elevations anticipating snow elevations in the winter. Further detail is provided in the Variances section below.

**Previously Approved / Permitted Signs**

Many signs at the Breck Ski Area were previously approved and permitted by the Town and have been included as part of this MSP, including:

- LED/Electronic Sign in the Colorado Superchair Lift (PL-2021-0617)
- Epic Discovery Summer Signage (PL-2018-0117, PL-2018-0118, and PL-2018-0119)
- Summer and Winter Ticket Office Signs (PL-2018-0426)
- Grand Colorado Peak 8 Signs (PL-2019-0498)
- Vehicle Display Signs at various locations (PL-2017-0594, PL-2017-0690, PL-2018-0527, PL-2018-0528, PL-2022-0286)

We anticipate that this MSP will be a living document, permitting existing resort signage, anticipating future signage needs, and guiding design and implementation. While this document is meant to be inclusive, there will be some signs that may be missed as part of this plan due to the ever-changing needs of the operator, outside influences (e.g. COVID 19), staff and guests. Additional signs not contemplated may be incidental and can be addressed per Zone as described in the MSP. Both the Town and applicant understand that capturing all signage may not be feasible, but that this MSP sets the framework, vision and standards for the future.

### **Master Sign Plan Overview**

The proposed MSP is structured around four Zones – On-Mountain, Snowfront, Arrival Plaza, and Food & Beverage – as each of these areas have different signage needs depending on the activities that occur in each area. Regulations are further organized under five sign categories with specific regulations proposed in each category. Refer to the attached Permitted Signage Table for a summary of sign categories and specific allowances for each zone.

The signage allowances default to the Town Code wherever possible, and where differing regulations are needed, only the minimum necessary amount (quantity, size, height, etc.) of signage is proposed.

#### **On-Mountain Zone**

The On-Mountain Zone is the largest zone, comprising the entirety of the ski runs along the various peaks. Zone activity is characterized by the fast-moving activities of skiing and snowboarding in the winter, and hiking, biking and other adventures during the summer. To correspond to these activities, moveable safety and wayfinding signage and fencing is largely deployed in this zone, allowing for the grooming of the mountains in the evenings and removal of signage in the summer months when it is not needed. Due to the nature of skiing and snowboarding, safety signage is highly visible and easy to interpret at high speeds. Most of this zone is located within US Forest Service (USFS) land and not within Town limits. Many of the signs in the On-Mountain Zone are exempt from Town code as they are required and/or approved by State and Federal regulations, such as the USFS and Skier Safety Act. More information regarding exempt signs is included below.

#### **Snowfront Zone**

The Snowfront Zone comprises the base areas of the mountain, generally extending from the paved area to the chairlifts. As the entry point to mountain activities, this area provides access to ski lifts, meeting places for ski and ride schools, lift queuing, and rendezvous points for skiers and riders. Due to the high volume of users within the area and relatively flat terrain, slow speeds are encouraged to mitigate conflicts between queuing riders and those moving about the area.

The signage in this area responds to safety objectives, with an abundance of movable fencing delineating queuing areas and separate meeting places for skiing. The Snowfront Zone features largely moveable signage and fencing in order to allow for snow grooming and changing conditions. The primary objective of signage in this area is wayfinding and the delivery of information.

### Arrival Plaza Zone

The Arrival Plaza Zone consists of the spaces directly surrounding gondola entry points at Peaks 7 and 8 and lift / adjacent buildings at Peak 9. This zone is largely characterized by queuing and wayfinding space, with the goal to move people efficiently and safely from the access point towards a destination. Temporary queue stanchions and belts may be employed to allow seamless transition and connectivity from ski runs to transportation facilities and from the entry to nearby restaurants and services. While these measures aren't signage, they are indicative of the easily implemented solutions to direct guests and enhance safety. Most signage in this zone is easily moveable to allow for efficient reconfiguration driven by fluctuations in number of visitors and daily activities.

Signage in this zone is directed towards wayfinding, highlighting destinations consistently needed by guests arriving such as restroom locations, ticket windows, lift access and food and beverage. Freestanding wayfinding signage can be found in the form of maps, wayfinding and directionals with wall-attached signage where feasible and visible to guests arriving at the base area or existing the gondola and adjacent structures.

### Food & Beverage Zone

The Food & Beverage Zone is located within the paved portion of the base area, adjacent to buildings providing indoor and outdoor dining options. This zone is characterized by storefronts, outdoor dining areas, wayfinding signage, and food carts. This zone experiences a high level of activity as the primary location for mountain entry, dining, ticketing, restroom access and some equipment rentals.

Signage in this zone varies widely, including storefront, blade, freestanding, wall and A-frame signage. Signage corresponds to its relevance to the user, with large freestanding wayfinding signage positioned prominently, and smaller incidental A-frame signage placed along promenades adjacent to the various retail offerings. Sandwich Board signs within this zone are to be used strictly for wayfinding, direction, and information, and not for advertising. Signage does not impede emergency access and is positioned instinctively draw users toward activity hubs.

### Exempt Signage

Many of the safety-related and informational signs within the Breck MSP are required by the Colorado Ski Safety Act (C.R.S. Title 33, Article 44) and/or United States Forest Service regulations, and therefore, are listed as "exempt" in the MSP. Most of these signs are located on or around the chair lifts, particularly at the loading and unloading areas including signs such as "Prepare to Unload," "Keep Ski Tips Up," and "Check for Loose Clothing and Equipment."

Some temporary signage is listed as exempt under the Ski Safety Act to inform skiers and riders of closed terrain, grooming operations, ski area boundaries, or other on-mountain hazards or conditions. Often these types of signs are attached to ropes or temporary mesh fencing. This type of signage is also temporary due to variable trail and terrain conditions and to allow for removal during the off-season. Additional examples and details are provided in the MSP document.

### Advertising

Most of the mountain resort resides on United States Forest Service (USFS) land and as such, advertising is subject to certain USFS regulation. Temporary advertising and commercial messages may be displayed during designated ski and snowboarding racecourses, terrain parks, and competition events. The USFS also allows advertising inside buildings and other enclosed interior spaces such as gondola cabins and vehicles. Chairlift restraining bars may contain advertising so long as the advertisement does not exceed 33 percent of the surface area facing passengers. Any commercial message is strictly intended to be viewed by ski resort visitors and will not be made visible to the general

public. Due to the nature of ski terrain crossing over different jurisdictions, this signage may temporarily be placed on both USFS and private land. There is no permanent advertising signage proposed in this Master Sign Plan.

## **VariANCES**

The Breckenridge MSP includes signs which will require variances from the standard Breckenridge Sign Code, Title 8 Chapter 2 of the Breckenridge Town Code. These requested variances are sought due to the differences between mountain resort operations and those of other commercial establishments in Town. Generally, signage for on-mountain operations includes information necessary for safety and wayfinding, due to regularly changing weather conditions, visibility, access and elevation. There is also the need for temporary and movable signs for skier safety and wayfinding, trail closures, grooming operations, ski area boundaries, and other on-mountain conditions.

Requested variances to signage include:

### 1. Materials

Materials proposed in this Master Sign Plan package include the allowance for metal, fabric, and vinyl. Proposed metal signs include safety and informational signs on or around the gondola and chair lifts and consist of 3mm Alupanel. These panels are used for the display area on freestanding signs and are also attached to chair lift stanchions.

Fabric and vinyl signs are to be used as temporary signs for events and wayfinding. Many of the signs that utilize these materials are exempt from the Town code per State and Federal regulations, but for the purpose of consistency across the mountain resort these materials are included in this variance request. The purpose for this variance request is to allow for efficient and safe movement of signs that are seasonal in nature. As previously stated, some signs need to be relocated on a daily or weekly basis, depending on grooming requirements. Seasonally, these signs are necessary for pedestrian navigation and skier safety, both on-mountain and in the base area. Examples of these signs are, but not limited to, identification of more intense terrain or to provide clarity when multiple lift destinations are in close proximity. The proposed materials will allow for efficient movement of these signs to respond to changing conditions and activities, light weight for staff mobility and safety, and ability to remove outside of ski season.

Wood is proposed on many of the existing and proposed signs as a base and frame. This allows for integration with the natural surroundings, Breckenridge aesthetic and local vegetation as well as to preserve the mountain ambiance and nostalgic elements of the ski resort.

### 2. Height (Freestanding Signs)

The applicant requests a variance from the allowed maximum height of 10 feet to a height of 20 feet and is necessary to accommodate snowpack depth, provide sufficient overhead clearance, and maintain sufficient visibility in extreme weather conditions which often occur at higher elevations. On mountain signage typically accommodates four feet (4') of snow and twelve feet, eight inches (12'-8") of height for a combined height of eighteen feet, 8 inches (18'-8"). The snow accommodation area is to be able to sustain an adequate snow base beneath signage and is for safety in the event any rocks or other hazards exist at grade. The additional sign height is to accommodate overhead clearance for snowcats, grooming equipment and skiers when passing underneath a sign on varying snow heights as the season progresses. Trail signs may have two posts with information connecting to each, creating a pass-through area.

An increased allowed sign height, when compared to other locations in Town (such as the Historic District), is justified due to the differences in on-mountain operations and weather conditions on the mountain. In Town, there is a much higher concentration of businesses and signage, and sign standards need to be adequate but not overbearing. On the mountain, there are fewer signs overall, and many are used for different purposes than in other parts of Breckenridge. The proposed freestanding signs are used for wayfinding, information, and safety and not for advertising. Furthermore,

as more unpredictable and extreme weather exist on the mountain, increased height is necessary to maintain proper visibility and thereby maximize safety. The sign heights proposed are consistent with others in Town that require vehicles and other equipment to pass through.

In addition to above, the perceived height of signs in the Historic District compared to on-mountain signs is different. Due to the concentration of structures, lighting, and other signage, taller signs would have a larger perceived impact when compared to an on-mountain sign.

### 3. Quantity (Freestanding Signs)

A variance is requested to allow a maximum of ten (10) freestanding signs in the Snowfront Zone and an unlimited number of signs in the On-Mountain Zone. The applicant anticipates the need for ten freestanding signs in the Snowfront Zone to display safety, directional, and resort information to visitors efficiently and effectively, particularly during busy ski days. A sufficient number of signs on the mountain is necessary to maintain visibility and legibility during weather events where overall visibility is lowered, thereby allowing opportunity to continue communicating important safety information to patrons in spite of extreme weather conditions. Freestanding signs within the On-Mountain Zone are subject to change based on changes to trail routes, terrain, vegetation, chair lifts, and other factors. This flexibility is needed to adequately respond to these factors to maintain the highest level of safety on the mountain. A majority of On-Mountain Zone signs are exempt (e.g. Trail Signs) per the Ski Safety Act.

### 4. Temporary and/or Movable Directional

A variance to allow temporary or movable signage is requested for several reasons. First and foremost, the variance will improve and enhance the safety of ski resort patrons, many of whom are visitors and unfamiliar with the mountain resort. Often, temporary signs are used to provide wayfinding and direction to other parts of the mountain. Due to the changing nature of the mountain, weather, and snow patterns, signs often need to move or be adjusted based on snow conditions. If signs are non-movable, it could pose a safety hazard to skiers. Note that temporary signs not used for wayfinding, directional, and informational purposes will not be allowed in the Food & Beverage Zone.

Temporary signage is also often used for safety to mark locations for specific events or special portions of the mountain. These signs are typically displayed as banners but may also be attached to rope or temporary fencing. For example, the on-mountain terrain park and slalom course is typically marked with temporary signage to provide enough warning so unskilled skiers do not accidentally venture into unmarked terrain they are unable to handle. As previously stated, movable signage is a necessity on-mountain due to snow operations, grooming, and to mark closed trails and ski area boundaries.

Finally, temporary signage is beneficial for the seasonality of ski resort operations. Temporary or moveable signs can be removed during summer months and allow only those signs that are necessary for summer activities. While some temporary directional or wayfinding signs may be needed at the base area for summer activities, on-mountain ski-related temporary signage can be removed and stored.

Proposed temporary sign types include feather flags, sandwich boards, and banners. As stated, banners may be displayed on the slopes to inform skiers and riders of trail closures, obstacles, ski area boundaries, or other hazards. Sandwich boards are displayed primarily for direction and wayfinding purposes and are easily moveable to account for fluctuations in visitors and resort activities. Feather flags serve a similar purpose, with the ability to be secured to packed snow. At ten feet in height, feather flags are tall enough to be viewed over crowds of people, allowing for visibility during busy ski days. More importantly, the fabric material withstands wind easier than a rigid material, ensuring these signs stay secured to the ground during windy conditions, and do not pose a safety risk for resort visitors and staff.

## 5. Electronic

The proposed electronic signs are intended strictly for informational and safety purposes, specifically by informing ski patrons of lift and terrain status. There will be no flashing or moving images, and there will be no advertising on these signs. The requested electronic signs are simply a more efficient and effective method to communicate ski run status to skiers and riders. These signs will be operated on a timer and will be automatically shut off outside of operating hours. Furthermore, the following restriction has been placed in the MSP document: “Electronic signs shall have automatic dimmer software or solar sensors to control brightness for low-light viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.”

We look forward to our continued collaboration with the Town of Breckenridge throughout the review process. Please do not hesitate to contact us if you have any questions or further information is needed. We can be reached at [escott@norris-design.com](mailto:escott@norris-design.com) or 970-485-4478 or [trobbs@norris-design.com](mailto:trobbs@norris-design.com) or 720-741-1409.

Sincerely,

Norris Design



Elena Scott, LEED AP  
Principal



# Breck ski area master sign plan



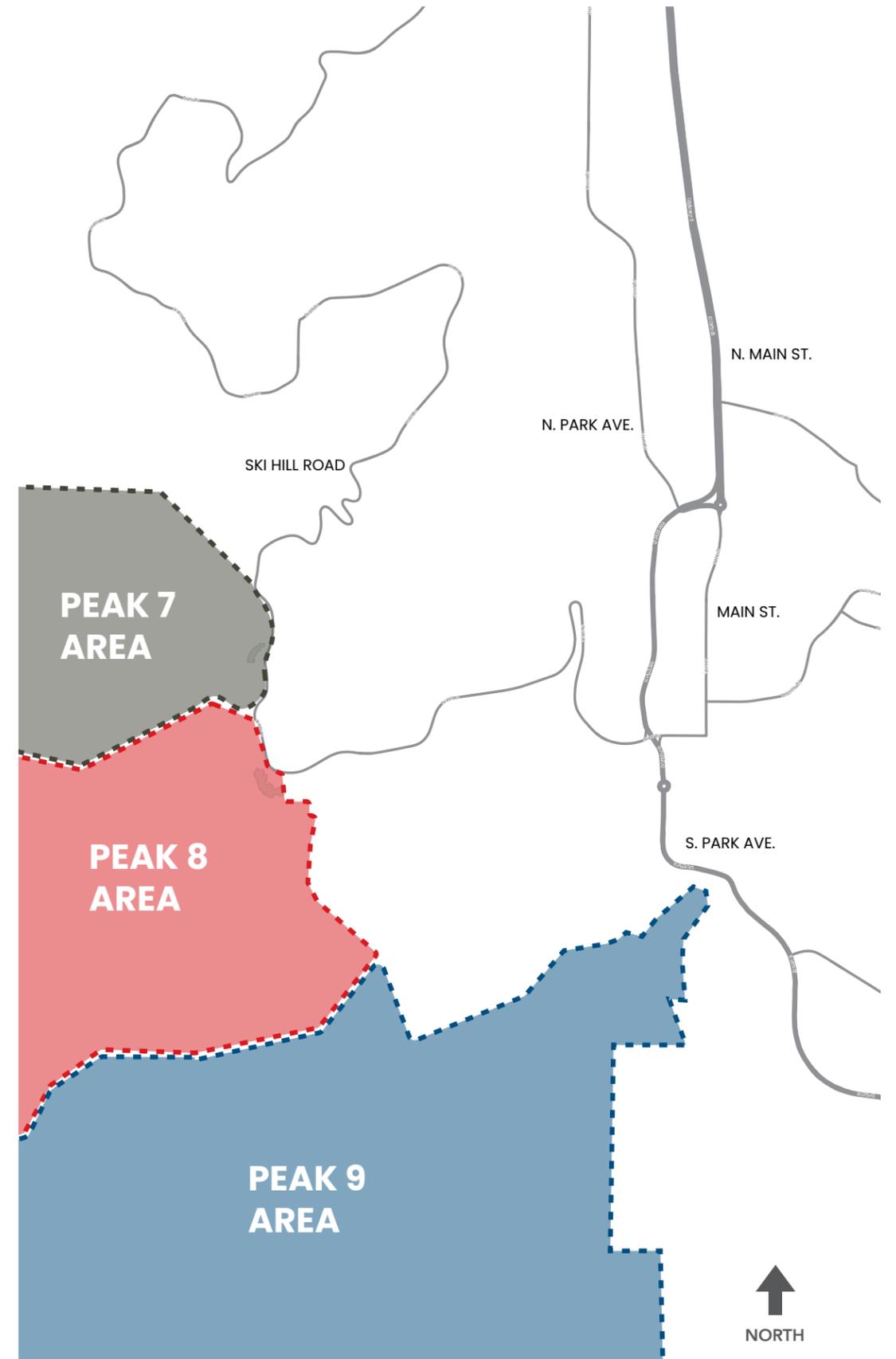
**NORRIS DESIGN**  
Planning | Landscape Architecture | Branding



# Table of Contents

• INTRODUCTION	4-5
• INVENTORY ZONE MAP	6
• PERMITTED SIGN CHARTS	7-9
• SIGN DETAILS	10-24
• EXEMPT SIGNS	25-33
• BRAND STANDARDS	34-35

## VICINITY MAP



# Introduction

## INTRODUCTION

The Breckenridge Ski Area Master Sign Plan ("MSP") encompasses all Vail Resorts property within Town limits at Peaks 7, 8 and 9. The three Base Areas are the primary destinations at the Resort and include a majority of the signage. Signage is generally used to provide information, direct wayfinding and present regulatory data to Resort guests.

A Master Sign Plan is a planning document that identifies signage types and establishes standards for a particular area or group of areas. A Master Sign Plan also includes the number, size, description, and location (but not the content) of all signs located, or to be located, in or upon such property. A typical Town of Breckenridge Master Sign Plan calculates allowable sign area based on linear building frontage. This approach is applicable to building and lift terminal mounted signage, but not to other forms of signage needed at the Resort. A majority of the signage at the Resort is geared towards recreation, operations, safety and user needs. To that end, the Master Sign Plan includes corresponding variance requests for all signage located within the Town Limits that is unique to Breckenridge Ski Area. Also included in this document are signs that are exempt, as they are required by other state and federal regulations.

All regulations not specified herein shall conform to the Town of Breckenridge Sign Code as applicable. In the event of a conflict, the provisions of this Master Sign Plan shall control.

## SIGNAGE ZONES

Signage Zones have been created based on different geographic areas of the mountain and Base Areas, and the general uses and operations within each of these areas. The Signage Zones define areas by which specific sign types may be located and utilized. **There are four (4) Signage Zones proposed:**

-  Snowfront
-  On Mountain
-  Food and Beverage
-  Arrival Plaza

Each zone has different signage needs depending on the activities that occur in each area. Regulations are further organized under five sign categories with specific regulations proposed in each category. The signage allowances default to the Town Code wherever possible, and where differing regulations are needed, only the minimum necessary amount (quantity, size, height, etc.) of signage is proposed.

# Introduction



## SNOWFRONT ZONE

The Snowfront Zone comprises the Base Areas of the mountain, generally extending from the paved area to the chairlifts. As the entry point to mountain activities, this area provides access to chair lifts, meeting places for ski and ride schools, lift queuing, and rendezvous points for skiers and riders. Due to the high volume of users within the area and relatively flat terrain, slow speeds are encouraged to mitigate conflicts between queuing riders and those moving about the area.

The signage in this area responds to safety objectives, with an abundance of movable fencing delineating queuing areas and separate meeting places for skiing. The Snowfront Zone features largely moveable signage and fencing in order to allow for snow grooming and changing conditions. The primary objective of signage in this area is wayfinding and the delivery of information.



## FOOD & BEVERAGE ZONE

The Food & Beverage Zone is located within the paved portion of the base area, adjacent to buildings providing indoor and outdoor dining options. This zone is characterized by storefronts, outdoor dining areas, wayfinding signage, and food carts. This zone experiences a high level of activity as the primary location for mountain entry, dining, ticketing, restroom access and some equipment rentals.

Signage in this zone varies widely, including storefront, blade, freestanding, wall and vendor cart signage. Signage corresponds to its relevance to the user, with large freestanding wayfinding signage positioned prominently, and smaller incidental Signage does not impede emergency access and is positioned instinctively draw users toward activity hubs.



## ON-MOUNTAIN ZONE

The On-Mountain Zone is the largest zone, comprising the entirety of the ski runs along the various peaks. Zone activity is characterized by the fast-moving activities of skiing and snowboarding in the winter, and hiking, biking and other adventures during the summer. To correspond to these activities, moveable safety and wayfinding signage and fencing is largely deployed in this zone, allowing for the grooming of the mountains in the evenings and removal of signage in the summer months when it is not needed. Due to the nature of skiing and snowboarding, safety signage is highly visible and easy to interpret at high speeds. Most of this zone is located within US Forest Service (USFS) land and not within Town limits. Many of the signs in the On-Mountain Zone are exempt from Town code as they are required and/or approved by State and Federal regulations, such as the USFS and Skier Safety Act. More information regarding exempt signage is included below.



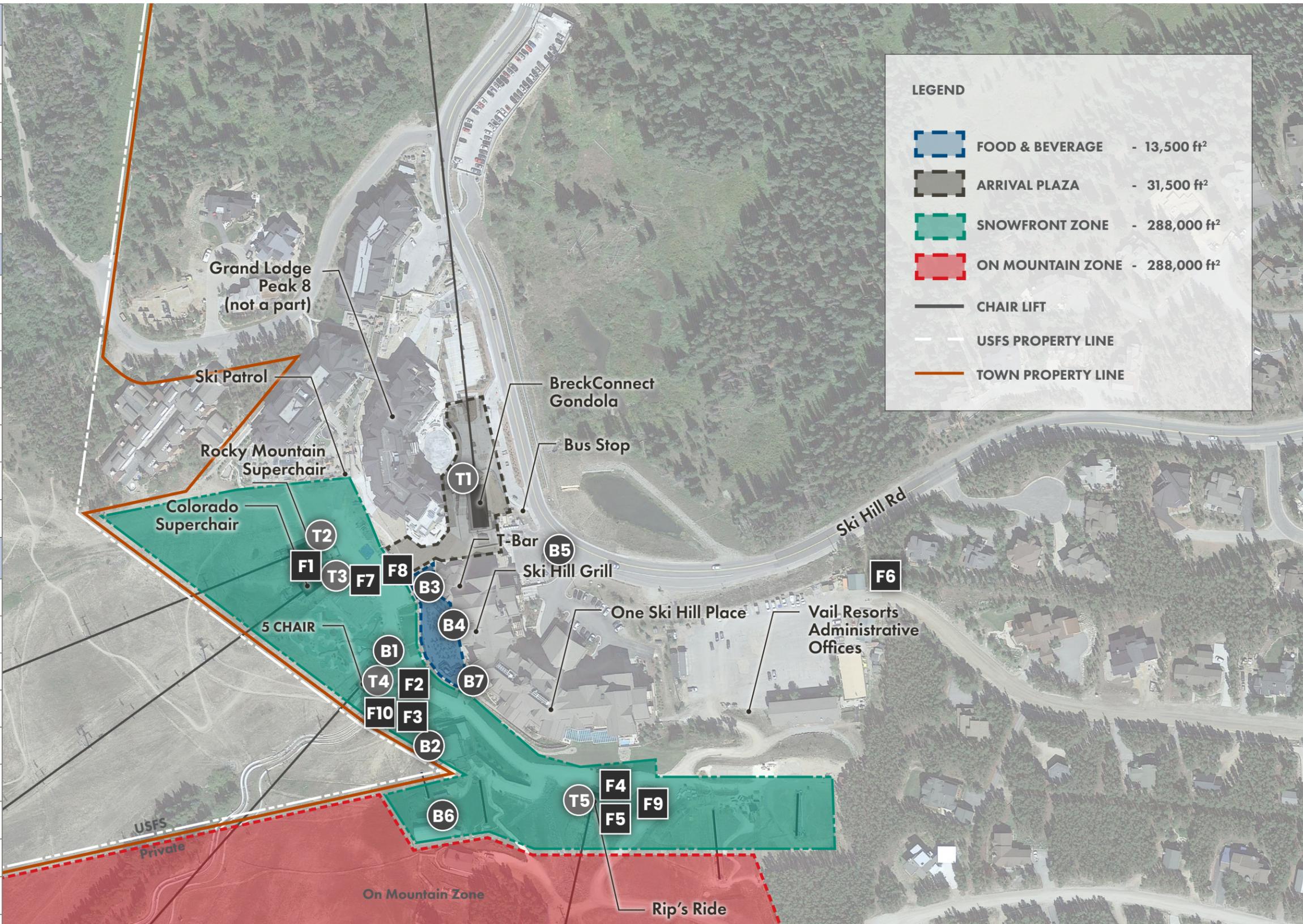
## ARRIVAL PLAZA ZONE

The Arrival Plaza Zone consists of the spaces directly surrounding gondola entry points at Peaks 7 and 8 and lift / adjacent buildings at Peak 9. This zone is largely characterized by queuing and wayfinding space, with the goal to move people efficiently and safely from the access point towards a destination. Temporary queue stanchions and belts may be employed to allow seamless transition and connectivity from ski runs to transportation facilities and from the entry to nearby restaurants and services. While these measures aren't signage, they are indicative of the easily implemented solutions to direct guests and enhance safety. Most signage in this zone is easily moveable to allow for efficient reconfiguration driven by fluctuations in number of visitors and daily activities.

Signage in this zone is directed towards wayfinding, highlighting destinations consistently needed by guests arriving such as restroom locations, ticket windows, lift access and food and beverage. Freestanding wayfinding signage can be found in the form of maps, wayfinding and directionals with wall-attached signage where feasible and visible to guests arriving at the base area or existing the gondola and adjacent structures.

# Inventory Zone Map Peak 8

Terminal Sign Key	
T1	Breck Connect Gondola
T2	Rocky Mountain Super Chair
T3	Colorado Super Chair
T4	5 Chair
T5	Rip's Ride
Building/Wall Sign Key	
B1	Guest Services/ Future Restroom
B2	Kids Castle
B3	T-Bar
B4	Ski Hill Grill
B5	One Ski Hill Monument
B6	Gold Runner Coaster (already permitted)
B7	One Ski Hill Place Lounge
Freestanding Signs	
F1	Lift Regulatory Sign
F2	Trail Map
F3	Lift Regulatory Sign
F4	Trail Map
F5	Lift Regulatory sign
F6	Admin Site Entry Sign
F7	LED Electronic Sign (already permitted)
F8	Gateway Sign (already permitted)
F9	Proposed LED Sign
F10	Proposed 5 Chair -LED Sign



# Permitted Sign Area Peak 8

<b>PEAK 8 BASE</b>		
(Applies to Arrival Plaza, Food and Beverage, Snowfront Zones)		
Buildings /structures	Frontage (public facing linear footage)	Allowed signage area (square feet) based on 66% of linear frontage
<b>Chairlifts / Terminals</b>		
T1: Gondola	144 ft	95 square feet
T2: Rocky Mountain Superchair	120 ft	80 square feet
T3: Colorado Superchair	120 ft	80 square feet
T4: 5 Chair	120 ft	80 square feet
T5: Rip's Ride - Bottom Terminal	120 ft	80 square feet
Rip's Ride - Top Terminal	108 ft	64.8 square feet
Snowflake - Bottom Terminal	120 ft	80 square feet
Snowflake - Top Terminal	108 ft	64.8 square feet
Sub-total		624.6 square feet
<b>Buildings</b>		
B1: One Ski Hill Place	800 ft	533 square feet
B2: Information Center/ Guest Services	60 ft	40 square feet
B3: Gold Runner Coaster	47 ft	28 square feet
Sub-total		601 square feet
<b>Grand Total</b>		<b>1225.6 square feet</b>

# Proposed Sign Area Peak 8

Key	Location	Width in Ft.	Length in Ft.	Sign Face Sq. Ft.
	One Ski Hill Place			
B5	One Ski Hill Place Monument	9	15	135
B3	T-Bar Sign	6	9	54
B4	Ski Hill Grill	3	15.5	46.5
B7	One Ski Hill Place Lounge (future)			
	<b>Total One Ski Hill Place</b>			<b>235.5</b>
	Chair Lifts / Gondola Terminals			
T2	Rocky Mountain Super Chair	2	30	60
T3	Colorado Super Chair	2	30	60
T4	5 Chair	2	30	60
T5	Rip's Ride	2	30	60
T1	Breck Connect Gondola	2	35	70
	<b>Total Chair Lifts</b>			<b>310</b>
F1	Freestanding Trail Maps			
F2	Trail Map (Existing at Info Center)	7	11	77
F3	New Trail Map (Chair 5)	7	11	77
F4	New Trail Map (Rip's Ride)	7	11	77
	<b>Total Trail Maps</b>			<b>231</b>

	Location	Width in Ft.	Length in Ft.	Sign Face Sq. Ft.
F8	<b>Gateway Sign (already permitted)</b>			<b>89.6</b>
	LED Signs			
F7	LED Sign Peak 8 (already permitted)			26.5
F9	Proposed LED Sign (future)			26.5
	<b>Total LED</b>			<b>53</b>
	Food and Beverage Zone			
	Restaurant Carts (Outbar, Parksides)			40 sf
	Tray Station			30 sf
	<b>Total Food and Beverage Zone</b>			<b>70 sf</b>
	Other Structures			
B1	Guest Services (future restroom)	2	20	40
B6	Coaster (already permitted)			31.5
F6	Admin Site (2 faces)	3	2	12
	<b>Total Other Structures</b>			<b>83.5</b>
	<b>GRAND TOTAL</b>			<b>1,052.60</b>

B = Building/Wall Signage

F = Freestanding

T = Terminal Mounted

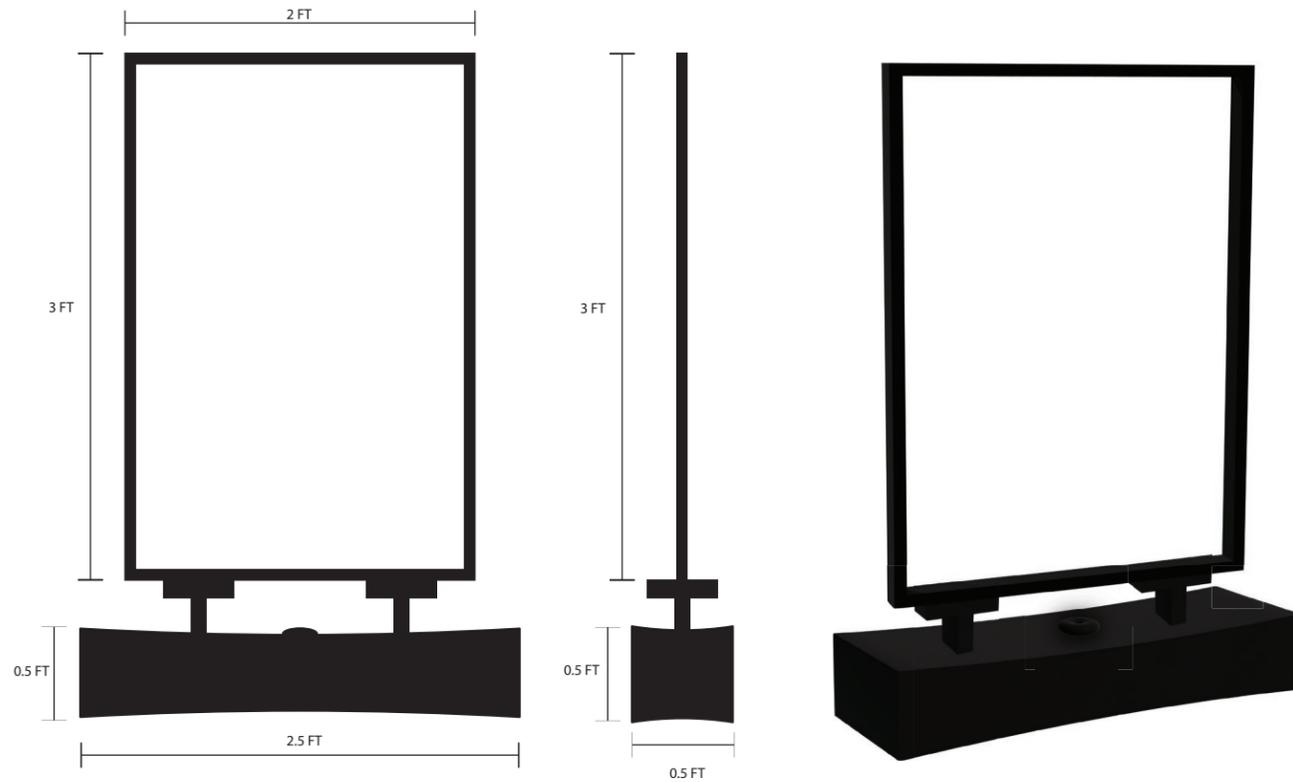
# Permitted Signs

On Mountain Zone					
	Electronic	Freestanding	Temporary	Building/Wall	Window
Maximum Number	N/A	No maximum	No maximum	No maximum	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Sign Area	N/A	80 sq. ft. per sign	No individual banners may exceed 32 sq. ft. No individual sandwich board may exceed 6 sq. ft. No individual feather flag may exceed 30 sq. ft.	Area equal to 66% of the length of the building or tenant frontage	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Height	N/A	20 feet	Banners: Limited to the height of the structure Sandwich Boards: 4 feet Feather Flags: 10 feet	No higher than the eave line or parapet wall	In accordance with Sec. 9-15-15D. of the Town Code
Illumination	N/A	No illumination allowed	No illumination allowed	In accordance with Sec. 9-15-18C. of the Town Code	No illumination allowed
Snowfront Zone					
Maximum Number	Three	Ten	No maximum	N/A	N/A
Maximum Sign Area	30 sq. ft. per sign	Varies by type, see sign details	No individual banners may exceed 32 sq. ft. No individual sandwich board may exceed 6 sq. ft. No individual feather flag may exceed 30 sq. ft.	N/A	N/A
Maximum Height	18 feet	20 feet	Banners: Limited to the height of the structure Sandwich Boards: 4 feet Feather Flags: 10 feet	N/A	N/A
Illumination	See note below	In accordance with Sec. 9-15-18C. of the Town Code	No illumination allowed	N/A	N/A
Food & Beverage Zone					
Maximum Number	N/A	N/A	15 total (including Arrival Plaza Zone)	No maximum	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Sign Area	N/A	N/A	N/A	Area equal to 66% of the length of the building or tenant frontage	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Height	N/A	N/A	N/A	No higher than the eave line or parapet wall	In accordance with Sec. 9-15-15D. of the Town Code
Illumination	N/A	N/A	N/A	In accordance with Sec. 9-15-18C. of the Town Code	No illumination allowed
Arrival Plaza Zone					
Maximum Number	N/A	N/A	15 total (including Food and Beverage Zone)	No maximum	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Sign Area	N/A	N/A	No individual banners may exceed 32 sq. ft. No individual sandwich board may exceed 6 sq. ft. No individual feather flag may exceed 30 sq. ft.	Area equal to 66% of the length of the building or tenant frontage	In accordance with Sec. 9-15-15D. of the Town Code
Maximum Height	N/A	N/A	Banners: Limited to the height of the structure Sandwich Boards: 4 feet Feather Flags: 10 feet	No higher than the eave line or parapet wall	In accordance with Sec. 9-15-15D. of the Town Code
Illumination	N/A	N/A	No illumination allowed	In accordance with Sec. 9-15-18C. of the Town Code	No illumination allowed

Electronic signs shall have automatic dimmer software or solar sensors to control brightness for low-light viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

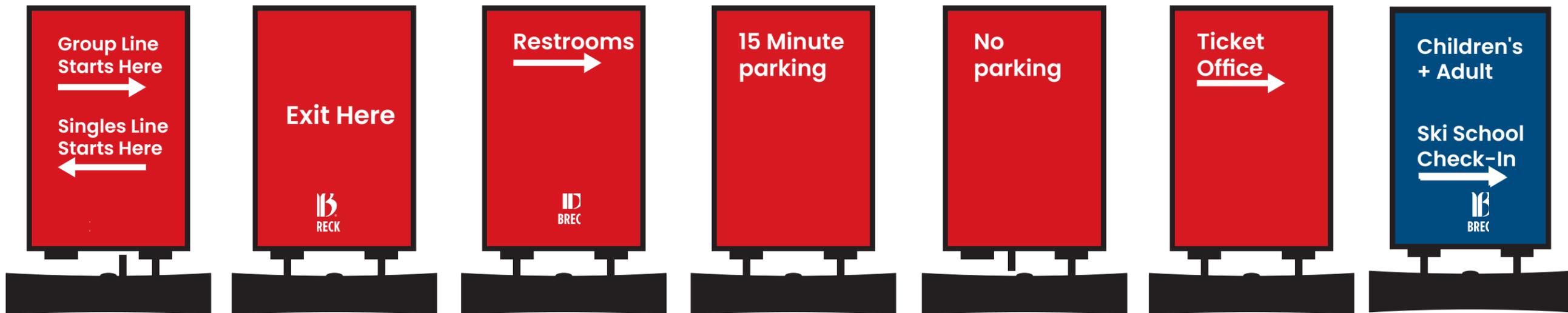
# Temporary

MOVABLE DIRECTIONAL



## NOTES

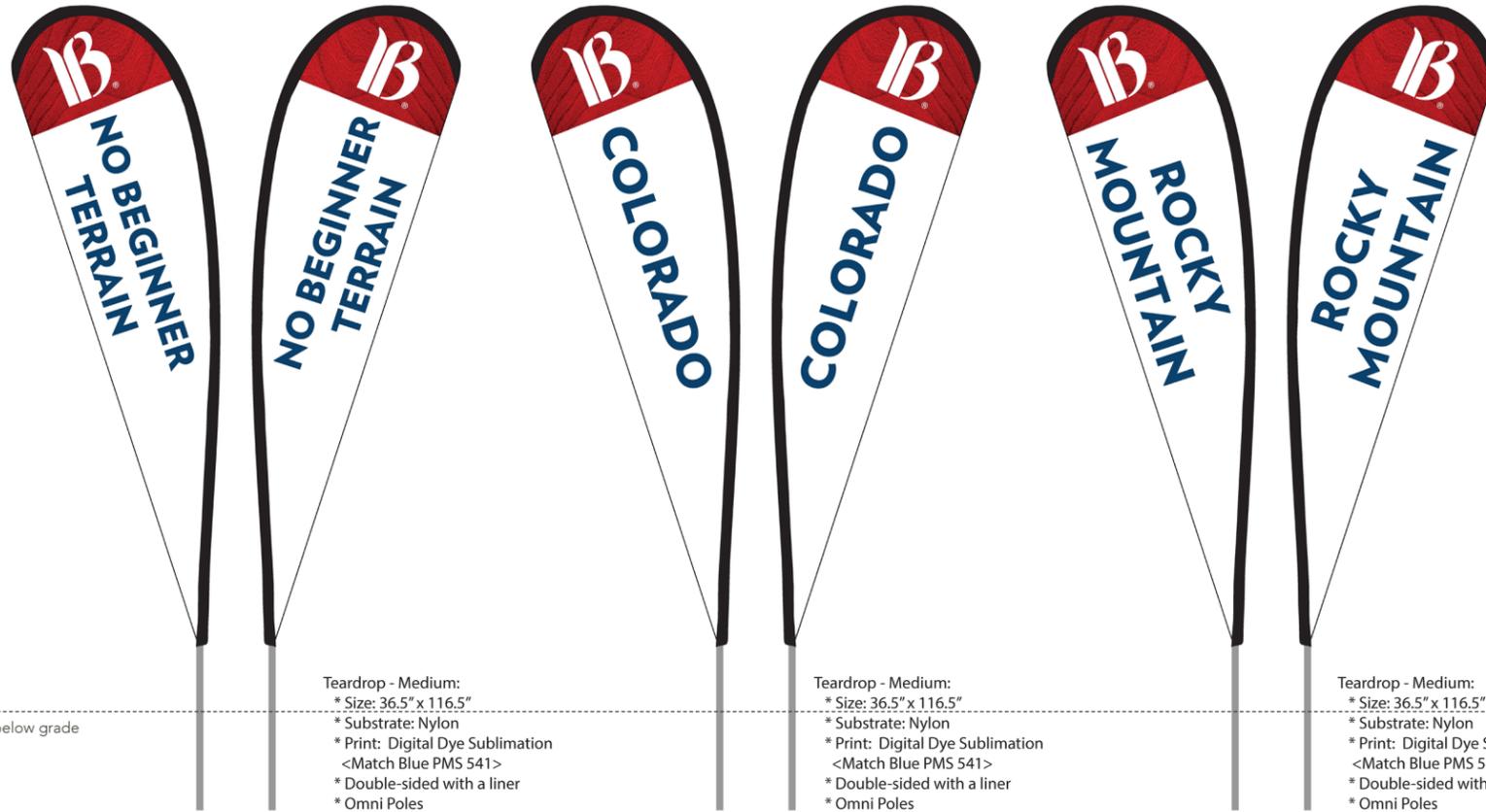
- Purpose:** Wayfinding, Informational
- Location:** Arrival Plaza, Food & Beverage, Snowfront
- Materials:** Alupanel (3mm) sign face
- Size:** Max height 3', Sign Area 6 sq. ft.
- Illumination:** None
- Color:** Sign: Red, White, Black, Blue



\*Learning related signage is blue

# Temporary

FEATHER FLAG MOVABLE DIRECTIONAL



below grade

Teardrop - Medium:  
 \* Size: 36.5" x 116.5"  
 \* Substrate: Nylon  
 \* Print: Digital Dye Sublimation  
 <Match Blue PMS 541>  
 \* Double-sided with a liner  
 \* Omni Poles

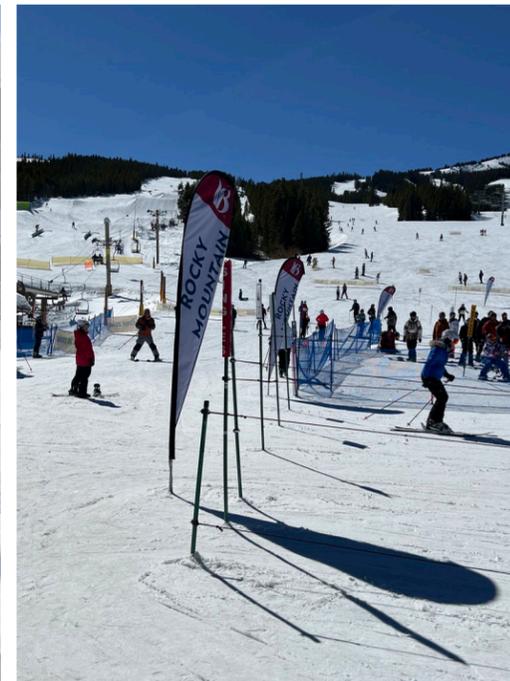
Teardrop - Medium:  
 \* Size: 36.5" x 116.5"  
 \* Substrate: Nylon  
 \* Print: Digital Dye Sublimation  
 <Match Blue PMS 541>  
 \* Double-sided with a liner  
 \* Omni Poles

Teardrop - Medium:  
 \* Size: 36.5" x 116.5"  
 \* Substrate: Nylon  
 \* Print: Digital Dye Sublimation  
 <Match Blue PMS 541>  
 \* Double-sided with a liner  
 \* Omni Poles



## NOTES

- Purpose: Wayfinding, Informational
- Location: Freestanding, Snowfront Zone
- Materials: Fabric, Vinyl Mesh
- Size: Max height 10'
- Illumination: None
- Color: White, Black, Red, Blue, Yellow



# Freestanding

LED/ELECTRONIC SIGNS



## NOTES

**Purpose:** Safety, Information

**Location:** Freestanding,  
Snowfront Zone

**Materials:** Wood frame, LED  
panel

**Size:** Max height 18'  
Sign area: 30 sq. ft.  
max

**Illumination:** Internally lit,  
Pixels 288x192,  
Nits: 6500

**Color:** Wood, black LED  
panel

These signs occur adjacent to lift terminals to provide important information to guests for their safety and for informational purposes.

\*Sign previously approved and permitted under PL-2021-0617

# Freestanding

GROUND MOUNTED

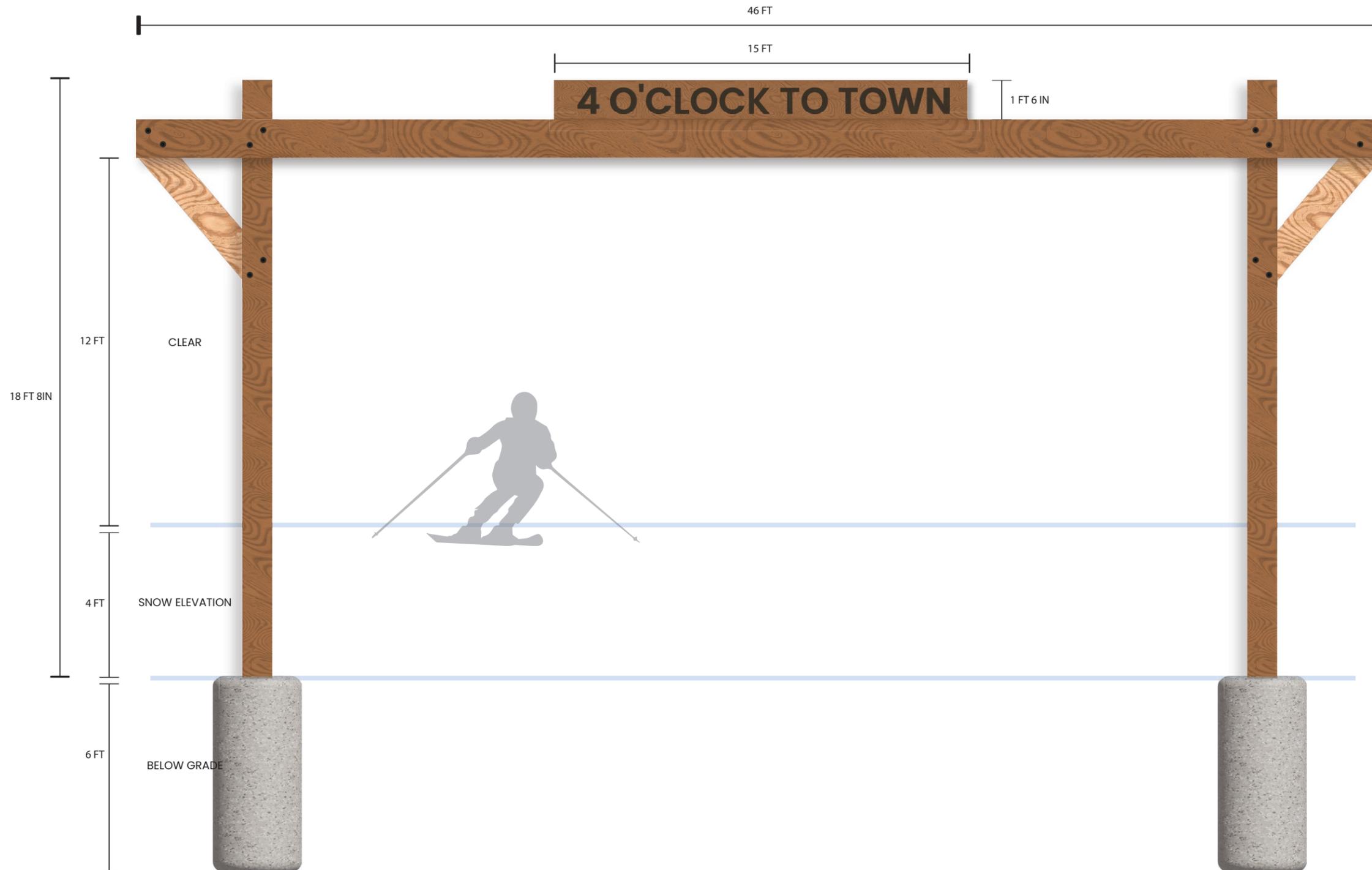


## NOTES

- Purpose:** Wayfinding
- Location:** At lift terminals (top and bottom)
- Materials:** Wood frame, wood directional panel, alupanel (3mm) sign face
- Size:** Max height 18'-8"  
Map: 77 sq. ft Sign Area  
Lift Regulatory: 63 sq. ft. Sign Area
- Illumination:** None
- Sign:** Wood, Breck Blue, White, Red, Yellow

# Freestanding

CORBEL

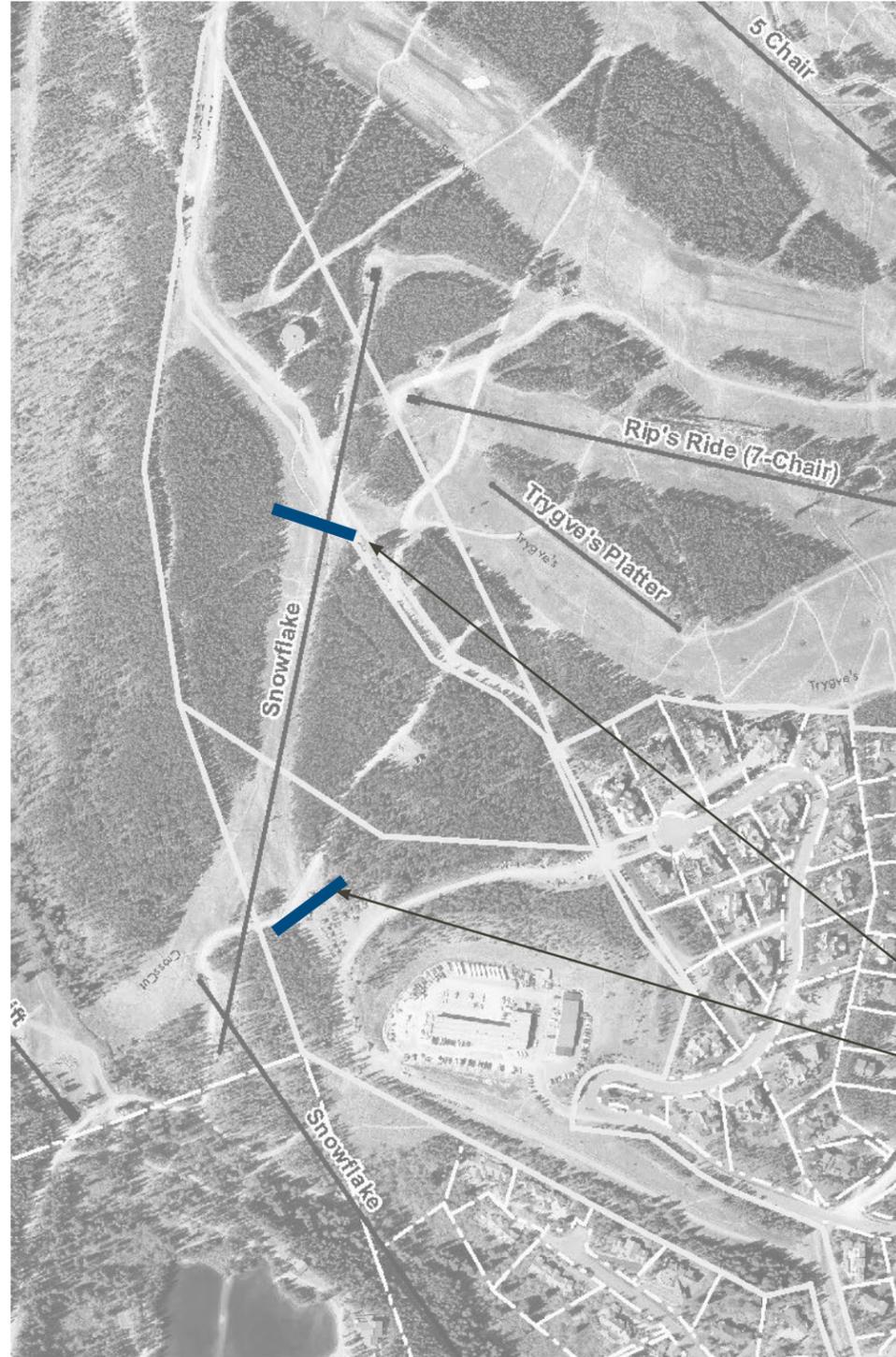
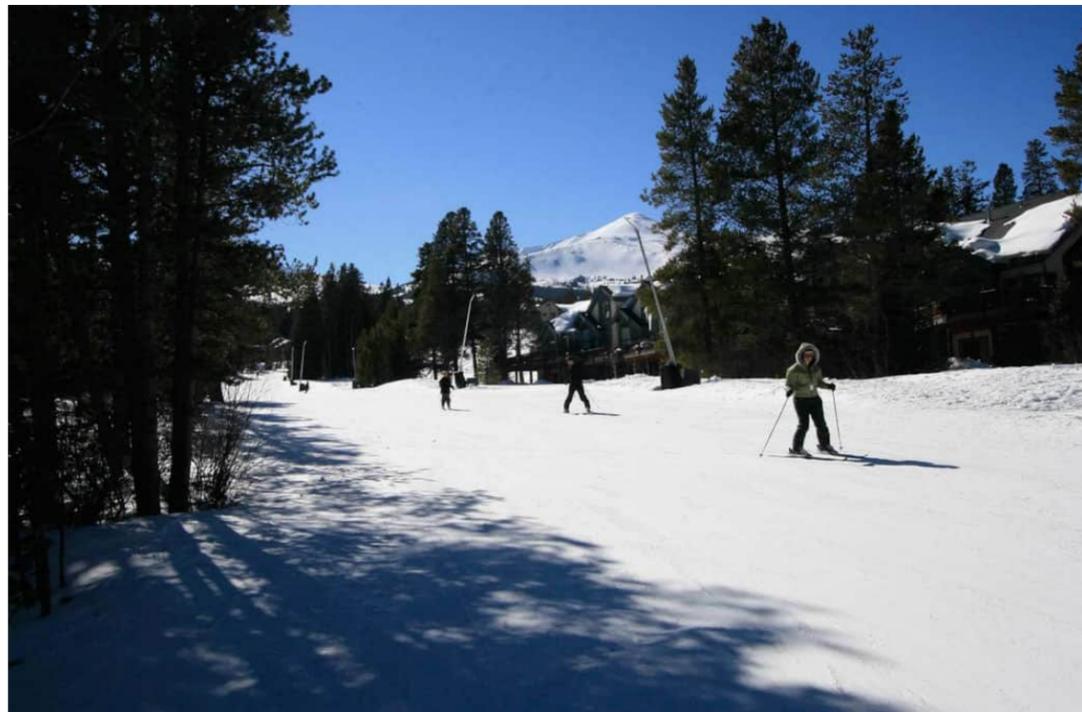
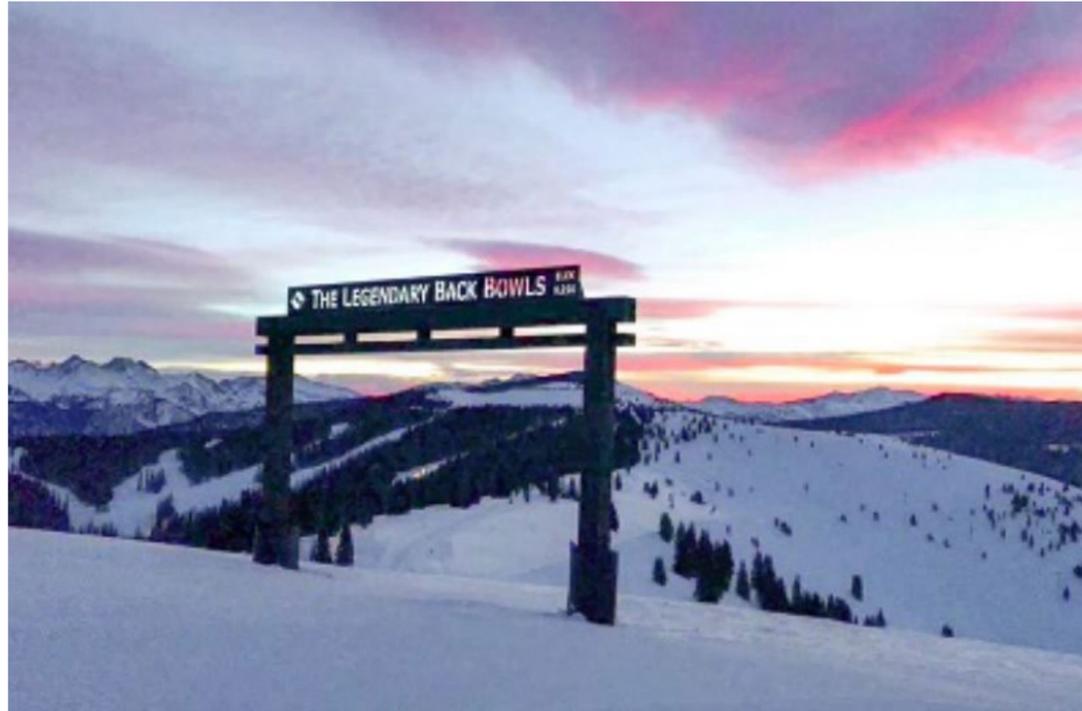


## NOTES

- Purpose:** Wayfinding
- Location:** On mountain trails to direct guests
- Materials:** Wood frame, wood directional panel
- Size:** Max height 18'-8"  
Directional Sign Area: 30 sq. ft
- Illumination:** None
- Sign:** Wood, Breck Blue, White

# Freestanding

CORBEL

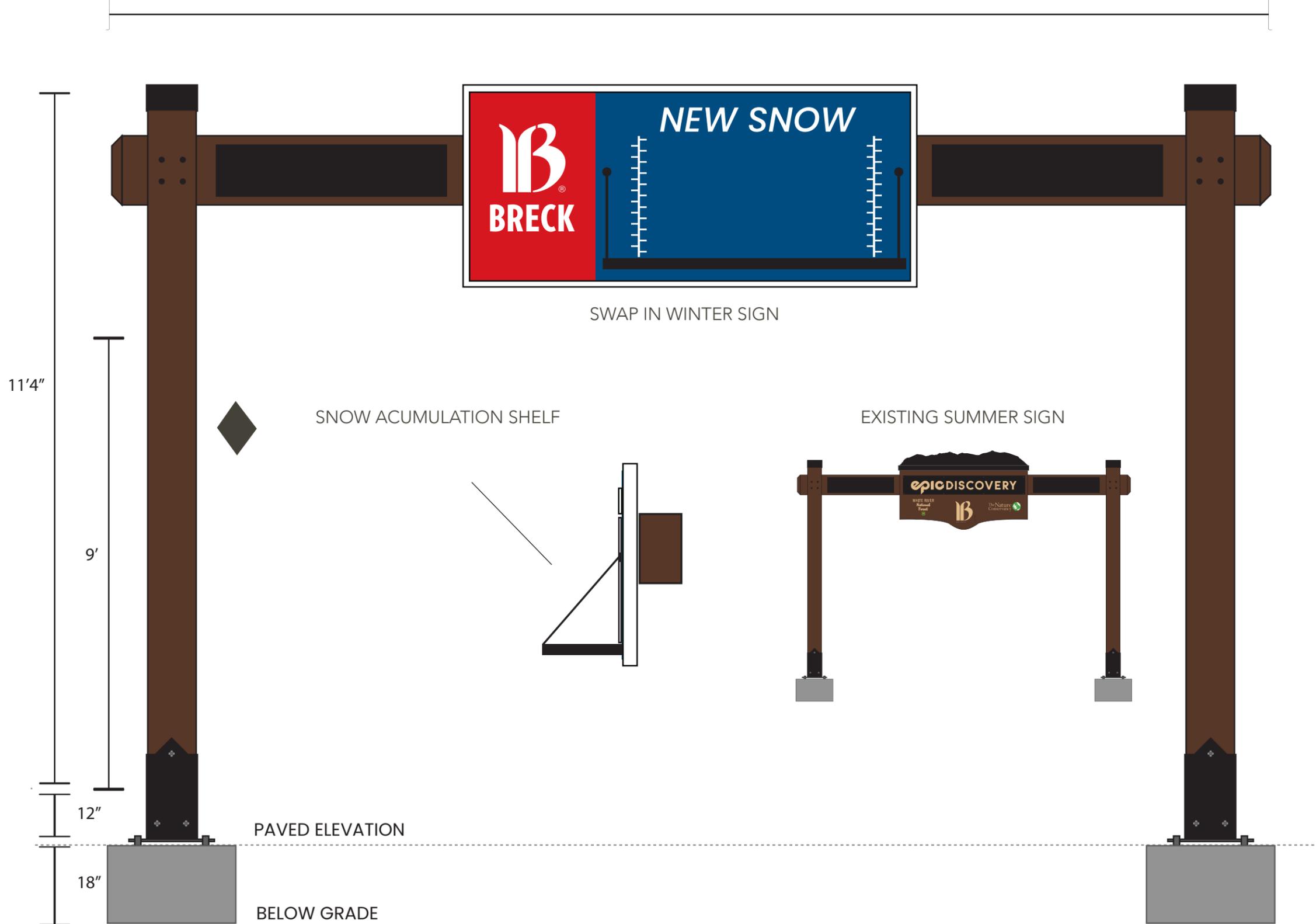


Proposed sign locations

# Freestanding

GATEWAY SEASONAL

19' 2.5"



## NOTES

- Purpose: Wayfinding
- Location: On mountain trails to direct guests
- Materials: Wood frame, wood directional panel, relief cut wood painted sign, steel shelf
- Size: Max height 18'-8"  
Directional Sign Area: 30 sq. ft
- Illumination: None
- Sign: Wood, Breck Blue, White

# Wall Sign

LIFT / GONDOLA TERMINAL



Proposed Signs (All Lift Terminals will include this signage in the future).



Existing signs (all lift terminals will phase this signage out and use the proposed signage above).



## NOTES

- Purpose:** Wayfinding, Identification
- Location:** Wall mounted, lift / gondola terminal
- Materials:** Stainless steel, pin mounted letters
- Size:** Maximum letter height 2'  
Length varies depending on lift name
- Illumination:** None
- Color:** Stainless steel

# Food & Beverage

## FOOD SERVICE CARTS



## NOTES

- Purpose:** Identification
- Location:** Cart mounted, Food and Beverage Zone
- Materials:** Wood panel or attached to and or part of cart
- Size:** 20 sq. ft. per vendor  
Tray return cart: 8'x3.75'  
(30 sq. ft.)
- Illumination:** None
- Color:** Sign: Red, Yellow, Blue, White

These signs are located on movable carts in the Food & Beverage Zone.

# Wall Sign

ID SIGN - INFORMATION CENTER



## NOTES

- Purpose:** Identification, Wayfinding
- Location:** Wall Mounted, Snowfront Zone
- Materials:** Wood/Wood like relief cut
- Size:** 40 sq. ft
- Illumination:** None
- Color:** Summer Sign: Green, white  
Winter Sign: Blue, Red

The information center sign is changed seasonally to accommodate user needs.

# Wall Sign

ONE SKI HILL PLACE



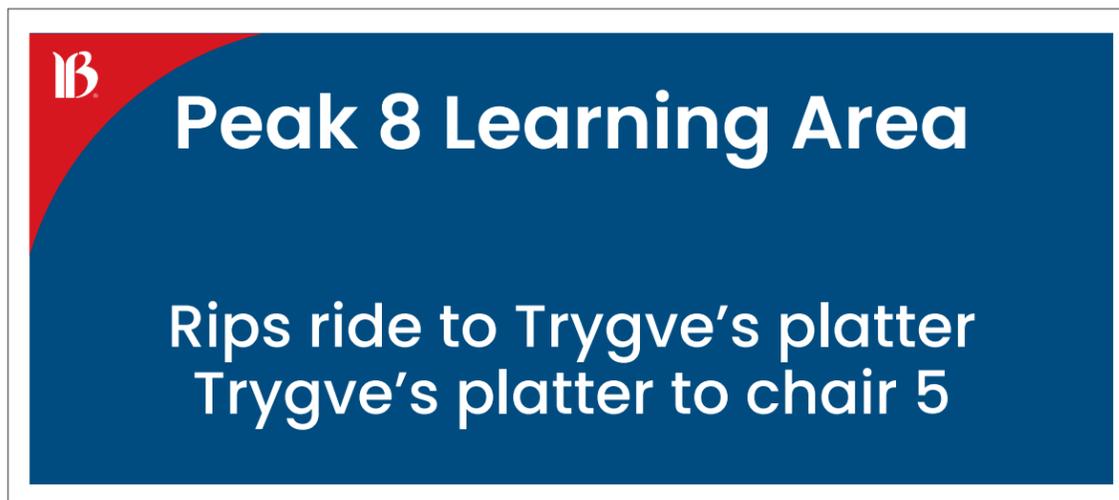
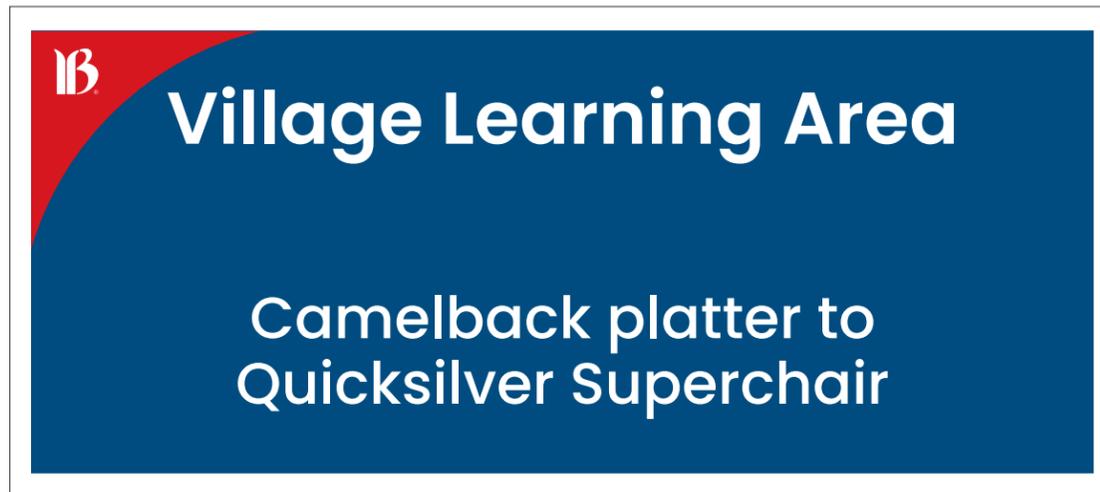
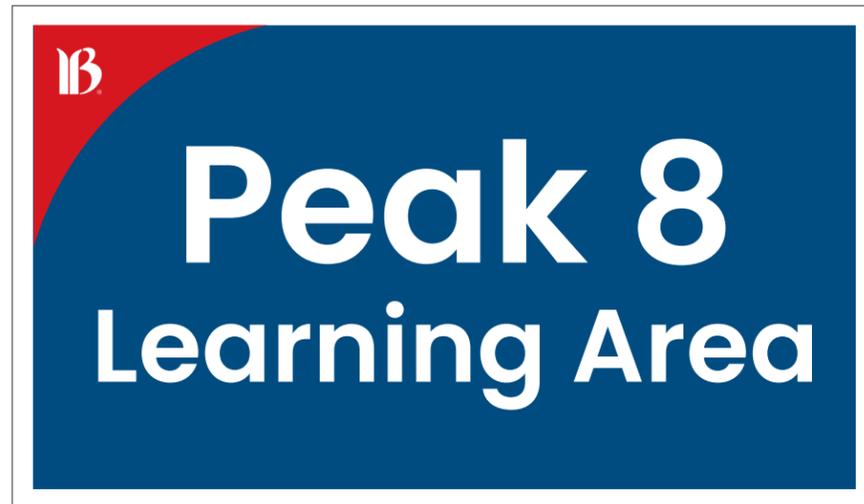
## NOTES

- Purpose:** Identification, Wayfinding
- Location:** Wall Mounted, Food & Beverage Zone
- Materials:** Wood, Stone, Window, Aluminum
- Size:** Monument: Primary sign face 24 sq. ft., Auxiliary signage 4 sq. ft.  
T-Bar: 50 sq. ft.  
Ski Hill Grill: 47 sq. ft.
- Illumination:** None
- Color:** White, Black, Brown

Building identification and signage for restaurants. Window signage occurs for both T-Bar and One Ski Hill Place, all window decals less than 2 sq. ft.

# Temporary

LEARNING AREA



## NOTES

- Purpose:** Identification, Wayfinding
- Materials:** Mesh Vinyl, Wood
- Size:** Monument: Primary sign face 24 sq. ft., Auxiliary signage 4 sq. ft.
- Illumination:** None
- Color:** Blue, White, Red

To direct beginner guests to the lifts and terrain most appropriate for their skill level and also provide a way to guide them through their learning progression.

\*Learning related signage is blue

# ID Signs – Vail Resorts Administrative Offices

WALL SIGNS, FREESTANDING SIGN



## NOTES

Purpose: Identification, Wayfinding

Materials: Wood frame, Metal sign panel

Size: 6 sq. ft each (12 sq. ft total)

Illumination: None

Color: Wood, Red, White

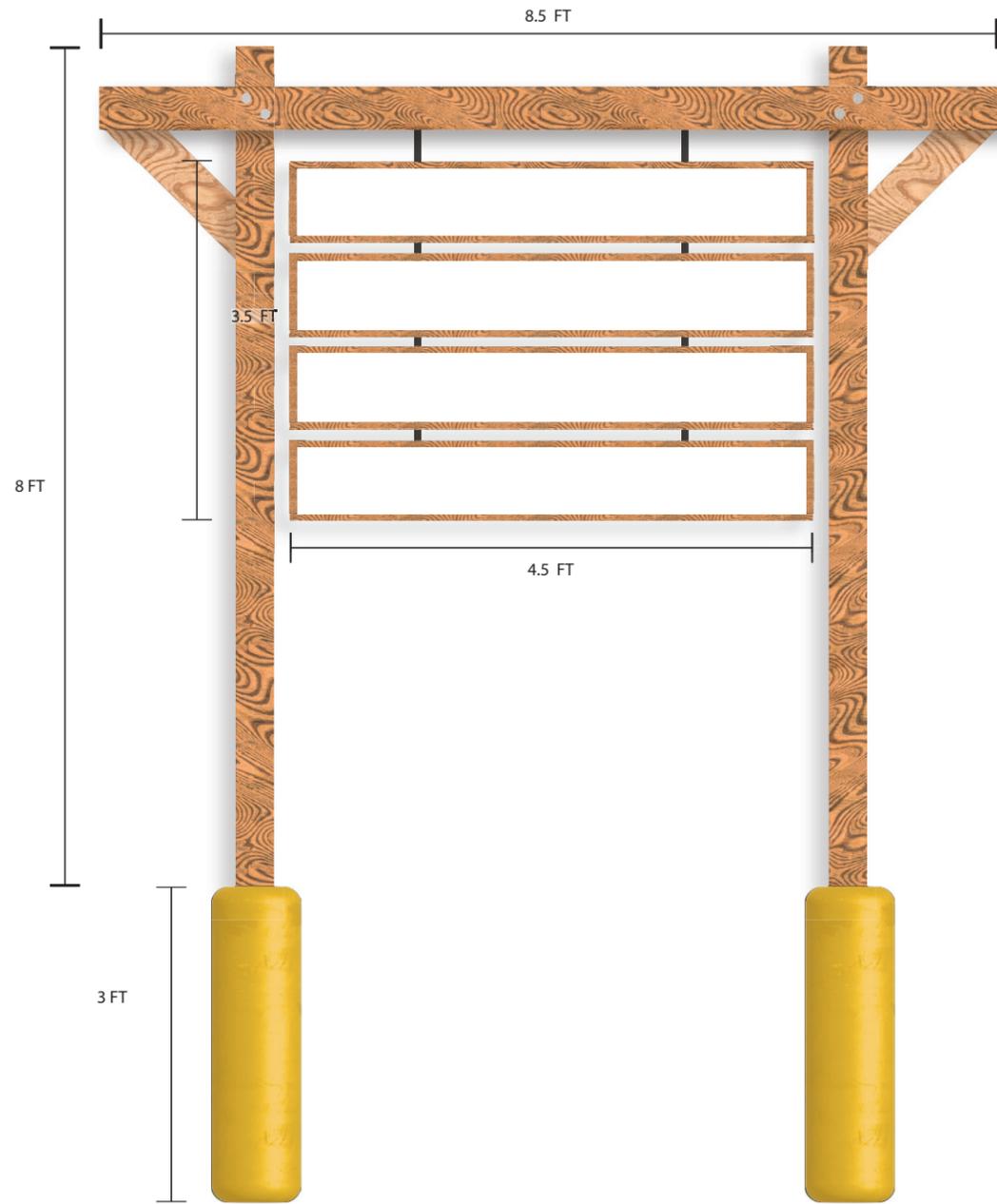
Directory Sign for the Vail Administrative Offices. All other signage on the office site are less than 10 sq. ft. in size and identification / informational only.



# Exempt signage

# Exempt Freestanding

TRAIL SIGNAGE



## NOTES

**Purpose:** Identification, Wayfinding

**Materials:** Wood, stone, aluminum

**Size:** Monument: Primary sign face 24 sq. ft., Auxiliary signage 4 sq. ft.

**Illumination:** None

**Color:** Blue

Exempt - 33-44-107 C.r.s., Each Ski Area Operator Shall Maintain A Sign And Marking System Consisting Of Signs And Symbols Indicating Trail And Slope Difficulty.

# Exempt Freestanding

TRAIL SIGNAGE

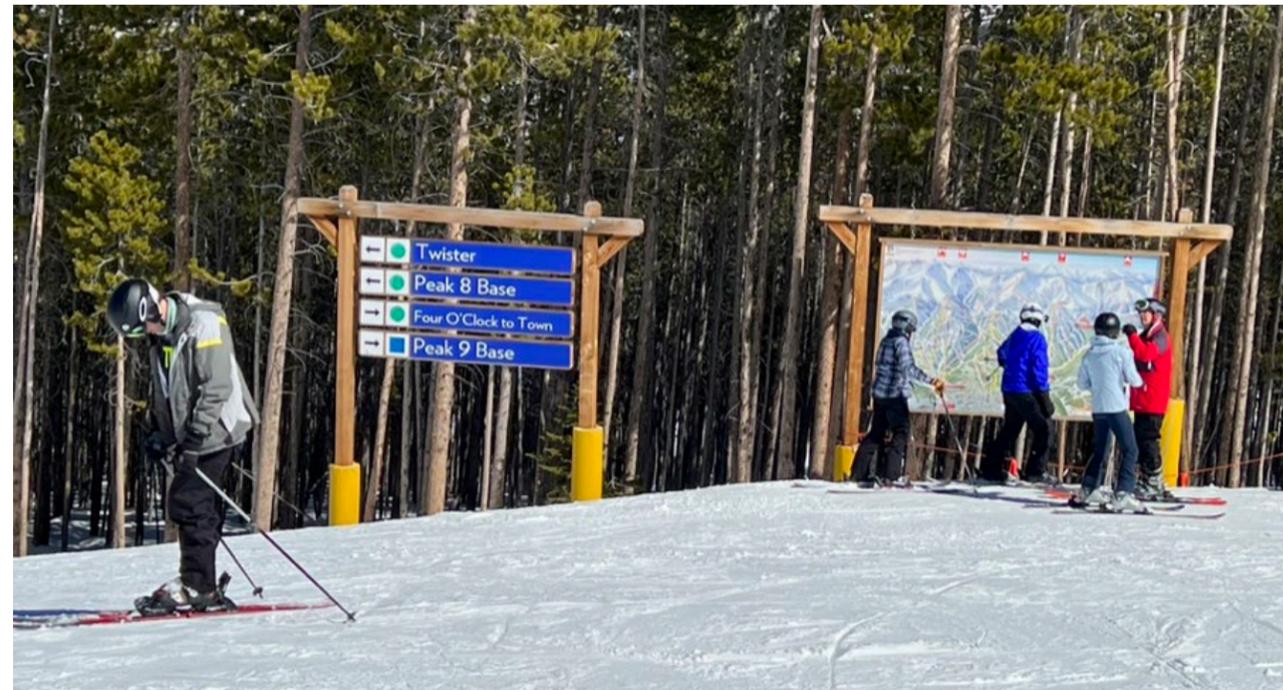
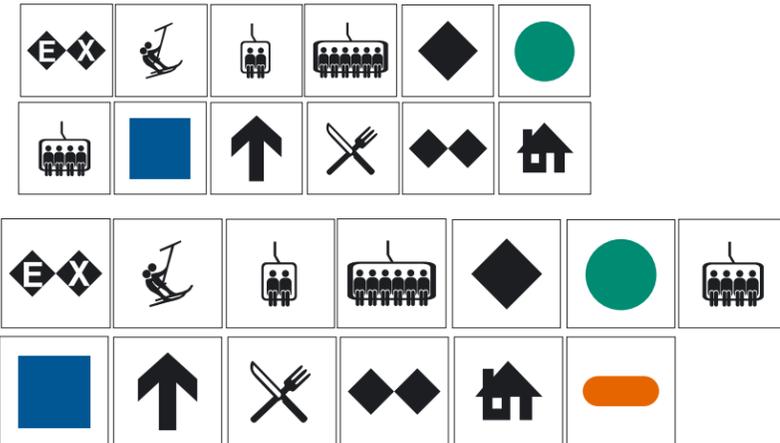


## NOTES

- Purpose:** Wayfinding
- Location:** At decision points and trail intersections
- Materials:** Wood frame, wood directional panel, alupanel (3mm) sign face
- Size:** Max height 16' Directional 51.5" x 8" or 67" x 9.5"
- Illumination:** None
- Color:** Sign: Wood, Breck Blue, White
- Icons:** Black, Green, Blue, Orange

## Freedom SuperChair

## Freedom SuperChair



# Exempt Freestanding

REGULATORY



## NOTES

- Purpose:** Regulatory
- Location:** At lift terminals (top and bottom)
- Materials:** Wood frame, wood directional panel, alupanel (3mm) sign face
- Size:** Max height 16'  
Lift Regulatory: 63 sq. ft. Sign Area
- Illumination:** None

Exempt - 9.15.9 Of The Town Code - Government Sign These are examples of signs required by Ski Safety Act C.R.S. 33-44-107(8)

# Exempt Incidental Safety Signs

INCIDENTAL SIGNS



## NOTES

Materials: Alupanel (3mm) sign face

Size: 24"x36"

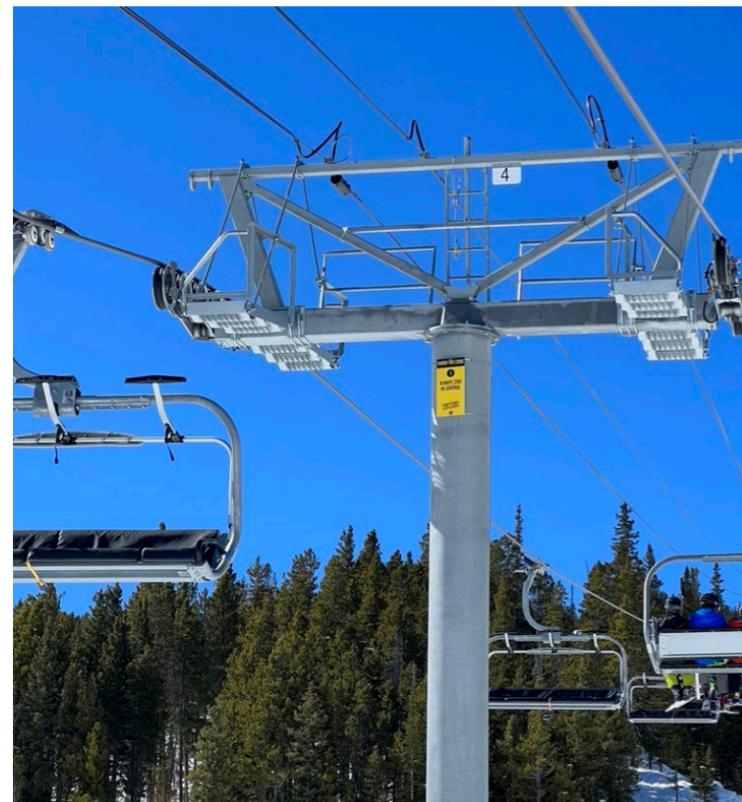
Illumination: None

Color: Sign: Yellow, Black

These signs are generally located on lift towers and near lift loading and unloading for safety messaging purposes.

Limited to one set of these safety signs per lift.

Exempt - C.R.S. 33-44-106 to maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers.



# Exempt Incidental Safety Signs

EXAMPLE LIFT SIGNAGE REQUIRED BY ANSI B77.1-2017



Fig. D-1



Fig. D-2



Fig. D-3



Fig. D-7



Fig. D-8



Fig. D-6



Fig. D-7



Fig. D-8



Fig. D-4



Fig. D-5



Fig. D-9



Fig. D-11



Fig. D-12



## NOTES

Materials: Alupanel (3mm) sign face

Size: Max height 3'

Illumination: None

Color: Yellow, Black, Red, Blue

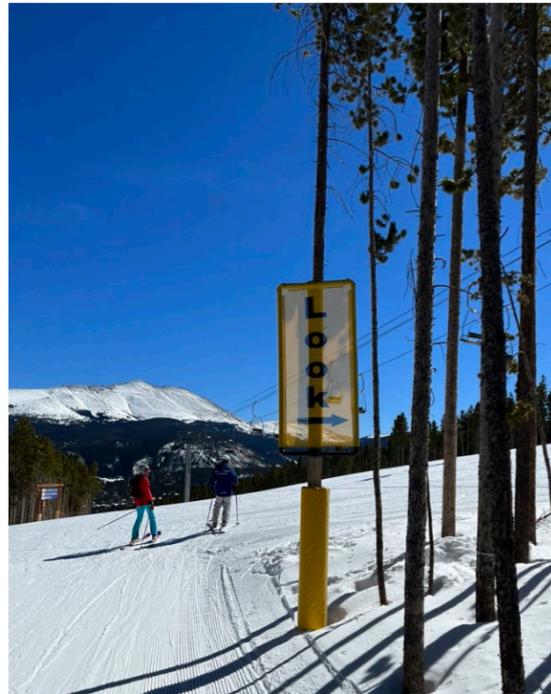
These signs are generally located on lift towers and near lift loading and unloading for safety messaging purposes.

Exempt - 9.15.9 Of The Town Code - Government Sign

These are examples of signs required by Ski Safety Act C.R.S. 33-44-106 to maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers.

# Exempt Temporary Safety Signs

INCIDENTAL SIGNS



## NOTES

Purpose: Safety, Wayfinding

Materials: Vinyl Mesh

Size: Max height 42"

Illumination: None

Color: Yellow, orange

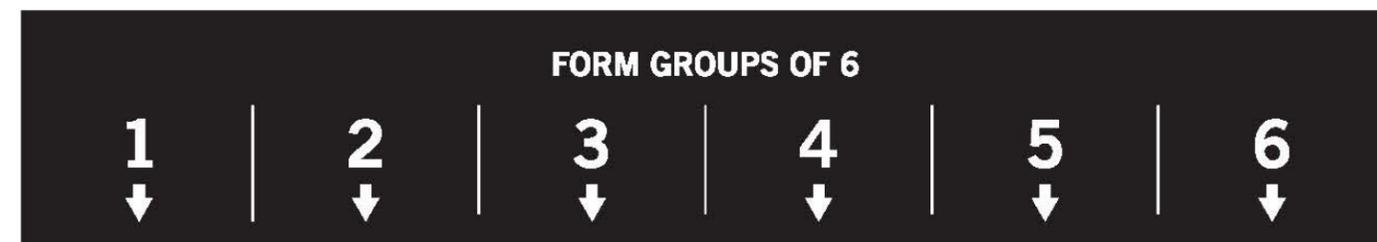
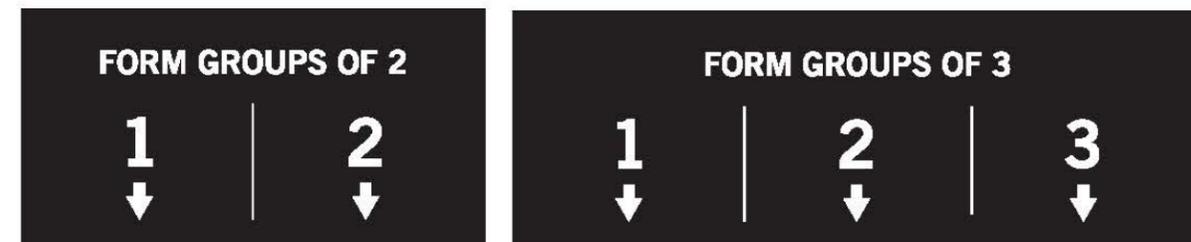
These signs occur throughout the mountain and snowfront for safety purposes. Messages may include but are not limited to: "Slow", "Look Uphill", "Trails Merge", "Safety First", etc.

Exempt - Ski Safety Act 33-44-106 C.R.S. and 33-444-107.

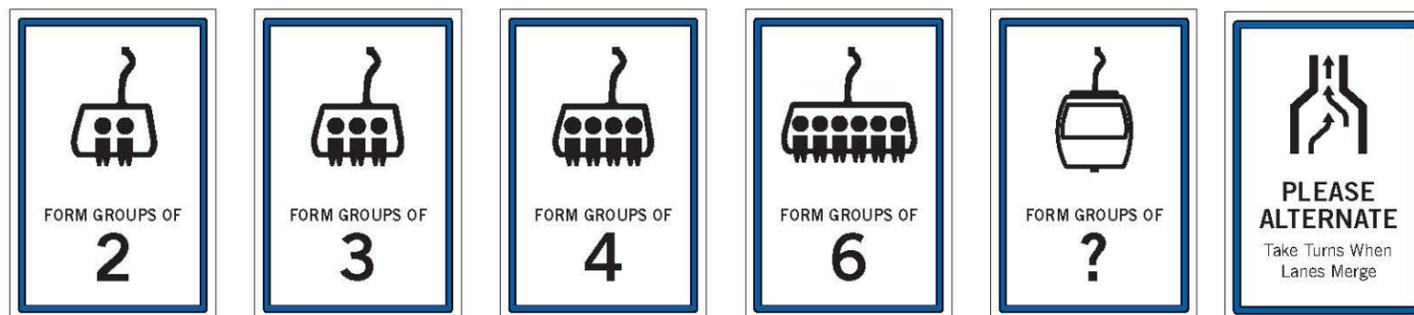
# Exempt Incidental Safety Signs

LIFT GANTRY / MAZE BANNER SIGN EXAMPLES

## Colorado SuperChair PLEASE FOR GROUPS OF SIX



### POSTER SIGN EXAMPLES



### LARGE POSTER EXAMPLES



### NOTES

Materials: Alupanel (3mm)

sign face

Small Poster: 12" x 18"

Large Poster: 24" x 36"

Maze Banner: 96" x 86"

Illumination: None

Color: Blue, White, Black  
Yellow, Orange

These signs are located associated with lifts, lift safety, maze safety and queuing.

Exempt - Ski Safety Act C.R.S. 33-44-106 to maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers.

# Brand Standards

## COLORS



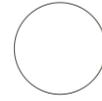
CMYK  
90, 50, 0, 40  
RGB  
0, 76, 128  
PMS  
541  
HEX  
#004C80



CMYK  
0, 100, 100, 10  
RGB  
204, 0, 0  
PMS  
1795  
HEX  
#D71920



CMYK  
46, 40, 14, 0  
RGB  
68, 67, 57  
PMS  
418  
HEX  
#444339

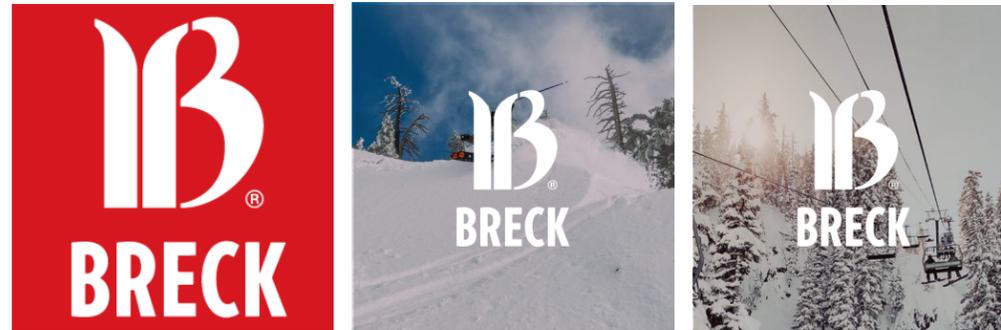


CMYK  
0, 0, 0, 0  
RGB  
255, 255, 255  
PMS  
-  
HEX  
#FFFFFF

## LOGO STANDARDS

### 1. Knockout Logo Stacked

Make sure the logo is placed on a dark enough background that allows the white logo to be legible. When necessary add a multiply or screen overlay below the color block to add contrast or decrease business in photo.



### 2. Knockout Logo Horizontal

Use the horizontal version of this logo when space is vertically limited or the format does not allow for the stacked version.



## LOGO STANDARDS

### 1. 4 Color CMYK

This version should be used for 4-color print jobs.



### 2. Grey

When only 1-color is needed, the CMYK of the Breck brand grey should be used.



### 3. Grey Scale

To be used in instances where a 4-color job cannot be done. Do not convert the color logo but use this version instead.



### 4. White

For reversing the logo or when placing on a solid color or background, only use the solid white version.



### 5. Alternate Versions

These have been included for when only the logo mark is needed. When a horizontal format is needed, please use this version. Otherwise, the vertical format should always be used.



## TYPOGRAPHY

Primary Family | Poppins **Bold**

**ABCDEFGHIJKLMNOPQRSTUVWXYZ**  
**abcdefghijklmnopqrstuvwxyz**  
**0123456789**

Primary Family | **Poppins Semi Bold**

**ABCDEFGHIJKLMNOPQRSTUVWXYZ**  
**abcdefghijklmnopqrstuvwxyz**  
**0123456789**

Primary Family | Poppins Regular

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
0123456789

Secondary Family | Avenir Next Regular

ABCDEFGHIJKLMNQRSTU-  
VWXYZ abcdefghijklmnopqrstuvwxyz  
0123456789

## TYPE HIERARCHY

H1 | Headline | Poppins **Semi Bold**  
(Sentence Case, 0px tracking)

H2 | Subhead | Poppins **Bold**  
(All Caps, 20px tracking)

Body Copy | Avenir Next  
(Sentence Case, 0px tracking)

CTA | Poppins **Semi Bold**  
(Sentence Case, 0px tracking)

**Lorem ipsum  
dolor sit  
amet.**

**LOREM IPSUM DOLOR SIT  
AMET, CONSECTETUR.**

Lorem ipsum dolor sit amet, consectetur adipiscing elit. Mauris id fermentum felis. Praesent accumsan scelerisque lacus, tristique varius dolor. Vivamus et rutrum odio, et vulputate magna.

[Learn more](#)

THANK YOU!



---

**THE SKI SAFETY ACT**  
**COLORADO REVISED STATUTES**

**Title 33**  
**Wildlife and Parks and Outdoor Recreation**

**Article 44**  
**Ski Safety and Liability**

Effective July 1, 2006

---

DISCLAIMER: Colorado Revised Statutes are made available for public use by the Committee on Legal Services of the Colorado General Assembly through a contractual arrangement with the LexisNexis Group, which prepares and maintains the [official website](#) for the state of Colorado.

The statutes are copyrighted by the state of Colorado (please see §2-5-115, C.R.S.). Any person wishing to reprint and distribute all or a substantial part of the statutes in either printed or electronic format must obtain prior permission of the Committee on Legal Services; permission is not required to reprint fewer than 200 sections of C.R.S. (please see §2-5-118, C.R.S.).

LexisNexis Group customer support can be reached at 1-800-543-6862.

**Table of Contents**

33-44-101. Short title..... 1  
33-44-102. Legislative declaration..... 1  
33-44-103. Definitions..... 1  
33-44-104. Negligence - civil actions..... 2  
33-44-105. Duties of passengers..... 2  
33-44-106. Duties of operators - signs..... 3  
33-44-107. Duties of ski area operators - signs and notices required for skiers' information..... 4  
33-44-108. Ski area operators - additional duties..... 5  
33-44-109. Duties of skiers - penalties..... 5  
33-44-110. Competition and freestyle terrain..... 6  
33-44-111. Statute of limitation..... 6  
33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing..... 7  
33-44-113. Limitation of liability..... 7  
33-44-114. Inconsistent law or statute..... 7

**33-44-101. Short title.**

This article shall be known and may be cited as the "Ski Safety Act of 1979".

**33-44-102. Legislative declaration.**

The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S.; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

**33-44-103. Definitions.**

As used in this article, unless the context otherwise requires:

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event on any portion of the area made available by the ski area operator.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(3.1) "Extreme terrain" means any place within the ski area boundary that contains cliffs with a minimum twenty-foot rise over a fifteen-foot run, and slopes with a minimum fifty-degree average pitch over a one-hundred-foot run.

(3.3) "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes, and all other constructed and natural features, half-pipes, quarter-pipes, and freestyle-bump terrain.

(3.5) "Inherent dangers and risks of skiing" means those dangers or conditions that are part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, extreme terrain, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, or other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads, freestyle terrain, jumps, and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in section 33-44-104 (2). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S.

(6) "Ski area" means all ski slopes or trails and all other places within the ski area boundary, marked in accordance with section 33-44-107 (6), under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means an "area operator" as defined in section 25-5-702 (1), C.R.S., and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person using a ski area for the purpose of skiing, which includes, without limitation, sliding downhill or jumping on snow or ice on skis, a toboggan, a sled, a tube, a snowbike, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.

(9) "Ski slopes or trails" means all ski slopes or trails and adjoining skiable terrain, including all their edges and features, and those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

**33-44-104. Negligence - civil actions.**

(1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-704 (1) (a), C.R.S., shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II), C.R.S.

**33-44-105. Duties of passengers.**

(1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

**33-44-106. Duties of operators - signs.**

(1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies;

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

(II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(III) "Unload Here", which shall be located at the point designated for unloading;

(IV) "Safety Gate", which shall be located where applicable;

(V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign;

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;

(II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area;

(f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway

operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

**33-44-107. Duties of ski area operators - signs and notices required for skiers' information.**

(1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";

(d) The ski area's extreme terrain shall be signed at the commonly used access designated with two black diamonds containing the letters "E" in one and "X" in the other in white and the words "extreme terrain". The ski area's specified freestyle terrain areas shall be designated with an orange oval.

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

(3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall adequately and appropriately cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not

limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8) (a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).

(c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice:

**WARNING**

Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

**33-44-108. Ski area operators - additional duties.**

(1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail. This requirement shall not apply to maintenance equipment transiting to or from a grooming project.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

**33-44-109. Duties of skiers - penalties.**

(1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

(6) Each ski or snowboard used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski or snowboard should the ski or snowboard become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his or her name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars.

**33-44-110. Competition and freestyle terrain.**

(1) The ski area operator shall, prior to use of any portion of the area made available by the ski area operator, allow each competitor an opportunity to reasonably visually inspect the course, venue, or area.

(2) The competitor shall be held to assume the risk of all course, venue, or area conditions, including, but not limited to, weather and snow conditions; obstacles; course or feature location, construction, or layout; freestyle terrain configuration and conditions; and other courses, layouts, or configurations of the area to be used. No liability shall attach to a ski area operator for injury or death to any competitor caused by course, venue, or area conditions that a visual inspection should have revealed or by collisions with other competitors.

**33-44-111. Statute of limitation.**

All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within two years after the claim for relief arises and not thereafter.

**33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing.**

Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to sections 13-21-111 and 13-21-111.7, C.R.S., no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

**33-44-113. Limitation of liability.**

The total amount of damages which may be recovered from a ski area operator by a skier who uses a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device and who is injured, excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in sections 13-21-102.5 (2), C.R.S., whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7), C.R.S., and "past damages" has the same meaning as that set forth in section 13-64-202 (6), C.R.S. The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

**33-44-114. Inconsistent law or statute.**

Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.



## Scheduled Meetings

**Shading indicates Council required attendance – others are optional**

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

### November 2022

<b>Tuesday, Nov. 8th, 2022</b>	<b>Council Chambers</b>	<b>First Meeting of the Month</b>	<b>3:00 pm / 7:00 pm</b>
November 10th, 2022	Coffee Shops	Wake Up Breck	7:00am - 8:30am
November 11th, 2022	Peak 8	Opening Day of the Ski Resort	8:00am
<b>Tuesday, Nov. 22nd, 2022</b>	<b>Council Chambers</b>	<b>Second Meeting of the Month</b>	<b>3:00 pm / 7:00 pm</b>

### December 2022

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

### Other Meetings

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



## Scheduled Meetings

**Shading indicates Council required attendance – others are optional**

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

December 13th, 2022	Board of County Commissioners Meeting Workforce Housing Committee	9:00am / 1:30pm 10:30am
December 14th, 2022	Breckenridge Heritage Alliance	Noon
December 15th, 2022	Breckenridge Creative Arts	Noon
December 19th, 2022	Social Equity Advisory Commission	7:30am
December 20th, 2022	Board of County Commissioners Meeting Liquor & Marijuana Licensing Authority Water Task Force Meeting Planning Commission Meeting	9:00am 9:00am 9:30am 5:30pm
December 22nd, 2022	Summit Stage Transit Board Meeting Breckenridge Tourism Office Board Meeting Breckenridge Creative Arts RW&B Board Meeting	8:15am 8:30am 2:00pm 3:00pm
December 27th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
January 3rd, 2023	Board of County Commissioners Meeting Planning Commission Meeting	9:00am 5:30pm
January 4th, 2023	Police Advisory Committee Breckenridge Events Committee Childcare Advisory Committee	7:30am 9:00am 10:00am
January 26th, 2023	Northwest CO Council of Governments	10:00am
TBD	Tourism Overlay District Advisory Committee Meeting QQ - Quality and Quantity - Water District Transit Advisory Council Meeting	10:30am 1:15pm 8:00am