



**BRECKENRIDGE TOWN COUNCIL
WORK SESSION
Tuesday, January 22, 2008
3:00 pm
Work Session**

ESTIMATED TIMES:

The times indicated are intended only as a guide. They are at the discretion of the Mayor, depending on the length of the discussion and are subject to change.

2:30 – 3:00pm	I. <u>NON-PROFIT GRANT AWARDS RECEPTION</u>	
3:00 – 3:30pm	II. <u>GONDOLA LOT MASTER PLAN CONSULTANTS</u>	<i>Verbal</i>
3:30 – 3:45pm	III. <u>PLANNING COMMISSION DECISIONS</u>	<i>Page 2</i>
3:45 – 4:30pm	IV. <u>LEGISLATIVE REVIEW</u> *	
	• Stan Miller Annexation Ordinance	<i>Page 86</i>
	• Stan Miller LUD Ordinance	<i>Page 86</i>
	• Stan Miller Development Agreement	<i>Page 93</i>
	• Stan Miller Resolution	<i>Page 54</i>
	• Liquor Licensing Authority Membership	<i>Page 105</i>
	• NWCCOG Member Appointment Resolution	<i>Page 145</i>
	• 2008 GO Refunding Bond Amendment Emergency Ordinance	<i>Page 109</i>
	• BBC Sign Easement	<i>Page 120</i>
	• BBC Access Easement	<i>Page 129</i>
	• CASTA Resolution	<i>Page 148</i>
4:30 – 5:00pm	V. <u>MANAGERS REPORT</u>	
	• Public Projects Update	<i>Page 13</i>
	• Housing/Childcare Update	<i>Verbal</i>
	• Committee Reports	<i>Page 14</i>
	• Financials	<i>Page 16</i>
5:00– 6:00pm	VI. <u>PLANNING MATTERS</u>	
	• Capacity Analysis (Parking/Roads)	<i>Page 37</i>
	• Planning Commission Top 5 Priorities	<i>Page 46</i>
6:00 –7:15pm	VII. <u>SNOW SCULPTING WELCOME RECEPTION</u> - Main Street Station	

***ACTION ITEMS THAT APPEAR ON THE EVENING AGENDA**

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**** FINAL ACTION ITEM**

NOTE: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held.

Report of Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch

Date: January 16, 2008

Re: Town Council Consent Calendar from the Planning Commission Decisions of the January 15, 2008, meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF January 15, 2008

CLASS C APPLICATIONS:

1. Shores at the Highlands Duplex, Lots 4A & 4B (MM) PC#2008001; 312 & 344 Shores Lane
Construct a new duplex residence with 4 bedrooms and 3.5 bathrooms in the 312 Shores Lane unit, 3 bedrooms and 3.5 bathrooms in the 344 Shores Lane unit for a total of 4,994 sq. ft. of density and 6,257 sq. ft. of mass. Approved.
2. Lot 2, Sunbeam Estates (MGT) PC#2007156; 100 Klack Road
Construct a new single-family residence with 4 bedrooms, 5 bathrooms, 4,396 sq. ft. of density and 5,360 sq. ft. of mass for a F.A.R. of 1:2.26. Approved.
3. Myers Residence (CK) PC#2008004; 858 Fairways Drive
Construct a new single-family residence with 4 bedrooms, 4.5 bathrooms, 4,376 sq. ft. of density and 5,102 sq. ft. of mass for a F.A.R. of 1:7.6. Approved.

CLASS A APPLICATIONS:

1. Shock Hill Tract E (CN) PC#2007108; 260 Shock Hill Drive
Construct a new 57-unit condo-hotel with commercial spa, small bar, café, outdoor amenities area, and underground parking and a modification to the Shock Hill Master Plan, pursuant to a previously approved Development Agreement, for the transfer of 6 residential SFEs of density to the site. Total density will be 82,917 sq. ft. and total mass will be 110,664 sq. ft. Approved.
2. Shock Hill Tract C (CN) PC#2007109; 200 Shock Hill Drive
Construct a new 52-unit condo-hotel with a small support/amenity café and underground parking garage adjacent to the Shock Hill gondola mid-station and a modification to the Shock Hill Master, pursuant to the previously approved development agreement, for the transfer of 33 SFEs of density to the site. Total density will be 68,371 sq. ft. and total mass will be 84,367 sq. ft. Approved.

PLANNING COMMISSION MEETING

THE MEETING WAS CALLED TO ORDER AT 7:01 P.M.

ROLL CALL

Michael Bertaux	John Warner	Rodney Allen
Peter Joyce	Mike Khavari	Sean McAllister-Arrived at 7:53
Dave Pringle		

APPROVAL OF MINUTES

With no changes, the minutes of the January 3, 2008 Planning Commission meeting were approved unanimously (6-0).

APPROVAL OF AGENDA

Mr. Neubecker suggested that we review 100 S. Harris Street before reviewing 102 S. Harris Street (preliminary hearings). Commission agreed. The agenda for the January 15, 2008 Planning Commission meeting was approved unanimously (6-0).

CONSENT CALENDAR

1. Shores at the Highlands Duplex, Lots 4A&B (MM) PC#2008001; 312 & 344 Shores Lane
2. Lot 2, Sunbeam Estates (MGT) PC#2007156; 100 Klack Road

Dr. Warner requested to see the plat to determine if the Sunbeam Trail would be affected. Dr. Warner wanted to make sure the trail would remain in current location. Staff pointed out that all trails must always conform to the all trail standards, and if work affects the trail, it must be rebuilt to the standards. Mr. Pringle suggested that if the fence was located incorrectly and that the Sunbeam Estates HOA should relocate it.

This item was called up after the above discussion.

3. Myers Residence (CK) PC#2008004; 858 Fairways Drive

With one motion (see below), the consent calendar was approved unanimously (6-0).

Dr. Warner move to call up #2, Lot 2, Sunbeam Estates (MGT) PC#2007156; 100 Klack Road
Mr. Bertaux seconded. The motion carried 6-0

Mr. Pringle suggested having the Town Attorney look into an easement for the fence. The fence may be owned by either the HOA or the property owner. Mr. Neubecker was able to determine from the Summit County website that the fence was located on public open space.

Mr. Pringle moved approval of Lot 2, Sunbeam Estates (MGT) PC#2007156; 100 Klack Road, with a new condition #31, requiring the applicant to enter into an agreement in a form acceptable to the town attorney, regarding the fence encroachment onto the applicant's property. The Town

Attorney will determine the type of document or process. Mr. Bertaux seconded. The motion carried 6-0.

FINAL HEARINGS:

(Note: Tract C and E, Shock Hill were presented together, and were discussed together. The comments below reflect both Tract C and E.)

1. Shock Hill Tract E (CN) PC#2007108; 260 Shock Hill Drive

Mr. Neubecker presented a proposal to construct a 110,711 square foot lodge with 58 units, 2,772 square feet of commercial space and underground parking on 4.37 acres. This development includes the transfer of 6 SFEs of density to the site per a previously approved Development Agreement, and an amendment to the density of the Shock Hill Master Plan.

Since the last review of this project on November 6, 2007, a few minor changes to the plan have been made. These include:

- A comprehensive water quality-monitoring plan is proposed.
- A full lighting plan has been provided, including a photometric plan and fully shielded fixtures.
- Additional details have been provided on walkway and driveway materials.
- Additional details have been provided on the retaining walls, spa and water features.
- Minor revisions to the landscaping plan are proposed, including additional landscaping next to the gondola building. Details have been provided on irrigation systems.
- Details have been provided on fencing near the gondola, and near along the access to the trail. A new fence is proposed in the rear of the building, to prevent unauthorized use of the spas and pool.
- Tandem parking spaces have been eliminated.
- Minor changes to the density and mass, but still within the allowed density and mass.
- Minor changes to windows.

Staff has prepared a point analysis, which shows a recommended passing score of positive ten (+10) points. Staff pointed out an error in the report, which failed to show negative three (-3) points for Energy Conservation, but it is correctly reflected in the point analysis.

Steven Spears with Design Workshop (Landscape Architect): Lodgepole pines removed from landscaping plan and replaced with Fir and Blue Spruce. Lighting revamped with lighting tucked into walls, Dark Sky compliant. Open spaced (Tract E-2) looked at in length as well as trails. Fire District meeting took place to obtain preliminary approval. Site grading was refined to save more trees. Paving material will be natural and earth tone, with natural stone. Plantings will ensure year round vegetation and variety of color. ADA (handicapped) access throughout the entire project will be provided. A power point presentation with the above comments was presented to the Commission.

Tract C (Mr. Spears): Similar materials and landscape plan on Tract C. Flag stone paving will be used with the idea of using earth like materials. Mr. Joyce asked the applicant if vegetation was possible on retaining walls at our altitude. Mr. Spears did point out that vegetation was determined

for this project that would grow at 9,600 feet. There are very few species that will grow on a wall at this elevation. We may be able to get plants to hang down over walls, but not creep up walls.

Mr. Khavari opened the hearing for public comment. Comments follow:

John Quigley, (speaking as) Shock Hill Resident: Suggested formalizing agreements on shuttle prior to C.O. He wrote a letter of support with his comments to the Commission. As an automotive engineer, I call tell you, in two years there will be much better technology and better solutions for transit. Developer has presented a terrific plan and has been responsive. Supports project.

Ed Means, Shock Hill Resident: A negative traffic situation will be created by the project. Increase in density and impact on environment is a concern. Service vehicles will be constant and there will not be sufficient parking for tenants and guests. All traffic will be using a two lane road which is concerning. Town needs to plan for a traffic light at intersection with Ski Hill Road. Town needs to consider running the gondola more hours during the ski season after this development is built out.

John Goebel: Congratulations for looking out for our best interest. But it's a project built on a site that shouldn't exist. Concerned about a project of this scope entering into a residential neighborhood. Consider building Tract E and see track record, then build Tract C.

John Quigley, (speaking as) Shock Hill HOA Representative: Find the best management practice to mitigate pine beetle. The HOA sprayed 5,000 trees last year in Shock Hill. Signage around the gulch should be kept at a minimum by the town working with the developer. The tree canopy is a concern and he encourages the Commission to continue to mitigate this issue, but gondola itself breaks through tree canopy. Once Peak 7 and 8 are built out, it may be reasonable to run gondola more often.

John Niemi (Applicant): Pointed out some incorrect information. Project has been reduced by 44 bedrooms.

Commissioner Questions/Comments:

Mr. McAllister: Feels hillside and ridgeline policies do apply to this development.

Final Comments: OK will ERO agreements with developer. This project will create an opportunity to prove to the public that developers can protect the environment and is proud of the work done here. Up to now, main concerns were with water quality monitoring and transit. Colorado Wild has given us (ski area) an "F" for development sites near sensitive arrears. Supports this project and the point analysis.

Mr. Joyce: When monitoring water quality, will the applicant report to someone? (Peggy Bailey with Tetra Tech pointed out that the town has been monitoring the ground water. Mr. Neubecker clarified that Tetra Tech will take samples and send them to a lab. The results from the lab will be provided to town and consultants for review.) Will the large tree plantings sufficiently create a buffer to satisfy the ridgeline policy? (Staff read the policy addressing this issue and it was determined the planting will mitigate the buffer as required.)

Final Comments: Appreciates applicant's work to mitigate Commission's concerns. We don't usually see a project with this many positive points. Thinks the architecture, site plan and landscaping will add to the view from the gondola. Construction side will be important; keep to the standards you have set. Supports the point analysis and approves of the project.

Mr. Bertaux: Applicant should monitor water quality for at least a year after C.O. Why wouldn't the town want all people in the development using the mass transit? (Mr. Grosshuesch pointed out the town didn't want to act as the agency controlling the shuttle for Shock Hill. Mr. Niemi pointed out that all residents in Shock Hill will be able to use the shuttle. Mr. Neubecker clarified that if the applicant wants to make an agreement with rest of the residents in subdivision, it should be a private agreement. We don't want a single-family resident calling the town if shuttle is not operating for single-family residents.) Asked if this development will be a member of the HOA? (Mr. Niemi: they would have their own HOA for the lodges and also be part of the existing overall HOA.)

Final Comments: This is an attractive and exclusive property. It was anticipated in the Master Plan to have a lodge on this site. This will add to the lodging stock in a positive way. Staff has done an above average job on the point analysis. Supports the point analysis. Encourage continued monitoring of water quality for one year after C.O. Want to see a minimum of six employee-housing units. He supports the project.

Mr. Allen: Suggested a condition for mutual cooperation between the town and applicant for future tree replacement.

Final Comments: Never supported a project of this size on this site. Visibility and traffic will be an issue, but applicant has done as good a job as possible for this site. Development team has done a commendable job mitigating concerns. Applicant should work with town on future access to Tract E-2 for tree planting. On water quality, I will leave it up to the experts. Would like to see multiple employee housing units. Pointed out that applicant is on the record to seek multiple employee-housing units. Supports project and point analysis.

Dr. Warner: What is the basic chemical used to reduce pine beetle?. (Mr. Neubecker pointed out that the overlay protection district prohibits all pesticides, but does allow some for forest management. Mr. Kulick indicated that permethrin and carbaryl are the chemicals used to prevent pine beetle.) He sought clarification regarding fencing. Disturbance site should be marked off, with only three access points to gulch. On the SW Corner of Tract E building, what is the height/tree canopy? (Suzanne Allen Guerra, guessed about 45 feet.) How many employee-housing units will there be? How will you mitigate job generation? (Applicant, John Niemi: Intent was to build employee housing on Tiger Road. Discussed ramifications of various options. Applicant stated he would like to build new employee housing. The applicant stated he will not go out and buy a 3,800 sq. ft. house and deed restrict it. He would rather take the 3,800 sq foot and build several new units.) How will the downhill hillside be mitigated away from the building? Why not plant trees on

slope? (Mr. Spears: this area would fall under the town's jurisdiction, since land will be donated to town. Mr. Neubecker indicated concern with pitch of the slope, and problems accessing it to plant trees. Also, very poor soil here; new soil and trees would be difficult to protect and keep from sliding toward gulch.) Dr. Warner doesn't want the view from the Gulch to be buildings and the view corridor should be protected. Does this fail an absolute policy regarding ridgeline development? (Mr. Neubecker indicated that staff believes that all requirements of this policy have been met.)

Final Comments: Agree with Mr. Bertaux, would like to see a minimum of six employee-housing units. Monitor the water quality for one year after C.O. Tie in monitoring to town's monitoring in gulch. Practice best management practices. Will support point analysis but policy 8/R is still a concern. Nicely designed project and nicely sighted. Likes the step down design on building E. Protect the view corridors with cooperation with the town in the future. Would like a collaborative process regarding trees on downhill side slope on Tract E-2. Sign pollution should be watched closely. He suggested three signage and entry portals to gulch. This should be a magical portal to a magical place.

Mr. Pringle: Proposed schedule for water quality will be fine. Sought clarification regarding the hay bales that will be used. Suggested weed free hay bales. Mr. Pringle suggested that the town staff approve the applicant's choice of employee housing. Staff pointed out this was an existing condition. Pine beetle issue is a bigger problem than for just this site. It's a town-wide issue.

Final Comments: Asked if everyone agrees with the point analysis? (Yes.) Design team did a fantastic job. We don't usually see this many positive points from a code designed to not give too many points. This is going to be a quality project. Monitor the concerns surrounding the gulch. Architecture is absolutely stunning, and this will be a beautiful project and an important property for the town. The traffic was taken into consideration in the Master Plan, and we anticipate the gondola will run even more often in the future. Approves of the point analysis for Tracts C and E, as well as Findings and Conditions, and supports approval for both projects.

Mr. Khavari: Suggested ERO look into pine beetle spaying. (Mr. Neubecker pointed out that Ken Kolm, hydrogeologist, confirmed that this site's ground water moves relatively quickly. It would not take long to realize if there is a problem.) (Don Smith, Professional Engineer for Applicant: With proper maintenance of water quality vaults and other features to treat water, potential for damage to gulch is almost zero.) Will the existing lodgepole pines be sprayed? (The applicant pointed out the trees were sprayed last summer. The association will continue spraying the trees from here on out.) Wants the trees in this development sprayed. (Mr. Grosshuesch pointed out the town does not require every tree on open space property be sprayed. We suggest spraying specimen trees.)

Final Comments: Supports the project and the point analysis. Landscaping and design look great. Traffic study was done and he was satisfied with results.

Sought clarification on phasing of construction. (Applicant pointed out phasing would occur six weeks apart, with Tract E starting first).

There were no motions to change the point analysis as presented by staff.

Mr. Pringle made a motion to approve the point analysis and the application for Shock Hill Tract E, PC#2007108, 260 Shock Hill Drive, highlighting finding 7, and amending condition 36 (to require water quality testing for one year after issuance of a certificate of occupancy), and amending condition 38 (encouraging applicant to satisfy employee housing requirement with as many units as possible). Mr. Bertaux seconded, and the motion was approved unanimously (7-0).

2. Shock Hill Tract C (CN) PC#2007109; 200 Shock Hill Drive

Mr. Neubecker presented a proposal to construct an 84,380 square foot lodge with 52 units and underground parking on 2.89 acres. This development includes the transfer of 33 SFEs of density to the site per a previously approved Development Agreement, and an amendment to the density of the Shock Hill Master Plan.

Since the second preliminary meeting, some minor changes have been made to the proposed plan. These include:

- A comprehensive water quality-monitoring plan is proposed.
- A full lighting plan has been provided, including a photometric plan and fully shielded fixtures.
- Additional details have been provided on walkway and driveway materials.
- Additional details have been provided on the retaining walls, spa and water features.
- Minor revisions to the landscaping plan are proposed, including additional landscaping next to the gondola building. Details have been provided on irrigation systems.
- Details have been provided on fencing near the gondola, and near along the access to the trail. A new fence is proposed in the rear of the building, to prevent unauthorized use of the spas.
- Elimination of tandem parking spaces.
- Minor changes to the density and mass, but still within the allowed density and mass.

Staff has prepared a point analysis, which shows a recommended passing score of positive eight (+8) points.

SEE COMMENTS ABOVE UNDER TRACT E

Mr. Pringle made a motion to approve the point analysis and the application for Shock Hill Tract C, PC#2007109, 260 Shock Hill Drive, highlighting finding 7, and amending condition 37 (to require water quality testing for one year after issuance of a certificate of occupancy), and amending condition 39 (encouraging applicant to satisfy employee housing requirement with as many units as possible) Mr. McAllister seconded, and the motion was approved unanimously (7-0).

PRELIMINARY HEARINGS

1. Hastings Residence (MGT) PC#2008002; 102 South Harris Street

Mr. Neubecker (on behalf of Mr. Thompson) presented a proposal to build a new 3,269 sq. ft. single-family residence and perform historic preservation on two existing barns at the rear of the property along the alley.

Janet Sutterley, Architect: New construction meets all four relative setbacks. The existing sheds are currently a few inches over the property line. Plan to change the north side of new building to not get negative points for setback. The chimney for a gas log fireplace may be currently in a setback and if so some relief may need to be granted. (Mr. Neubecker read the code aloud concerning encroachments into setbacks. Staff does not feel this applies to chimneys.) Too much program on the lot? This project is over mass by 59 sq. ft. due to the sheds. Total density includes basement. Photos of sheds were passed out detailing the conditions of both sheds. Intention was to not to replace the metal siding on shed 2. Would like to remove metal walls and not count shed 2 as mass. Shed 1 is in beautiful shape. Shed 2 is in very poor shape and want to do an adaptive reuse. Framing is in good shape but siding is not. Plan to do a great landscaping job, but is four points the only increment? (Mr. Neubecker: Yes, but we are working on a revision to the landscaping plan, which may allow fewer points in future.) Hope to get +6 points for renovating both sheds. Would like +2 points for putting driveway and garage at rear. Questions: Chimney, locations of sheds, and reuse of shed 2 and siding on shed 2, is architecture OK, does the Commission agree on preliminary point analysis?

Mr. Khavari opened the hearing for public comment. Comments:

Mr. Brush, Neighbor: How high will the new house façade be? (Ms. Sutterley: 22.5 feet to the peak.) Can a view corridor be preserved? (Mr. Khavari pointed out that the application met height limitation prescribed by Code.) The alley is very narrow and Mr. Brush is concerned about traffic flow and lighting for the garage. Main concern is losing the existing view.

Commissioner Questions/Comments:

Mr. McAllister: Is shed restoration required? (Staff pointed out that shed restoration is not required, but encouraged and a source of positive points.)

Final Comments: OK with moving both houses forward. Chimney is in setback. Sheds need to meet the side yard setbacks. Traffic problem could arise with shed so close to the alley. Have shed 2 evaluated by town's historian. OK with architecture.

Mr. Joyce: Don't we want to keep the historic alignment? If a variance is granted, are the negative points adjusted? (Staff answered no, negative points still warranted.)

Final Comments: Likes architecture. OK with chimney encroachment. Move house to the west to help out. OK with alley setback 1' but not side yard setback. Would like to see smart landscaping plan (not quantity). Not sure about shed 2 and is having a hard time with hot tub in shed 2. More in favor of working with what is there, but not an "interpretive shed."

Mr. Bertaux: Final Comments: I don't know why people want to keep the concrete wall. OK with -3 points for 9.4 UPA. Set backs OK except for sheds. Agree with having a

nice lawn with great garden. Likes the chimney but get it out of the setback. Lose the 59 sq ft of mass. Architecture is fine. Preserve orientation of front yard, but does not need to be exact.

Mr. Allen: Regarding shed number 2, what is the applicant's vision? (Ms. Sutterley: would like to keep tin on the south side, with the other three sides open with no walls.) Can an applicant get partial positive points for restoration? (Mr. Neubecker: points are assigned in increments of three; fewer points could be assigned if only one shed is restored.) Agree with Mr. Pringle; hard to give points for shed 2.
Final Comments: Moving the home to the west to ease up space at rear would be supported. The two sheds should meet the side yard setback on the south. Big shed is fine, hot tub shed would only warrant partial points. Need more information on Priority Policy 20. Prove fabric is not historic on shed 2. Chimney looks goods but not supportive of it encroaching past the setback. On landscaping would allow positive points, but don't want to see a forest. Architecture is fine; like that ridge is broken up.

Dr. Warner: Likes the chimney. Worry about location of shed 2 in relation to proposed garage, and drainage and snow shedding problems.
Final Comments: Agree with Mr. Allen on the architecture. Likes the step down and the architecture. OK with the chimney projection into setback; it adds a nice effect. Struggle with the location of the sheds relative to the side lot. Need an historic interpretation of shed 2 to determine fabric is historic. Could buy into hot tub enclosure idea. Likes the architecture and is confident staff will find a landscaping plan acceptable to the town. Should be a smart landscaping plan, but not based on quantity. Agrees with point analysis with negative points for above ground density. Would be OK moving house further west, but not enough to stick out.

Mr. Pringle: A wall vent is possible on a gas fireplace, why a chimney? (Ms. Sutterley liked the architecture of the chimney breaking up the north elevation.) Mr. Pringle feels the chimney is a structure. Concerned about the shed relocation affecting the adjacent lot. (Applicant pointed out that 25 feet is the average front setback on the block.) Move the house forward a little bit allowing to allow for a bang up job on the sheds in the back. OK with shed one foot off the alley but three feet needed from the adjacent lot. (Ms. Sutterly: it would not be a good idea to keep the sheds where they are, so close to alley.) Positive points for shed restoration are difficult when a policy violation is evident (Priority Policy 20).
Final Comments: You are going to have to deal with the sheds. Some problems are self-inflicted. Center element (of house) seems to be out of place. Double windows in front pane dormer on west elevation may be against policy; too much glass? Chimney issue is a self-inflicted wound. Move both buildings a little forward on the lot. Shed 1 needs to be 3 feet off the south property.

Mr. Khavari: Final Comments: Agrees with everything Dr. Warner said in his final comments. Try to preserve the view from adjacent neighbors.

2. Lot 1, Block 7, Yingling & Mickles (MGT) PC#2008003; 100 South Harris Street
Mr. Neubecker (on behalf of Mr. Thompson) presented a proposal to restore the historic residence and barn, construct a small addition onto the rear of the historic home, and convert a portion of the barn to an accessory apartment. The historic home would be stabilized and temporarily moved to Lot 2 to facilitate basement construction. A full basement concrete foundation would be poured on Lot 1. The barn would be restored to be used as a garage and accessory apartment.

Janet Sutterley, Architect: Same doors and windows will be reused. All windows on project are historic and would be restored. Three new windows are proposed. Proposing a full restoration with the roof over the mudroom being the only part being modified or added. This is needed to fix headroom and drainage problems, and simplify rooflines. This is a log home (covered with siding) but the condition of the logs is unknown. Therefore the logs could be reused or siding would be used. Access onto the property will come off of Lincoln Avenue. Vertical siding on the shed reconstruction will be used. Questions: On site plan, is it OK to move house 2 feet to west? This would also free up roofs, and create more separation between house and barn. Can the shed in the rear be used as an accessory unit? Plan to detach shed, build a foundation, and place it right back where it is. Is this a +12 point restoration project? 12x12 addition is proposed and everything else restored. Similar to Randall Residence on points.

Mr. Khavari opened the hearing for public comment. There were no comments and the hearing was closed.

Commissioner Questions/Comments:

Mr. McAllister: (Left the meeting at 11:30 P.M. before Commissioners made comments.)

Mr. Joyce:

Mr. Bertaux: Excavating in the alley could be a problem. Everything regarding applicants questions OK. Siding material needs to be determined.

Mr. Allen: Yes to all of Janet questions. Can live with the barn sticking out one foot.

Dr. Warner: Likes idea of accessory unit. Can live with the barn sticking out one foot.

Mr. Pringle: Biggest interest is getting all buildings onto the property.

Mr. Khavari: Fine with the windows.

Everyone was OK with moving this development west by 2 feet. Everyone was OK with the proposed accessory unit. Everyone was fine with the windows. Everyone agreed the code would determine the points.

TOWN COUNCIL REPORT

Dr. Warner discussed the consent calendar and the “hump line” discussion for Greenberg Residence. Fence ordinance was discussed in a work session. Dr. Warner discussed the proposed ordinance limiting offices on Main Street that Council discussed last week. He pointed out separation for Main Street offices was supported.

OTHER MATTERS:

None

ADJOURNMENT:

The meeting was adjourned 11:50p.m.

Mike Khavari, Chair

Memorandum

TO: Town Council
FROM: Tom Daugherty, Town Engineer
DATE: January 17, 2008
RE: Public Projects Update

Riverwalk Center Roof

The fence was moved last week in preparation for the International Snow Sculpture. The Contractor has been working with the Town on snow-removal and placement of the fence.

The project has been scheduled down to the day from now to the completion of the project, and we are still on schedule. Work continued this week on reinforcing the existing arch truss. Next week the new tree columns will be installed on the arch truss. The loading dock and fan rooms will be fully framed by mid next week. The following week perimeter columns and beams will be installed. Roof joists are on site and installation will begin the first part of February with roof panel installation starting immediately thereafter.

Wayfinding

The signs are being placed. The old signs are being removed by the Town staff and will be completed as break in the snow allows.

Valleybrook Childcare

The project is on schedule. The roof trusses are up. The exterior sheathing will be placed next in order to make the building sealed to the weather.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen
DATE: 1/17/2008
RE: Committee Reports

I-70 Coalition

Tim Gagen

The January meeting of the I-70 Coalition was held January 10, 2008. There were 4 main items of business: 1) Election of BOD and Officers, 2) 2008 Work Plan, 3) Rick of Transit Land Use Planning Grant and 4) a Grant for Transportation Demand Management Efforts. The Coalition reappointed all the BOD and retained the current officers for 2008. This means that I remain on the BOD and Michael Penny stays as the Chair. I have a copy of the Work Plan if anyone wishes to see it. Consultants for the Transit Land Use Planning Grant have been selected and work should begin in the next 30 days. The grant looks at all the land use regulations and zoning regulations along the I-70 corridor to see if a future transit system would be allowed with these current regulations. Lastly, the Coalition received word from CDOT that it and the DRCOG have been awarded a grant to fund a full time position dedicated to exploring Transportation Demand Management on the I-70 Corridor.

Summit Leadership Forum

Tim Gagen

SLF met on January 9, 2008 with little attendance. The group has been discussing County-wide issues of concern to the membership. The effort that the group is currently pursuing is to ask all of the planners of all of the Town's and the County to brainstorm what the County might look like in 2030 given the various regulations and plans that we all use today and maybe come up with a best case and worst case picture so the SLF can discuss how best to influence for the best case. The next meeting will not be until after April.

BEDAC

Julia Skurski

Top Ten List Prioritization

BEDAC ranked its Top Ten List of issues to address in 2008, which will be presented to Council at the upcoming joint Council/BEDAC worksession February 26.

Economic Trends Subcommittee

Members of the Subcommittee will focus on relevant issues, status and trends that may affect the Town and will send updates to the Town Council if an issue could potentially impact the Town.

BRC Metric

BEDAC agreed that the proposed metric is not an appropriate model to utilize for analyzing the ROI. A formal and detailed recommendation from BEDAC will be

forthcoming to the Town Council at the February 26th joint Council/BEDAC meeting to facilitate further discussion on the topic.

Public Art Commission

Jen Cram

Public Art Opportunities at the Valley Brook Child Care Facility -

- The BPAC agreed to focus on an artistic fence for around the play area for the first project.

Project Priorities

- Proposed project priorities for 2008 include an artistic fence at the Valley Brook Child Care Facility, a mural at the Police Facility and a sculpture for the Edwin Carter Museum.

Alpine Bank Dedication and Business Award

- The proposed date for the dedication of the new sculpture at Alpine Bank is Thursday, February 21st from 3:30 pm to 5:00 pm
- The BPAC plans to present Alpine Bank with a Business Award at a future BRC Mixer.
- The proposed mixer for the presentation is Wednesday, January 23rd at the new Blue Sky Breckenridge Lodge. Time TBD.

Please see the minutes from the January 2, 2008, meeting for more details.

Other Meetings

Police Advisory Committee
NWCCOG
CML
Summit Stage
Wildfire Council

Rick Holman
Peter Grosshuesch
Tim Gagen
Jim Benkelman
Peter Grosshuesch

No Meeting
No Meeting
No Meeting
No Meeting
No Meeting

INTEROFFICE MEMORANDUM

TO: TIM GAGEN, TOWN MANAGER
FROM: FINANCE DEPARTMENT
SUBJECT: NOVEMBER FINANCIAL STATUS REPORT
DATE: 01/15/2007

This report summarizes the financial condition of the Town of Breckenridge for the period January 1, 2007 – November 30, 2007 (91.67% of the fiscal year). The report includes:

- Benchmark comparisons between prior & current year. Percentage variances compare the Town's present revenue streams and expenditures to both historical levels & YTD budget.
- An overview of each of the Town's twelve funds – both revenue and expenditures (*See attachment titled "All Funds"*).
- An overview of each of the Town's twelve funds, net of inter-fund transfers – both revenue and expenditures. Receipts and charges to/from other funds are not reflected in this report (*See attachment titled "All Funds Net of Inter-Funds Transfers"*).
- Review of the Excise Tax Fund (*See attachment titled "Excise Tax Fund"*).
- Review of the General Fund – both consolidated revenue categories and department expenditures (*See attachment titled "General Fund"*).
- Incorporation of fund balance information for Excise Tax Fund and General Fund to include legally required and Council identified reserves.
- A series of tax reports and related business activity and business sector reports.

The balance of the narrative portion of this report highlights the revenue activity of each of the twelve funds under the heading "Revenue Overview by Fund" followed by a section that describes expenditure activity when applicable under the heading "Expenditure Overview by Fund".

Revenue Overview by Fund:

GENERAL FUND: Revenues are derived from the following sources as a percent of the budget. Recreation Fees 12%, Property Taxes 10%, Investment Income 2%, Miscellaneous Income 1%, Charges for Services 4%, Licenses and Permits 3%, Intergovernmental Revenue and Fines 3%, and Transfers from Other Funds 65%. Property Tax is higher than 2006 due to the increased mill levy. Investment Income for 2007 is slightly lower than 2006 due to a lower average balance in the General Fund investment account. Miscellaneous Income is lower than 2006 primarily due to donations to the arts district program. Charges for Services for 2007 are higher than 2006 primarily due to building plan review fees and parking revenue. Licenses and Permits are higher than 2006 due to building, electrical, and plumbing permits. Intergovernmental revenues are higher than 2006 due primarily to higher revenue from the CDOT Grant for transit operations. Fines/Forfeitures are higher than 2006 due to parking tickets, traffic fines, and penal fines. 2007 year-to-date General Fund revenue (net of transfers) is higher than 2006 by 14.37%.

WATER FUND: Revenues are derived from the following sources, Water Rents 67%, Plant Investment Fees (PIF) 18%, Water Service Maintenance Fees (WSMF) 4%,

Investment Income 3%, and Miscellaneous Income 8%. Water Rents, WSMFs, and Investment Income are all higher than last year. PIFs are slightly down from last year.

CAPITAL FUND: 2007 revenue is derived from a transfer from the Excise Fund, investment income, Parking District assessment and various grants for projects. 2007 revenues are higher than 2006 primarily due to the 2007 Supplemental Appropriation and donation revenue received for the Riverwalk roof. The variance in YTD budget versus actual is primarily due to the supplemental transfer from the Excise Fund and Riverwalk Center roof donations.

MARKETING FUND: Revenues are driven by Business Licenses, Accommodations Tax, Sales Tax, transfers from the Excise Tax Fund, and investment income. Transfers from the Excise Tax Fund are budgeted to be \$9,167 per month higher than last year. As presented in the All Funds Net of Inter-Fund Transfers report, the Marketing Fund is higher than last year by 9.43% due to increased Sales and Accommodations Tax. And, YTD Actual is higher than YTD Budget also due primarily to Sales and Accommodation Tax.

GOLF FUND: Revenues consist of residential card sales, greens fees, cart rental, driving range fees, investment income, clubhouse rent and a transfer from the Excise Tax Fund. 2007 revenues are higher than 2006 primarily due to Green Fees and Cart Fees.

EXCISE TAX FUND: Sales Tax represents 64% of this fund's budgeted revenue, Real Estate Transfer Tax (RETT) 24%, Accommodation Tax 8%, Investment Income 1%, Miscellaneous Taxes, which includes Cigarette and Franchise Taxes 3%. 2007 year-to-date RETT shows a slight decline from 2006, however RETT remains above year-to-date budget. The major difference between the sales tax revenue reported on this report and the sales tax collection report is the delay in receipt of the County sales tax received from the State the following month. The series of tax reports provides more information.

AFFORDABLE HOUSING FUND: Revenues are based on sales tax, impact fees, rental of properties owned or leased by the Town, and repayment of housing assistance loans. 2007 revenues are higher than 2006 due to transfers from the Excise Tax Fund that are budgeted to be \$25,332 per month higher (result of exercising the GO mil levy authorization), the 2007 supplemental appropriation transfer from the Excise Fund, affordable housing sales tax receipts, and impact fees. The variance in YTD budget versus actual is primarily due to the supplemental transfer from the Excise Fund.

OPEN SPACE FUND: Revenues are typically derived from sales tax, investment income and development contributions. 2006 revenues are higher than 2007 primarily due to the Great Outdoor Colorado Grant received in 2006. 2007 actual is higher than budgeted due primarily to sales tax and investment income.

CONSERVATION TRUST FUND: Revenues are the Town's share of lottery funds and investment income. The state distributes lottery proceeds on a quarterly basis. Amounts shown for 2007 are slightly less than last year's proceeds.

GARAGE SERVICES FUND: Revenue for this fund is derived by charging the departments within the Town a pro-rata cost based on the use of Town vehicles. 2007 revenues are higher than 2006 due to internal service revenue from other funds that are

budgeted to be \$19,424 per month higher. 2007 YTD Actual is less than budget due to the timing of Federal Grant funding for capital acquisitions.

INFORMATION TECHNOLOGY FUND: Revenues are derived from charging the departments within the Town a pro-rata cost based on their use of IT services. The internal service revenue is planned to be more than the prior year (\$11,205 per month).

FACILITIES MAINTENANCE FUND: This fund is new this year and has been established to provide funding for specified maintenance and replacement of capital assets. Revenues are derived from other funds associated with primary use of the facility and transfers from the Excise Tax Fund.

Expenditure Overview by Fund:

Comments below are limited to funds with significant variance from the prior year.

GENERAL FUND: Net of the Gondola expenditures for 2007, the overall General Fund YTD Actual expenditures are tracking at about 79% of the YTD Budget. 2007 General Government expenditures are higher than 2006 due primarily to Highway 9 lobby costs and personnel costs. Finance expenditures are higher than 2006 due to contracted services, personnel costs, and office equipment associated with the department's relocation. Parking and Transit expenditures are higher than 2006 due primarily to personnel costs and costs for implementation of the parking management plan. Police expenditures are higher than 2006 due primarily to personnel costs. Public Works expenditures are higher than 2006 primarily due to pine beetle mitigation and repair/maintenance. Recreation expenditures are higher than 2006 due primarily to personnel costs. Miscellaneous expenditures are lower than 2006 due to payments for the gondola.

WATER FUND: 2006 expenditures are higher than 2007 due primarily to capital expenditures.

CAPITAL FUND: 2006 expenditures are higher than 2007 due primarily to activity of the police facility and bus barn last year. Expenses are incurred as construction occurs and are subject to the timing of construction. For that reason, historical comparisons are not always useful. The YTD Budget reflects the added supplemental appropriation. In addition, current year "YTD Budget" column is modeled upon last year's spending pattern, and may not always reflect this year's spending activity (YTD Actual).

MARKETING FUND: Expenditures are primarily for contracted services (BRC) and grants to community organizations. 2007 expenditures are higher than 2006 due primarily to an increase in the BRC contract, increases in grants of \$14,000 to various non-profits, and costs for the Kingdom Days Heritage Event of \$50,000.

GOLF FUND: 2007 expenditures are about level with 2006 expenditures and less than the budgeted amount.

EXCISE TAX FUND: Because the Excise Tax Fund includes transfers to other funds and debt expenditures, any variances between fiscal years is a result of changes in budgeted transfers and changes in debt service payments. Additionally, the YTD Actual and YTD Budget reflect the transfer to the Capital Fund of the 2007 Supplemental Appropriation.

AFFORDABLE HOUSING FUND: Expenditures are down payment assistance loans, rental down payment assistance, childcare support, and other affordable housing related expenditures. 2007 expenditures are higher than 2006 due primarily to payments for childcare support. 2007 YTD Actual is lower than YTD Budget primarily due to the timing of affordable housing and related expenditures planned but not expended.

OPEN SPACE FUND: 2007 expenditures are higher than 2006 due primarily to land acquisitions and remediation costs.

CONSERVATION TRUST FUND: 2007 expenditures are budgeted and incurred on a recurring monthly basis, so long as an eligible CIP project has been identified and executed within the calendar year.

GARAGE SERVICES FUND: Expenditures for vehicle and equipment maintenance, repair and replacement occur in this fund. 2007 capital expenditures for this period are higher than 2006 due to more equipment purchases.

INFORMATION TECHNOLOGY FUND: This fund provides telephone, computer equipment, software licenses, repair, and maintenance of the same. 2007 expenditures are higher than last year due primarily to computer equipment and support.

FACILITIES MAINTENANCE FUND: Expenditures for scheduled maintenance and replacement of capital assets are budgeted in this fund.

In Summary, the All Funds Summary and the All Funds Net of Inter-Fund Transfers Summary report 2007 YTD revenues approximately 14% and 3% higher than 2006 respectively. The current YTD expenditures are approximately 4% higher than 2006 for All Funds and 12% lower than 2006 Net of Inter-Fund Transfers.



Town of Breckenridge

All Funds Net of Inter-Fund Transfers

Current Year to Prior Year Comparison
YTD Ending: NOV-07

	<u>Prior Year</u>			Actual/Actual Pct Variance	<u>Current Year</u>				
	YTD Actual	YE Total	Pct of YE Rec'd/Spent		YTD Actual	YTD Budget	Actual/Budget Pct Variance	Annual Budget	Pct of Budget Rec'd/Spent
General Fund	7,554,136	8,164,111	92.53%	14.37%	8,639,365	7,112,824	121.46%	7,634,437	113.16%
Water Fund	2,761,936	4,026,597	68.59%	7.27%	2,962,808	2,526,781	117.26%	2,980,252	99.41%
Capital Fund	2,875,255	2,885,438	99.65%	-52.89%	1,354,634	399,702	338.91%	429,500	315.40%
Marketing Fund	768,667	1,122,851	68.46%	9.43%	841,150	751,887	111.87%	1,100,581	76.43%
Golf Fund	2,253,671	2,272,728	99.16%	6.03%	2,389,486	2,143,498	111.48%	2,154,970	110.88%
Excise Tax Fund	16,850,143	20,685,176	81.46%	6.42%	17,931,404	15,185,538	118.08%	18,690,446	95.94%
Affordable Housing Fund	14,521	18,427	78.80%	2245.93%	340,653	340,087	100.17%	345,000	98.74%
Open Space Fund	2,147,439	2,506,258	85.68%	-19.64%	1,725,618	1,433,287	120.40%	1,774,786	97.23%
Conservation Trust Fund	28,173	36,900	76.35%	-8.91%	25,664	23,144	110.89%	30,320	84.64%
Garage Services Fund	14,128	14,128	100.00%	25.62%	17,747	1,521,398	1.17%	1,659,707	1.07%
Information Services Fund	0	0	n/m	n/m	0	0	n/m	0	n/m
Facilities Maintenance Fund	0	0	n/m	n/m	0	0	n/m	0	n/m
TOTAL REVENUE	35,268,069	41,732,615	84.51%	2.72%	36,228,528	31,438,146	115.24%	36,800,000	98.45%
General Fund	17,972,389	20,253,535	88.74%	4.08%	18,705,242	19,963,890	93.70%	22,484,554	83.19%
Water Fund	2,435,217	3,406,877	71.48%	-29.43%	1,718,564	1,573,990	109.19%	1,794,934	95.75%
Capital Fund	9,982,490	10,521,478	94.88%	-59.98%	3,995,053	11,391,116	35.07%	11,723,965	34.08%
Marketing Fund	999,862	1,124,562	88.91%	14.38%	1,143,640	1,191,818	95.96%	1,338,611	85.43%
Golf Fund	2,063,415	2,110,730	97.76%	-1.12%	2,040,375	2,233,537	91.35%	2,324,592	87.77%
Excise Tax Fund	636,000	636,000	100.00%	-53.25%	297,338	297,838	99.83%	297,838	99.83%
Affordable Housing Fund	69,908	53,554	130.54%	1059.00%	810,240	2,831,063	28.62%	2,831,303	28.62%
Open Space Fund	1,749,620	1,835,811	95.31%	21.18%	2,120,262	1,998,311	106.10%	2,088,837	101.50%
Conservation Trust Fund	0	0	n/m	n/m	0	0	n/m	0	n/m
Garage Services Fund - Ops	997,876	1,581,198	63.11%	3.17%	1,029,482	1,013,359	101.59%	1,146,980	89.76%
Garage Services Fund - Capital	24,064	0	n/m	1700.88%	433,360	1,816,120	23.86%	2,892,440	14.98%
Information Services Fund	559,262	634,497	88.14%	38.82%	776,342	801,529	96.86%	911,340	85.19%
Facilities Maintenance Fund	0	0	n/m	n/m	20,629	60,385	34.16%	65,875	31.32%
TOTAL EXPENDITURES	37,490,105	42,158,242	88.93%	-11.74%	33,090,526	45,172,956	73.25%	49,901,270	66.31%



Town of Breckenridge

All Funds

Current Year to Prior Year Comparison

YTD Ending: NOV-07

	<u>Prior Year</u>			Actual/Actual Pct Variance	<u>Current Year</u>				
	<i>YTD Actual</i>	<i>YE Total</i>	<i>Pct of YE Rec'd/Spent</i>		<i>YTD Actual</i>	<i>YTD Budget</i>	<i>Actual/Budget Pct Variance</i>	<i>Annual Budget</i>	<i>Pct of Budget Rec'd/Spent</i>
General Fund	18,973,070	21,621,130	87.75%	13.33%	21,502,189	19,975,648	107.64%	21,666,609	99.24%
Water Fund	2,761,936	4,026,597	68.59%	7.27%	2,962,808	2,526,781	117.26%	2,980,252	99.41%
Capital Fund	7,405,671	8,915,438	83.07%	27.44%	9,437,807	3,757,910	251.15%	4,093,000	230.58%
Marketing Fund	787,001	1,142,851	68.86%	22.02%	960,317	871,053	110.25%	1,230,581	78.04%
Golf Fund	2,482,838	2,522,728	98.42%	5.47%	2,618,653	2,372,665	110.37%	2,404,970	108.89%
Excise Tax Fund	16,850,143	20,685,176	81.46%	6.42%	17,931,404	15,185,538	118.08%	18,690,446	95.94%
Affordable Housing Fund	74,104	83,427	88.83%	1649.33%	1,296,327	678,319	191.11%	713,981	181.56%
Open Space Fund	2,147,439	2,506,258	85.68%	-19.64%	1,725,618	1,433,287	120.40%	1,774,786	97.23%
Conservation Trust Fund	28,173	36,900	76.35%	-8.91%	25,664	23,144	110.89%	30,320	84.64%
Garage Services Fund	1,436,406	1,750,704	82.05%	15.13%	1,653,693	3,157,342	52.38%	3,444,373	48.01%
Information Services Fund	686,360	748,756	91.67%	17.96%	809,614	809,612	100.00%	883,213	91.67%
Facilities Maintenance Fund	0	0	n/m	n/m	394,541	394,543	100.00%	430,410	91.67%
TOTAL REVENUE	53,633,140	64,039,966	83.75%	14.33%	61,318,634	51,185,842	119.80%	58,342,942	105.10%
General Fund	19,939,448	22,391,722	89.05%	6.31%	21,197,366	22,452,377	94.41%	25,198,581	84.12%
Water Fund	2,862,129	3,872,599	73.91%	-24.92%	2,148,874	2,004,299	107.21%	2,264,363	94.90%
Capital Fund	9,982,490	10,521,478	94.88%	-59.98%	3,995,053	11,391,116	35.07%	11,723,965	34.08%
Marketing Fund	999,862	1,124,562	88.91%	14.38%	1,143,640	1,191,818	95.96%	1,338,611	85.43%
Golf Fund	2,108,234	2,159,624	97.62%	0.17%	2,111,785	2,304,947	91.62%	2,402,494	87.90%
Excise Tax Fund	16,530,952	20,248,675	81.64%	35.28%	22,362,515	22,363,014	100.00%	23,883,267	93.63%
Affordable Housing Fund	69,908	53,554	130.54%	1059.00%	810,240	2,831,063	28.62%	2,831,303	28.62%
Open Space Fund	1,757,479	1,844,384	95.29%	20.91%	2,124,990	2,003,039	106.09%	2,093,995	101.48%
Conservation Trust Fund	27,500	30,000	91.67%	0.00%	27,500	27,500	100.00%	30,000	91.67%
Garage Services Fund - Ops	997,876	1,581,198	63.11%	3.17%	1,029,482	1,013,359	101.59%	1,146,980	89.76%
Garage Services Fund - Capital	24,064	0	n/m	1700.88%	433,360	1,816,120	23.86%	2,892,440	14.98%
Information Services Fund	562,287	637,797	88.16%	38.62%	779,464	804,651	96.87%	914,746	85.21%
Facilities Maintenance Fund	0	0	n/m	n/m	20,629	60,385	34.16%	65,875	31.32%
TOTAL EXPENDITURES	55,862,231	64,465,593	86.65%	4.16%	58,184,898	70,263,690	82.81%	76,786,622	75.77%



Town of Breckenridge

Excise Tax Fund

Current Year to Prior Year Comparison

YTD Ending: NOV-07

	<u>Prior Year</u>			Actual/Actual Pct Variance	<u>Current Year</u>				
	<i>YTD Actual</i>	<i>YE Total</i>	<i>Pct of YE Rec'd/Spent</i>		<i>YTD Actual</i>	<i>YTD Budget</i>	<i>Actual/Budget Pct Variance</i>	<i>Annual Budget</i>	<i>Pct of Budget Rec'd/Spent</i>
Sales Tax	9,392,778	12,092,192	77.68%	9.91%	10,323,613	9,245,893	111.66%	11,797,577	87.51%
Accomodations Taxes	1,259,699	1,574,982	79.98%	15.10%	1,449,873	1,210,020	119.82%	1,512,869	95.84%
RETT	5,156,098	5,811,220	88.73%	-1.26%	5,090,926	3,990,294	127.58%	4,500,000	113.13%
Miscellaneous Taxes	486,873	601,707	80.92%	-5.04%	462,323	510,147	90.63%	630,000	73.38%
Investment Income	554,694	605,075	91.67%	9.01%	604,669	229,184	263.84%	250,000	241.87%
TOTAL REVENUE	16,850,143	20,685,176	81.46%	6.42%	17,931,404	15,185,538	118.08%	18,690,446	95.94%
Transfers	15,894,952	19,612,675	81.04%	38.82%	22,065,177	22,065,176	100.00%	23,585,429	93.55%
Debt Service	636,000	636,000	100.00%	-53.25%	297,338	297,838	99.83%	297,838	99.83%
TOTAL EXPENDITURES	16,530,952	20,248,675	81.64%	35.28%	22,362,515	22,363,014	100.00%	23,883,267	93.63%
YTD EXCESS/(DEFICIT)	319,190	436,501			(4,431,111)	(7,177,476)		(5,192,821)	
Jan. 1 2007 Fund Balance					11,377,946				
Reserved for Debt Service					(600,000)				
UNAUDITED BALANCE					6,346,835				



Town of Breckenridge

General Fund

Current Year to Prior Year Comparison

YTD Ending: NOV-07

	Prior Year			Actual/Actual Pct Variance	Current Year				
	YTD Actual	YE Total	Pct of YE Rec'd/Spent		YTD Actual	YTD Budget	Actual/Budget Pct Variance	Annual Budget	Pct of Budget Rec'd/Spent
REVENUES									
Recreation Fees	2,260,872	2,549,358	88.68%	2.19%	2,310,334	2,273,112	101.64%	2,546,271	90.73%
Property Tax	1,789,660	1,805,193	99.14%	21.06%	2,166,610	2,150,347	100.76%	2,167,981	99.94%
Investment Income	626,210	705,839	88.72%	-5.48%	591,912	321,256	184.25%	350,000	169.12%
Miscellaneous Income	215,013	208,570	103.09%	-4.94%	204,381	229,569	89.03%	233,000	87.72%
Charges For Services	1,018,143	1,137,939	89.47%	25.53%	1,278,123	827,585	154.44%	932,050	137.13%
Licenses and Permits	818,238	871,346	93.90%	35.71%	1,110,412	587,167	189.11%	625,100	177.64%
Intergovernmental	600,585	643,009	93.40%	17.71%	706,963	493,145	143.36%	531,335	133.05%
Fines/Forfeitures	225,416	242,859	92.82%	20.06%	270,630	230,642	117.34%	248,700	108.82%
Transfers In	11,418,934	13,457,019	84.85%	12.64%	12,862,824	12,862,823	100.00%	14,032,172	91.67%
Revenues	18,973,070	21,621,130	87.75%	13.33%	21,502,189	19,975,648	107.64%	21,666,609	99.24%
EXPENDITURES									
General Government	1,420,204	1,627,537	87.26%	12.24%	1,594,072	2,008,464	79.37%	2,289,328	69.63%
Community Development	1,303,017	1,607,774	81.04%	4.41%	1,360,532	1,538,649	88.42%	1,811,803	75.09%
Engineering	378,422	428,142	88.39%	3.33%	391,028	409,681	95.45%	466,171	83.88%
Finance	814,018	931,781	87.36%	21.57%	989,610	1,084,451	91.25%	1,220,060	81.11%
Parking and Transit	1,601,637	1,832,479	87.40%	17.47%	1,881,411	1,926,212	97.67%	2,193,993	85.75%
Police	2,631,133	2,962,909	88.80%	5.02%	2,763,228	2,871,139	96.24%	3,194,359	86.50%
Public Works	4,021,908	4,563,489	88.13%	10.05%	4,426,110	4,725,946	93.66%	5,299,696	83.52%
Recreation	3,449,768	4,092,993	84.28%	8.08%	3,728,663	3,993,517	93.37%	4,708,342	79.19%
Miscellaneous	3,789,247	3,814,525	99.34%	-7.17%	3,517,459	3,360,546	104.67%	3,468,587	101.41%
Debt Service	530,093	530,093	100.00%	2.86%	545,252	533,773	102.15%	546,243	99.82%
Transfers Out	0	0	n/m	n/m	0	0	n/m	0	n/m
Expenditures	19,939,448	22,391,722	89.05%	6.31%	21,197,366	22,452,377	94.41%	25,198,581	84.12%
Rev Over(Under) Exp	(966,378)	(770,592)			304,824	(2,476,730)		(3,531,972)	
Jan. 1 2007 Fund Balance					11,268,223				
Operating Reserve					(5,200,000)				
Tabor Reserve					(700,000)				
Debt Service Reserve					(2,100,000)				
Medical Reserve					(500,000)				
Unaudited Balance					3,073,047				

TOWN OF BRECKENRIDGE
SALES TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED

Sales Period	2006 Collections			2007 Budget			2007 Monthly			2007 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2006	% of Budget	Actual	% Change from 2006	% of Budget
JAN.	\$ 1,472,414	\$ 1,472,414	12.2%	\$ 1,436,540	\$ 1,436,540	12.2%	\$ 1,655,286	12.4%	115.2%	\$ 1,655,286	12.4%	14.0%
FEB	\$ 1,444,750	\$ 2,917,163	24.1%	\$ 1,409,550	\$ 2,846,089	24.1%	\$ 1,573,159	8.9%	111.6%	\$ 3,228,444	10.7%	27.4%
MAR	\$ 1,881,482	\$ 4,798,645	39.7%	\$ 1,835,641	\$ 4,681,730	39.7%	\$ 2,068,772	10.0%	112.7%	\$ 5,297,217	10.4%	44.9%
APR	\$ 877,023	\$ 5,675,668	46.9%	\$ 855,655	\$ 5,537,385	46.9%	\$ 961,921	9.7%	112.4%	\$ 6,259,137	10.3%	53.1%
MAY	\$ 368,130	\$ 6,043,798	50.0%	\$ 359,161	\$ 5,896,546	50.0%	\$ 468,712	27.3%	130.5%	\$ 6,727,849	11.3%	57.0%
JUN	\$ 646,984	\$ 6,690,782	55.3%	\$ 631,221	\$ 6,527,767	55.3%	\$ 731,509	13.1%	115.9%	\$ 7,459,358	11.5%	63.2%
JUL	\$ 902,674	\$ 7,593,456	62.8%	\$ 880,682	\$ 7,408,448	62.8%	\$ 977,334	8.3%	111.0%	\$ 8,436,692	11.1%	71.5%
AUG	\$ 793,370	\$ 8,386,826	69.4%	\$ 774,040	\$ 8,182,489	69.4%	\$ 829,380	4.5%	107.1%	\$ 9,266,072	10.5%	78.5%
SEP	\$ 737,548	\$ 9,124,374	75.5%	\$ 719,578	\$ 8,902,067	75.5%	\$ 779,729	5.7%	108.4%	\$ 10,045,801	10.1%	85.2%
OCT	\$ 490,299	\$ 9,614,673	79.5%	\$ 478,354	\$ 9,380,420	79.5%	\$ 549,408	12.1%	114.9%	\$ 10,595,209	10.2%	89.8%
NOV	\$ 650,265	\$ 10,264,938	84.9%	\$ 634,422	\$ 10,014,843	84.9%	\$ 682,786	5.0%	107.6%	\$ 11,277,995	9.9%	95.6%
DEC	\$ 1,827,254	\$ 12,092,192	100.0%	\$ 1,782,734	\$ 11,797,577	100.0%	\$ -	0.0%	0.0%	\$ -	0.0%	0.0%

Sales tax amounts reflect collections net of the 3.3% transferred to the Marketing Fund and .5% tax earmarked for Open Space.

TOWN OF BRECKENRIDGE
 ACCOMMODATION TAX COLLECTIONS
 REPORTED IN THE PERIOD EARNED

Sales Period	2006 Collections			2007 Budget			2007 Monthly			2007 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2006	% of Budget	Actual	% Change from 2006	% of Budget
JAN.	\$ 239,311	\$ 239,311	15.2%	\$ 229,873	\$ 229,873	15.2%	\$ 288,977	20.8%	125.7%	\$ 288,977	20.8%	19.1%
FEB	\$ 257,341	\$ 496,652	31.5%	\$ 247,193	\$ 477,065	31.5%	\$ 292,577	13.7%	118.4%	\$ 581,554	17.1%	38.4%
MAR	\$ 351,874	\$ 848,526	53.9%	\$ 337,997	\$ 815,063	53.9%	\$ 389,705	10.8%	115.3%	\$ 971,260	14.5%	64.2%
APR	\$ 100,437	\$ 948,963	60.3%	\$ 96,476	\$ 911,538	60.3%	\$ 121,571	21.0%	126.0%	\$ 1,092,831	15.2%	72.2%
MAY	\$ 21,668	\$ 970,631	61.6%	\$ 20,814	\$ 932,352	61.6%	\$ 20,872	-3.7%	100.3%	\$ 1,113,703	14.7%	73.6%
JUN	\$ 43,542	\$ 1,014,173	64.4%	\$ 41,825	\$ 974,177	64.4%	\$ 63,384	45.6%	151.5%	\$ 1,177,086	16.1%	77.8%
JUL	\$ 88,873	\$ 1,103,046	70.0%	\$ 85,368	\$ 1,059,545	70.0%	\$ 98,186	10.5%	115.0%	\$ 1,275,272	15.6%	84.3%
AUG	\$ 73,102	\$ 1,176,148	74.7%	\$ 70,219	\$ 1,129,763	74.7%	\$ 82,172	12.4%	117.0%	\$ 1,357,445	15.4%	89.7%
SEP	\$ 54,134	\$ 1,230,282	78.1%	\$ 51,999	\$ 1,181,763	78.1%	\$ 61,629	13.8%	118.5%	\$ 1,419,073	15.3%	93.8%
OCT	\$ 29,417	\$ 1,259,699	80.0%	\$ 28,257	\$ 1,210,020	80.0%	\$ 30,799	4.7%	109.0%	\$ 1,449,873	15.1%	95.8%
NOV	\$ 53,868	\$ 1,313,568	83.4%	\$ 51,744	\$ 1,261,764	83.4%	\$ 56,042	4.0%	108.3%	\$ 1,505,915	14.6%	99.5%
DEC	\$ 261,415	\$ 1,574,982	100.0%	\$ 251,105	\$ 1,512,869	100.0%	\$ -	0.0%	0.0%	\$ -	0.0%	0.0%

Accommodation tax amounts reflect collections at the 2% rate.

TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED

Sales Period	2006 Collections			2007 Budget			2007 Monthly			2007 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2006	% of Budget	Actual	% Change from 2006	% of Budget
JAN.	\$ 255,323	\$ 255,323	4.4%	\$ 197,713	\$ 197,713	4.4%	\$ 352,958	38.2%	178.5%	\$ 352,958	38.2%	7.8%
FEB	\$ 282,460	\$ 537,782	9.3%	\$ 218,727	\$ 416,439	9.3%	\$ 342,995	21.4%	156.8%	\$ 695,953	29.4%	15.5%
MAR	\$ 316,197	\$ 853,980	14.7%	\$ 244,852	\$ 661,291	14.7%	\$ 271,817	-14.0%	111.0%	\$ 967,770	13.3%	21.5%
APR	\$ 428,997	\$ 1,282,977	22.1%	\$ 332,200	\$ 993,491	22.1%	\$ 564,624	31.6%	170.0%	\$ 1,532,394	19.4%	34.1%
MAY	\$ 525,834	\$ 1,808,811	31.1%	\$ 407,187	\$ 1,400,678	31.1%	\$ 533,680	1.5%	131.1%	\$ 2,066,074	14.2%	45.9%
JUN	\$ 381,660	\$ 2,190,471	37.7%	\$ 295,544	\$ 1,696,222	37.7%	\$ 522,999	37.0%	177.0%	\$ 2,589,073	18.2%	57.5%
JUL	\$ 346,180	\$ 2,536,650	43.7%	\$ 268,069	\$ 1,964,291	43.7%	\$ 343,610	-0.7%	128.2%	\$ 2,932,683	15.6%	65.2%
AUG	\$ 532,065	\$ 3,068,716	52.8%	\$ 412,012	\$ 2,376,303	52.8%	\$ 594,349	11.7%	144.3%	\$ 3,527,032	14.9%	78.4%
SEP	\$ 865,050	\$ 3,933,766	67.7%	\$ 669,863	\$ 3,046,167	67.7%	\$ 711,996	-17.7%	106.3%	\$ 4,239,028	7.8%	94.2%
OCT	\$ 689,653	\$ 4,623,418	79.6%	\$ 534,042	\$ 3,580,209	79.6%	\$ 392,752	-43.1%	73.5%	\$ 4,631,779	0.2%	102.9%
NOV	\$ 532,680	\$ 5,156,098	88.7%	\$ 412,488	\$ 3,992,697	88.7%	\$ 459,147	-13.8%	111.3%	\$ 5,090,926	-1.3%	113.1%
DEC	\$ 655,122	\$ 5,811,220	100.0%	\$ 507,303	\$ 4,500,000	100.0%	\$ 584,308	-10.8%	115.2%	\$ 5,675,235	-2.3%	126.1%

EFFECTIVE DEC 31, 2007

TOWN OF BRECKENRIDGE
 AFFORDABLE HOUSING SALES TAX COLLECTIONS
 REPORTED IN THE PERIOD EARNED

Sales Period	2006 Collections			2007 Budget			2007 Monthly			2007 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2006	% of Budget	Actual	% Change from 2006	% of Budget
JAN.	\$ -	\$ -	0.0%	\$ 34,094	\$ 34,094	12.2%	\$ 51,087	n/a	149.8%	\$ 51,087	n/a	18.2%
FEB	\$ -	\$ -	0.0%	\$ 33,454	\$ 67,548	11.9%	\$ 38,682	n/a	115.6%	\$ 89,768	n/a	32.1%
MAR	\$ -	\$ -	0.0%	\$ 43,567	\$ 111,115	15.6%	\$ 26,803	n/a	61.5%	\$ 116,571	n/a	41.6%
APR	\$ -	\$ -	0.0%	\$ 20,308	\$ 131,423	7.3%	\$ 24,331	n/a	119.8%	\$ 140,903	n/a	50.3%
MAY	\$ -	\$ -	0.0%	\$ 8,524	\$ 139,947	3.0%	\$ 10,950	n/a	128.5%	\$ 151,853	n/a	54.2%
JUN	\$ -	\$ -	0.0%	\$ 14,981	\$ 154,928	5.4%	\$ 15,741	n/a	105.1%	\$ 167,594	n/a	59.9%
JUL	\$ -	\$ -	0.0%	\$ 20,902	\$ 175,830	7.5%	\$ 26,125	n/a	125.0%	\$ 193,719	n/a	69.2%
AUG	\$ -	\$ -	0.0%	\$ 18,371	\$ 194,201	6.6%	\$ 24,494	n/a	133.3%	\$ 218,214	n/a	77.9%
SEP	\$ -	\$ -	0.0%	\$ 17,078	\$ 211,279	6.1%	\$ 13,502	n/a	79.1%	\$ 231,715	n/a	82.8%
OCT	\$ -	\$ -	0.0%	\$ 11,353	\$ 222,632	4.1%	\$ 13,274	n/a	116.9%	\$ 244,990	n/a	87.5%
NOV	\$ -	\$ -	0.0%	\$ 15,057	\$ 237,689	5.4%	\$ -	n/a	0.0%	\$ -	n/a	0.0%
DEC	\$ -	\$ -	0.0%	\$ 42,311	\$ 280,000	15.1%	\$ -	n/a	0.0%	\$ -	n/a	0.0%

Affordable Housing Sales Tax reflects money distributed to the Town net of the Housing Authority share and is deposited directly into the Affordable Housing Fund. Jan. 2007 sales tax receipts include overpayments from a large vendor that have been credited back in later months.

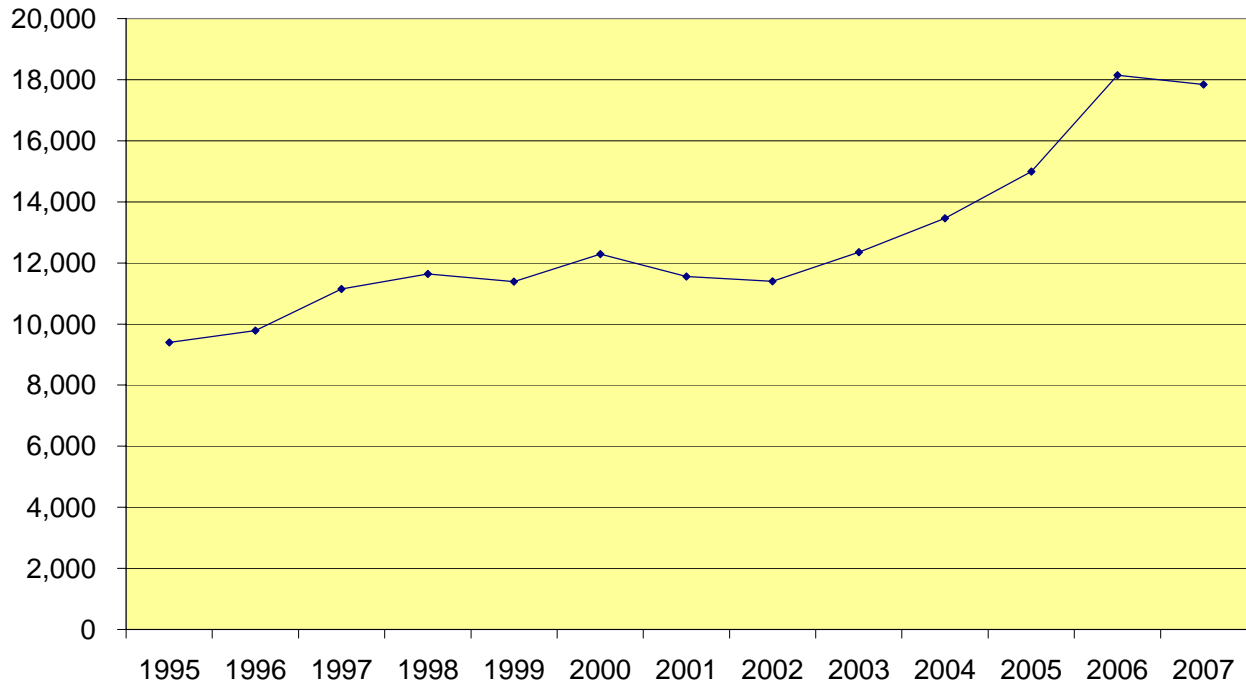
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Total - All Categories

	Monthly Totals													Monthly	YTD		% Change 06-07
	Actual 1995	Actual 1996	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	% 06-07	YTD 2006	YTD 2007	
January	23,917	25,557	27,635	28,801	29,065	28,563	31,078	29,408	28,210	31,448	33,224	38,415	44,144	14.9%	38,415	44,144	14.9%
February	25,373	28,985	27,917	29,631	31,137	31,869	34,425	31,954	29,893	33,199	35,711	39,290	43,327	10.3%	77,705	87,471	12.6%
March	32,003	35,967	39,570	37,415	39,642	43,397	44,187	42,716	39,324	39,106	45,253	49,956	55,919	11.9%	127,661	143,390	12.3%
April	13,019	15,800	15,064	17,458	17,634	17,001	18,459	15,706	14,908	17,721	17,376	22,741	23,659	4.0%	150,402	167,049	11.1%
May	5,055	5,898	6,250	6,577	6,911	7,907	8,706	8,186	8,768	8,826	9,294	10,587	12,138	14.7%	160,989	179,187	11.3%
June	9,173	9,883	9,873	10,959	12,963	13,910	15,001	13,654	13,240	13,953	15,889	16,908	20,077	18.7%	177,897	199,264	12.0%
July	13,419	14,775	15,621	16,993	17,806	18,829	18,864	19,056	19,700	20,602	22,029	24,027	25,638	6.7%	201,924	224,902	11.4%
August	12,942	14,784	14,989	15,987	16,166	16,988	17,725	16,706	17,755	17,734	19,254	21,925	23,532	7.3%	223,849	248,434	11.0%
September	10,678	10,924	11,202	12,282	13,921	16,062	13,356	13,495	14,159	15,696	16,863	19,832	20,585	3.8%	243,681	269,019	10.4%
October	7,166	7,464	7,924	7,986	8,797	9,915	10,642	9,550	9,740	10,654	12,297	13,531	14,710	8.7%	257,212	283,729	10.3%
November	9,399	9,782	11,147	11,637	11,392	12,294	11,559	11,403	12,349	13,460	14,987	18,141	17,843	-1.6%	275,353	301,572	9.5%
December	25,837	26,356	29,535	30,506	30,621	33,530	28,630	33,416	34,822	39,109	43,692	46,637	0	-100.0%	321,990	301,572	-6.3%

TAXABLE SALES - NOVEMBER



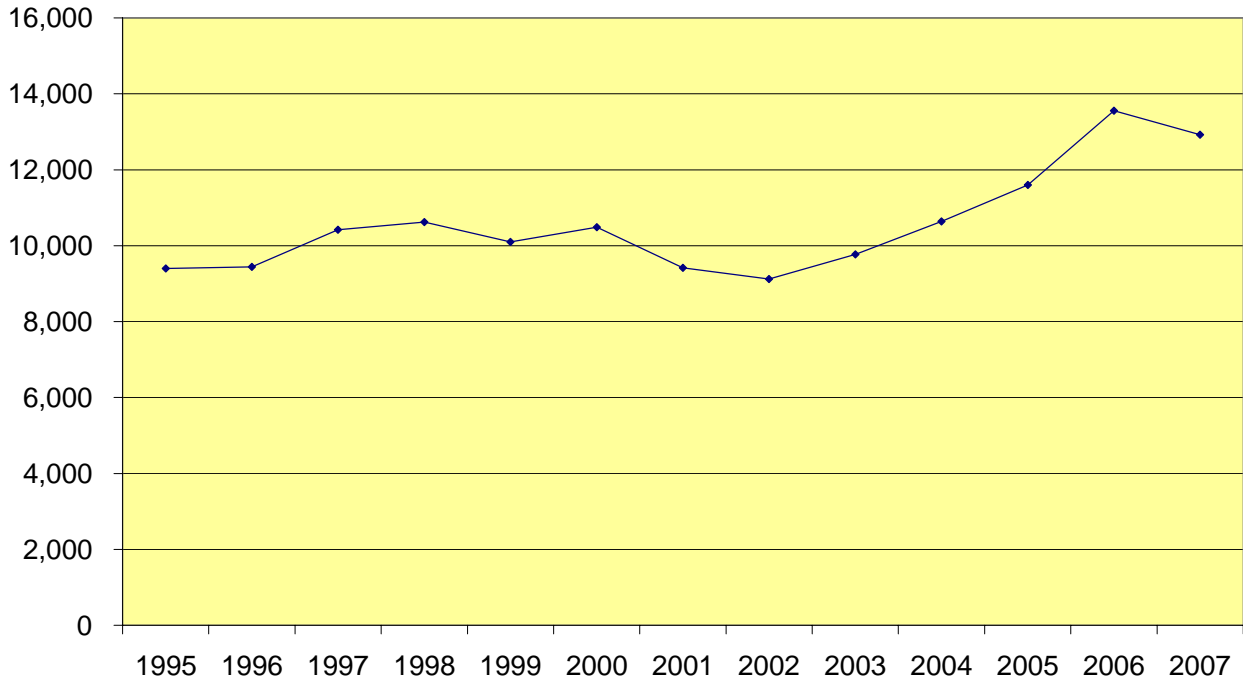
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

**Total - All Categories
ADJUSTED FOR INFLATION**

CPI	Monthly Totals														Monthly			YTD
	BASE Actual 1995	3.5% Actual 1996	3.3% Actual 1997	2.4% Actual 1998	2.9% Actual 1999	4.0% Actual 2000	4.7% Actual 2001	1.9% Actual 2002	1.1% Actual 2003	0.1% Actual 2004	2.1% Actual 2005	3.6% Actual 2006	3.2% Actual 2007	% 06-07	YTD 2006	YTD 2007	% Change 06-07	
January	23,896	24,681	25,825	26,281	25,769	24,334	25,286	23,521	22,319	24,851	25,696	28,707	31,964	11.3%	28,707	31,964	11.3%	
February	25,352	27,990	26,086	27,046	27,602	27,179	28,035	25,556	23,655	26,243	27,648	29,361	31,373	6.9%	58,068	63,337	9.1%	
March	31,928	34,684	36,886	34,055	35,066	36,919	35,966	34,155	31,099	30,892	35,031	37,332	40,492	8.5%	95,400	103,829	8.8%	
April	13,002	15,242	14,065	15,927	15,624	14,471	15,021	12,552	11,789	14,008	13,450	16,992	17,130	0.8%	112,392	120,959	7.6%	
May	5,031	5,665	5,835	5,999	6,130	6,739	7,067	6,545	6,934	6,975	7,195	7,909	8,788	11.1%	120,301	129,747	7.9%	
June	9,129	9,493	9,151	9,928	11,455	11,768	12,169	10,889	10,465	11,019	12,298	12,633	14,534	15.0%	132,934	144,281	8.5%	
July	13,382	14,260	14,590	15,515	15,797	16,061	15,358	15,233	15,588	16,285	17,055	17,952	18,566	3.4%	150,886	162,847	7.9%	
August	12,924	14,275	14,012	14,567	14,333	14,485	14,438	13,357	14,044	14,017	14,906	16,379	17,041	4.0%	167,265	179,888	7.5%	
September	10,636	10,508	10,367	11,117	12,271	13,612	10,841	10,759	11,194	12,334	13,054	14,815	14,905	0.6%	182,080	194,793	7.0%	
October	7,150	7,191	7,390	7,290	7,789	8,450	8,664	7,636	7,697	8,420	9,519	10,105	10,651	5.4%	192,185	205,444	6.9%	
November	9,396	9,438	10,421	10,622	10,097	10,485	9,420	9,118	9,773	10,638	11,599	13,554	12,919	-4.7%	205,739	218,363	6.1%	
December	25,812	25,401	27,494	27,740	27,073	28,511	23,306	26,706	27,546	30,893	33,825	34,850	0	-100.0%	240,589	218,363	-9.2%	

TAXABLE SALES - NOVEMBER



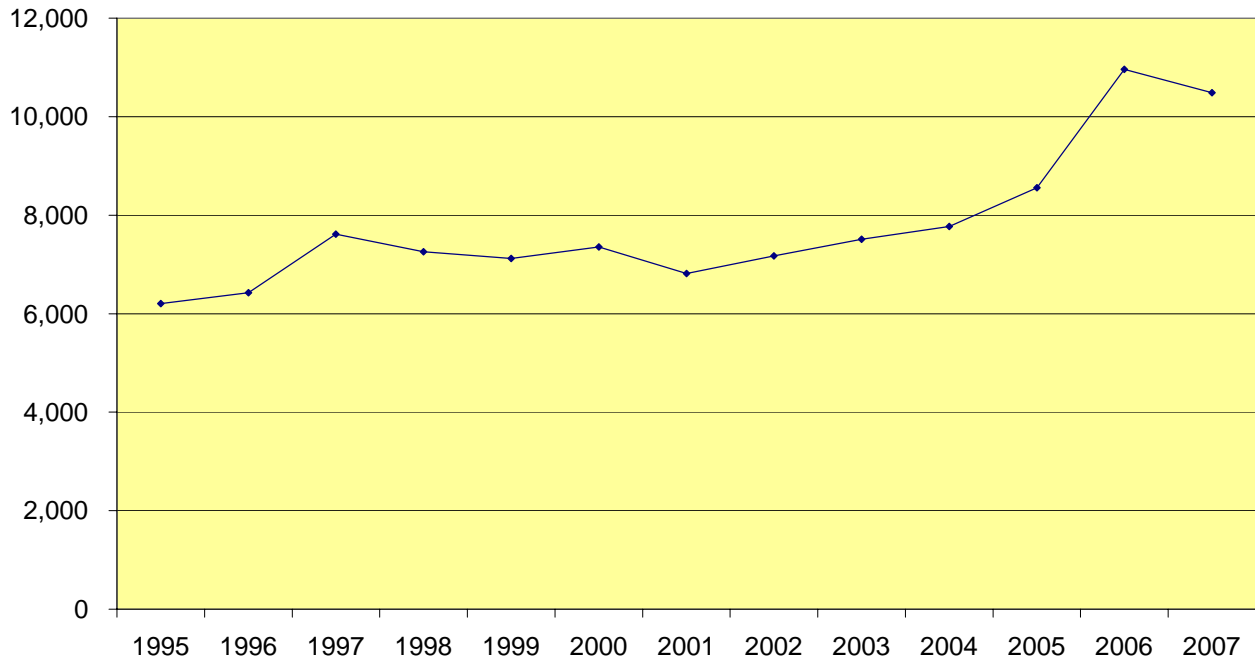
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail-Restaurant-Lodging Summary

	Monthly Totals														Monthly % 06-07	YTD 2006	YTD 2007	YTD % Change 06-07
	Actual 1995	Actual 1996	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007					
January	19,862	21,263	22,893	23,523	23,629	22,723	24,118	22,465	21,509	23,620	25,240	28,528	32,545	14.1%	28,528	32,545	14.1%	
February	21,191	24,673	23,443	24,805	25,532	26,044	27,464	26,258	23,253	25,826	27,553	29,972	33,092	10.4%	58,500	65,637	12.2%	
March	26,964	30,343	33,414	30,809	32,254	35,348	36,196	35,344	31,988	31,209	35,705	38,976	44,507	14.2%	97,476	110,144	13.0%	
April	9,924	12,182	11,347	13,256	13,579	12,426	13,029	10,587	9,562	12,102	10,773	15,134	15,995	5.7%	112,610	126,139	12.0%	
May	2,700	3,167	3,264	3,565	3,610	3,949	4,203	3,950	4,331	4,095	4,179	4,647	5,367	15.5%	117,257	131,506	12.2%	
June	5,955	6,174	6,451	6,588	7,513	8,001	9,058	8,619	7,724	8,217	9,568	9,775	12,079	23.6%	127,032	143,585	13.0%	
July	9,914	10,950	11,405	12,527	12,944	13,464	13,406	13,292	13,590	14,248	14,766	16,038	17,334	8.1%	143,070	160,919	12.5%	
August	9,292	10,738	10,981	11,517	11,352	11,542	11,407	11,174	11,717	11,429	12,122	13,446	15,089	12.2%	156,516	176,008	12.5%	
September	7,220	6,966	6,687	7,492	8,160	9,443	7,666	8,513	8,599	8,940	9,897	11,732	12,699	8.2%	168,248	188,707	12.2%	
October	4,313	4,232	4,560	4,578	5,049	5,054	5,425	4,991	4,855	5,257	5,824	6,248	7,124	14.0%	174,496	195,831	12.2%	
November	6,203	6,426	7,617	7,255	7,122	7,352	6,816	7,174	7,511	7,771	8,557	10,963	10,484	-4.4%	185,459	206,315	11.2%	
December	21,142	20,928	23,219	23,650	23,124	24,361	22,090	23,901	24,818	28,314	30,619	33,736	0	-100.0%	219,195	206,315	-5.9%	

TAXABLE SALES - NOVEMBER



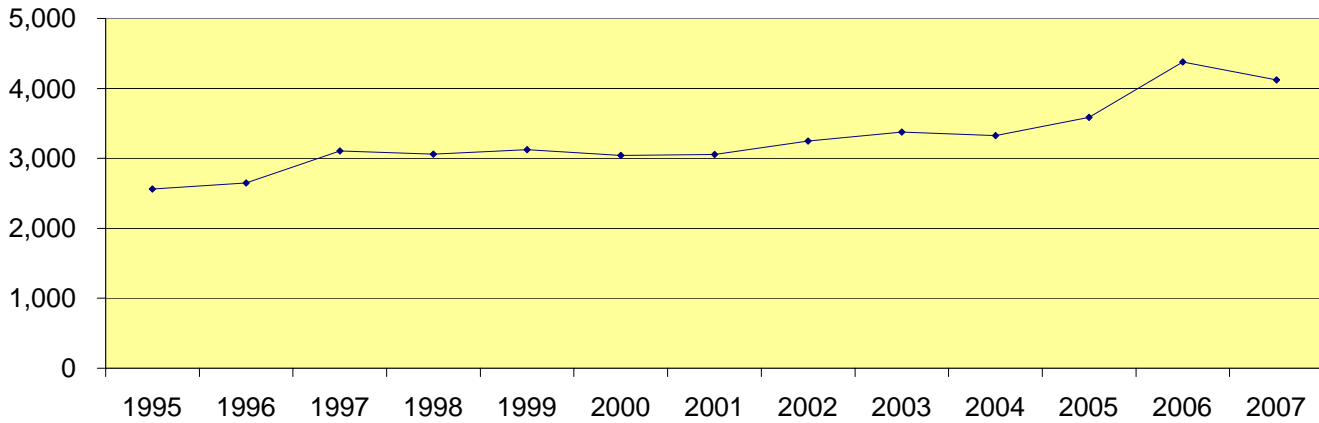
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail Sales

	Month To Date														Year To Date				
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Monthly	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG	
January	6,497	7,079	7,205	7,173	7,411	7,149	8,271	7,320	6,807	7,545	8,001	8,607	9,893	14.9%	8,001	8,607	9,893	14.9%	
February	6,756	7,753	7,568	7,474	7,983	8,024	9,231	8,549	7,418	8,312	8,744	8,942	9,580	7.1%	16,745	17,549	19,473	11.0%	
March	8,858	9,902	10,702	9,507	10,525	11,337	12,116	11,390	10,028	10,162	11,632	11,774	13,380	13.6%	28,377	29,323	32,853	12.0%	
April	3,702	4,481	4,156	4,841	4,789	4,423	5,008	4,105	3,679	4,714	3,678	5,406	5,309	-1.8%	32,055	34,729	38,162	9.9%	
May	1,092	1,263	1,272	1,408	1,492	1,569	2,014	1,583	1,626	1,549	1,708	1,858	2,201	18.5%	33,763	36,587	40,363	10.3%	
June	2,404	2,335	2,391	2,521	2,931	3,135	3,514	3,227	3,062	3,140	3,565	3,589	4,484	24.9%	37,328	40,176	44,847	11.6%	
July	3,767	4,040	4,336	4,499	4,543	4,678	4,998	4,838	4,732	5,087	5,174	5,403	6,045	11.9%	42,502	45,579	50,892	11.7%	
August	3,693	3,981	4,199	4,109	4,100	3,973	4,492	4,269	4,429	4,397	4,620	4,757	5,028	5.7%	47,122	50,336	55,920	11.1%	
September	2,948	2,698	2,753	3,021	3,671	3,944	3,242	3,587	3,370	3,781	4,249	4,726	5,075	7.4%	51,371	55,062	60,995	10.8%	
October	1,961	1,563	1,759	1,815	2,024	1,908	2,374	2,132	2,127	2,298	2,404	2,591	3,020	16.6%	53,775	57,653	64,015	11.0%	
November	2,561	2,650	3,108	3,060	3,124	3,041	3,057	3,249	3,378	3,326	3,586	4,376	4,122	-5.8%	57,361	62,029	68,137	9.8%	
December	8,026	7,978	8,746	8,985	8,919	8,782	8,338	8,893	9,184	10,388	11,099	11,971	0	-100.0%	68,460	74,000	68,137	-7.9%	

Taxable Retail Sales - NOVEMBER



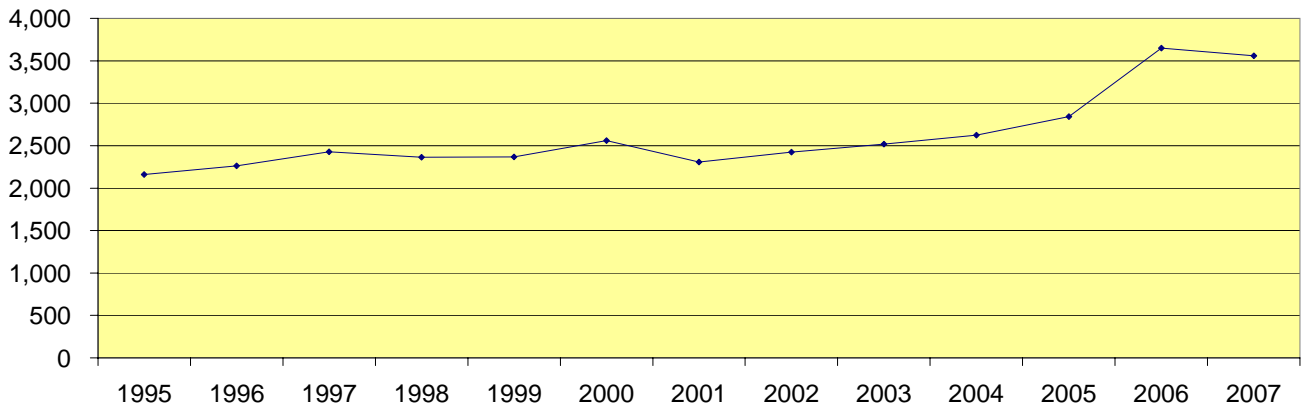
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Restaurants/Bars

	Month To Date														Year To Date			
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Monthly	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG
January	4,810	5,180	5,515	5,723	5,784	5,697	6,300	5,644	5,835	6,425	6,897	7,924	8,396	6.0%	6,897	7,924	8,396	6.0%
February	5,125	5,735	5,667	5,880	6,162	6,519	6,783	6,412	6,092	6,637	7,047	8,058	8,523	5.8%	13,944	15,982	16,919	5.9%
March	5,731	6,651	7,180	6,688	7,031	7,792	8,258	7,870	7,307	7,413	8,117	9,256	10,064	8.7%	22,061	25,238	26,983	6.9%
April	2,683	3,238	3,149	3,548	3,576	3,624	3,706	2,967	3,068	3,595	3,609	4,552	4,789	5.2%	25,670	29,790	31,772	6.7%
May	1,129	1,329	1,454	1,541	1,492	1,641	1,590	1,561	1,808	1,746	1,760	1,832	2,118	15.6%	27,430	31,622	33,890	7.2%
June	2,079	2,364	2,437	2,488	2,796	2,779	3,413	3,257	2,982	3,136	3,525	3,938	4,380	11.2%	30,955	35,560	38,270	7.6%
July	3,491	3,877	4,113	4,380	4,639	4,910	4,675	4,632	4,913	5,138	5,375	5,905	6,288	6.5%	36,330	41,465	44,558	7.5%
August	3,161	4,032	3,953	4,056	4,106	4,270	4,068	4,156	4,832	4,302	4,521	5,067	5,957	17.6%	40,851	46,532	50,515	8.6%
September	2,526	2,641	2,452	2,770	2,814	3,468	2,860	3,169	3,249	3,138	3,498	4,340	4,605	6.1%	44,349	50,872	55,120	8.4%
October	1,643	1,779	1,807	1,870	2,097	2,220	1,959	1,977	1,978	2,100	2,290	2,352	2,564	9.0%	46,639	53,224	57,684	8.4%
November	2,160	2,261	2,428	2,364	2,367	2,558	2,307	2,425	2,520	2,624	2,841	3,651	3,560	-2.5%	49,480	56,875	61,244	7.7%
December	4,658	4,402	4,834	5,076	5,191	5,393	5,275	5,354	5,646	6,428	7,017	7,681	0	-100.0%	56,497	64,556	61,244	-5.1%

Taxable Restaurant Sales - NOVEMBER



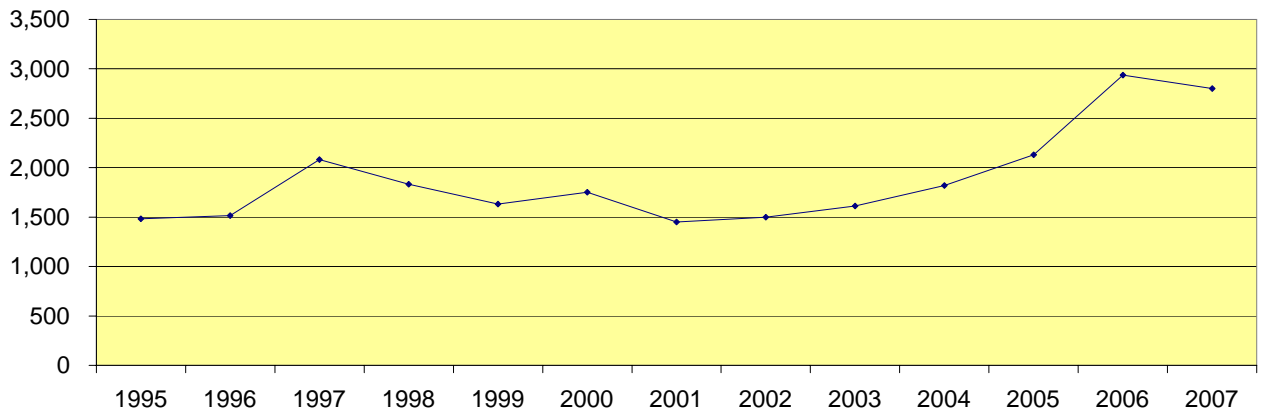
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Short-Term Lodging

	Month To Date													Year To Date				
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Monthly	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG
January	8,555	9,004	10,173	10,627	10,434	9,877	9,547	9,501	8,867	9,650	10,342	11,997	14,256	18.8%	10,342	11,997	14,256	18.8%
February	9,310	11,185	10,208	11,451	11,387	11,501	11,450	11,297	9,743	10,877	11,762	12,972	14,989	15.5%	22,104	24,969	29,245	17.1%
March	12,375	13,790	15,532	14,614	14,698	16,219	15,822	16,084	14,653	13,634	15,956	17,946	21,063	17.4%	38,060	42,915	50,308	17.2%
April	3,539	4,463	4,042	4,867	5,214	4,379	4,315	3,515	2,815	3,793	3,486	5,176	5,897	13.9%	41,546	48,091	56,205	16.9%
May	479	575	538	616	626	739	599	806	897	800	711	957	1,048	9.5%	42,257	49,048	57,253	16.7%
June	1,472	1,475	1,623	1,579	1,786	2,087	2,131	2,135	1,680	1,941	2,478	2,248	3,215	43.0%	44,735	51,296	60,468	17.9%
July	2,656	3,033	2,956	3,648	3,762	3,876	3,733	3,822	3,945	4,023	4,217	4,730	5,001	5.7%	48,952	56,026	65,469	16.9%
August	2,438	2,725	2,829	3,352	3,146	3,299	2,847	2,749	2,456	2,730	2,981	3,622	4,104	13.3%	51,933	59,648	69,573	16.6%
September	1,746	1,627	1,482	1,701	1,675	2,031	1,564	1,757	1,980	2,021	2,150	2,666	3,019	13.2%	54,083	62,314	72,592	16.5%
October	709	890	994	893	928	926	1,092	882	750	859	1,130	1,305	1,540	18.0%	55,213	63,619	74,132	16.5%
November	1,482	1,515	2,081	1,831	1,631	1,753	1,452	1,500	1,613	1,821	2,130	2,936	2,802	-4.6%	57,343	66,555	76,934	15.6%
December	8,458	8,548	9,639	9,589	9,014	10,186	8,477	9,654	9,988	11,498	12,503	14,084	0	-100.0%	69,846	80,639	76,934	-4.6%

Taxable Short-Term Lodging Sales - NOVEMBER



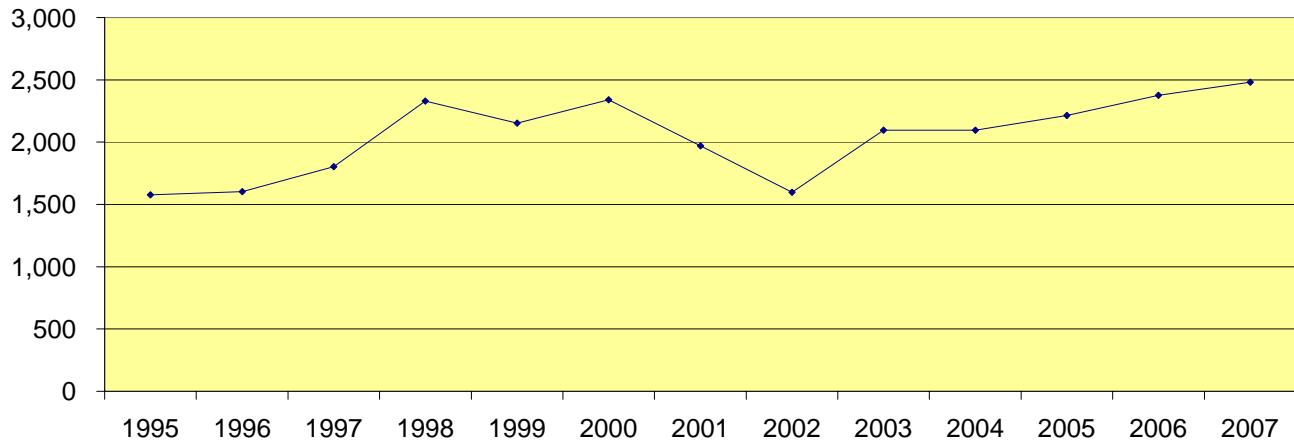
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Grocery/Liquor Stores

	Month To Date														Year To Date			
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG
January	2,280	2,458	2,746	3,104	2,977	2,999	3,242	3,472	3,314	3,570	3,589	3,977	5,154	29.6%	3,589	3,977	5,154	29.6%
February	2,371	2,595	2,702	3,020	3,119	3,296	3,501	2,931	3,643	3,714	3,949	4,233	4,527	6.9%	7,538	8,210	9,681	17.9%
March	3,068	3,383	3,839	3,960	4,199	4,282	4,366	4,311	3,988	3,968	4,449	4,585	4,806	4.8%	11,987	12,795	14,487	13.2%
April	1,615	1,928	1,937	2,325	2,105	2,330	2,441	2,336	2,437	2,682	2,503	3,149	3,074	-2.4%	14,490	15,944	17,561	10.1%
May	1,103	1,256	1,309	1,440	1,558	1,728	1,779	1,836	1,801	1,823	1,806	1,969	2,237	13.6%	16,296	17,913	19,798	10.5%
June	1,815	1,940	1,772	2,214	2,648	2,784	2,760	2,352	2,354	2,341	2,392	2,584	2,787	7.9%	18,688	20,497	22,585	10.2%
July	2,008	2,283	2,494	2,701	2,862	3,152	2,527	3,253	3,303	3,266	3,414	3,588	3,854	7.4%	22,102	24,085	26,439	9.8%
August	1,993	2,266	2,364	2,559	2,587	2,861	3,404	3,117	3,216	3,103	3,292	3,529	3,780	7.1%	25,394	27,614	30,219	9.4%
September	1,799	1,959	2,122	2,311	2,430	2,765	2,231	2,284	2,409	2,456	2,671	2,757	2,839	3.0%	28,065	30,371	33,058	8.8%
October	1,266	1,407	1,584	1,644	1,748	1,969	1,965	1,990	2,066	2,069	2,239	2,372	2,420	2.0%	30,304	32,743	35,478	8.4%
November	1,578	1,602	1,804	2,330	2,152	2,339	1,970	1,597	2,096	2,096	2,214	2,377	2,482	4.4%	32,518	35,120	37,960	8.1%
December	2,910	3,115	3,477	3,858	3,869	4,305	2,865	5,868	5,897	6,017	6,356	6,604	0	-100.0%	38,874	41,724	37,960	-9.0%

Taxable Grocery/Liquor Sales - NOVEMBER



IN 2001 A MAJOR GROCERY/LIQUOR VENDOR CHANGED ITS REPORTING FREQUENCY FROM 12 TO 13 PERIODS
THE TOWN IS AWARE OF INCONSISTENT FILING PRACTICES THAT HAVE NEGATIVELY IMPACTED COMPARISONS FOR THIS SECTOR.

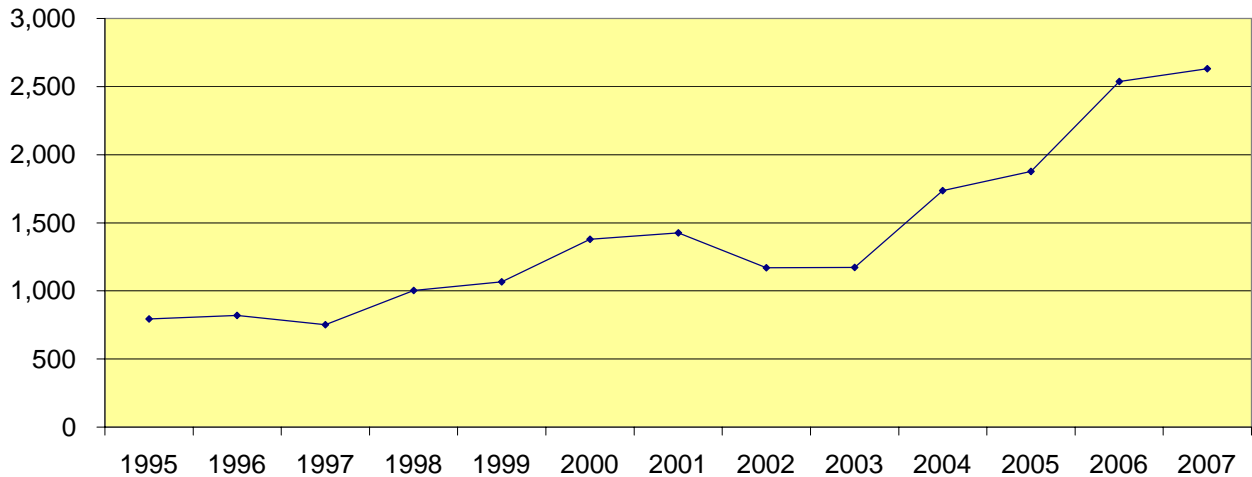
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Supplies

	Month To Date														Year To Date				
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Monthly	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG	
January	466	635	676	728	884	1,216	1,527	1,327	1,294	1,574	1,720	2,081	2,856	37.2%	1,720	2,081	2,856	37.2%	
February	515	499	522	685	1,126	1,170	1,385	1,106	1,197	1,268	1,669	2,029	2,554	25.9%	3,389	4,110	5,410	31.6%	
March	573	712	784	1,055	1,390	1,677	1,558	1,307	1,401	1,630	2,216	2,967	3,091	4.2%	5,605	7,077	8,501	20.1%	
April	363	509	525	615	723	946	1,095	1,059	869	1,110	1,359	1,680	1,891	12.6%	6,964	8,757	10,392	18.7%	
May	327	571	451	525	654	1,139	1,125	1,128	896	1,261	1,370	2,045	2,150	5.1%	8,334	10,802	12,542	16.1%	
June	476	742	870	1,024	1,400	1,615	1,858	1,455	1,696	1,837	2,083	2,836	3,132	10.4%	10,417	13,638	15,674	14.9%	
July	719	746	892	852	1,093	1,333	1,642	1,364	1,380	1,694	2,186	2,872	2,863	-0.3%	12,603	16,510	18,537	12.3%	
August	836	936	800	1,001	1,314	1,591	1,578	1,217	1,429	1,794	2,211	3,096	3,047	-1.6%	14,814	19,606	21,584	10.1%	
September	736	940	1,290	1,230	1,837	2,102	2,105	1,427	1,770	2,865	2,452	3,394	3,251	-4.2%	17,266	23,000	24,835	8.0%	
October	778	959	976	910	1,083	1,853	1,899	1,342	1,390	1,980	2,107	2,924	3,284	12.3%	19,373	25,924	28,119	8.5%	
November	794	819	752	1,003	1,066	1,378	1,425	1,171	1,173	1,737	1,876	2,537	2,632	3.7%	21,249	28,461	30,751	8.0%	
December	737	932	1,269	1,337	1,743	2,441	1,915	1,795	1,810	2,151	2,712	3,091	0	-100.0%	23,961	31,552	30,751	-2.5%	

Taxable Supplies Sales - NOVEMBER



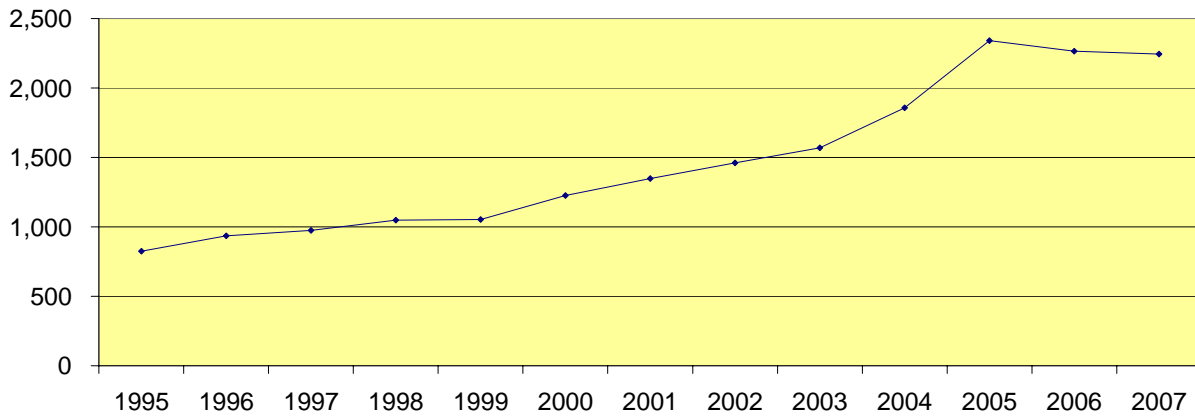
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Utilities

	Month To Date													Year to Date				
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Monthly	Actual	Actual	Actual	YTD
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	% CHG	2005	2006	2007	% CHG
January	1,309	1,201	1,320	1,446	1,575	1,625	2,191	2,144	2,093	2,684	2,675	3,829	3,589	-6.3%	2,675	3,829	3,589	-6.3%
February	1,296	1,218	1,250	1,121	1,360	1,359	2,075	1,659	1,800	2,391	2,540	3,056	3,154	3.2%	5,215	6,885	6,743	-2.1%
March	1,398	1,529	1,533	1,591	1,799	2,090	2,067	1,754	1,947	2,299	2,883	3,428	3,515	2.5%	8,098	10,313	10,258	-0.5%
April	1,117	1,181	1,255	1,262	1,227	1,299	1,894	1,724	2,040	1,827	2,741	2,778	2,699	-2.8%	10,839	13,091	12,957	-1.0%
May	925	904	1,226	1,047	1,089	1,091	1,599	1,272	1,740	1,647	1,939	1,926	2,384	23.8%	12,778	15,017	15,341	2.2%
June	927	1,027	780	1,133	1,402	1,510	1,325	1,228	1,466	1,558	1,846	1,713	2,079	21.4%	14,624	16,730	17,420	4.1%
July	778	796	830	913	907	880	1,289	1,147	1,427	1,394	1,663	1,529	1,587	3.8%	16,287	18,259	19,007	4.1%
August	821	844	844	910	913	994	1,336	1,198	1,393	1,408	1,629	1,854	1,616	-12.8%	17,916	20,113	20,623	2.5%
September	923	1,059	1,103	1,249	1,494	1,752	1,354	1,271	1,381	1,435	1,843	1,949	1,796	-7.9%	19,759	22,062	22,419	1.6%
October	809	866	804	854	917	1,039	1,353	1,227	1,429	1,348	2,127	1,987	1,882	-5.3%	21,886	24,049	24,301	1.0%
November	824	935	974	1,049	1,052	1,225	1,348	1,461	1,569	1,856	2,340	2,264	2,245	-0.8%	24,226	26,313	26,546	0.9%
December	1,048	1,381	1,570	1,661	1,885	2,423	1,760	1,852	2,297	2,627	4,005	3,206	0	-100.0%	28,231	29,519	26,546	-10.1%

Taxable Utility Sales - NOVEMBER



SEVERAL UTILITY VENDORS CHANGED FILING FREQUENCY FROM QUARTERLY TO MONTHLY IN 2001

MEMORANDUM

TO: Town Council

FROM: Chris Kulick, Planner I
Mark Truckey, Assistant Director of Community Development

DATE: January 10, 2007

SUBJECT: Capacity Analysis Chapters IV. – VI. Roads, Parking & Transit

Overview

Continuing with our third scheduled installment of our capacity analysis we are presenting information on our transportation components, chapters IV –VI. These three chapters of roads, parking and transit are interrelated and also affect the overall community character. The presentation will be broken down as follows:

IV. Roads

- Level of Service, What it measures
- Level of Service Data on Record
- Roadway Congestion Influences
- Areas that are Projected to Experience Higher Traffic Volumes at Buildout

V. Parking

- Parking Management & Needs
- Number of Town controlled public parking spaces
- Number of skier parking spaces
- Parking Occupancies and patterns

VI. Transit

- Ridership trends
- Ridership numbers: by month, stop and route
- Identification of major hubs & portals: for both departures & arrivals
- Evaluation of areas in need of service

Note that this analysis does not address pedestrian and bicycle movement, which is an additional component of the overall transportation system.

IV. Roads

In an effort to conduct a capacity analysis of the Town's roadway infrastructure, staff utilized standard measures, such as level of service (LOS), historical data and roadway congestion influences. Measures such

as LOS, are commonly utilized by traffic engineers to assess present traffic conditions and anticipated future traffic based on future development and population growth.

Level of Service (LOS), What it Measures

Roadway LOS: Roadway Level of Service. This is a measure of roadway congestion ranging from LOS A--least congested--to LOS F--most congested. LOS is one of the most common terms used to describe how "good" or how "bad" traffic is projected to be. LOS serves as a benchmark to determine whether new development will comply with an existing LOS or if it will change the preferred or adopted LOS. As part of planning for larger developments, the Town typically requires a Traffic Impact Study conducted by transportation professionals. The Traffic Impact Study determines how specific streets and intersections will function with increased traffic volumes, either with or without improvements. There are six levels of service typically recognized by transportation planners and engineers. They are as follows:

“Level of Service A

Level of Service A describes a condition of free flow, with low volumes and uninhibited speeds.

Level of Service B

Level of Service B is the zone of stable flow, with operating speeds beginning to be restricted somewhat by traffic conditions. Drivers still have reasonable freedom to select their speed and lane of operation.

Level of Service C

Level of Service C is the zone of mostly stable flow, but speeds and maneuverability are more closely constricted by the higher volumes.

Level of Service D

Level of Service D is a zone that approaches unstable flow, with tolerable operating speeds, however driving speed is considerably affected by changes in operating conditions.

Level of Service E

Level of Service E is a zone that cannot be described by speed alone. Operating speeds are lower than in Level D, with volume at or near the capacity of the roadway.

Level of Service F

Level of Service F is a zone in which the operating speeds are controlled by stop-and-go mechanisms, such as traffic lights. This is called forced flow operation. The stoppages disrupt the traffic flow so that the volume carried by the roadway falls below its capacity; without the stoppages, the volume of traffic on the roadway would be higher, or in other words, it would reach capacity” (Dush).

It should be noted that LOS is a measure of a roadway segment's (zone's) efficiency at moving automobiles through the zone. By definition, it places a high emphasis on the free-flowing speeds of autos and does not give consideration to the comfort or safety other roadway users such bicyclists or pedestrians.

Intersection LOS: Level of Service. “This is a measure of the average delay experienced by each vehicle passing through an intersection. It can be measured for the vehicles making each directional turning movement, using each approach leg, or as a composite average value for all vehicles using the intersection. Similar to roadway level of service, it is reported with a letter grade designation ranging from A to F. An LOS A represents insignificant delay (less than 10 seconds per vehicle); LOS F represents significant waiting. This means more than 50 seconds per vehicle for intersections with non-existent or inadequate signals or more than 80 seconds per vehicle for intersections with signals” (Dush).

Level of Service Data on Record for Intersections¹

HWY 9/ CR 450 Intersection LOS PM Peak Hour²

All times = LOS B

Buildout projection = LOS C (Transplans)

Ski Hill Rd/ N. Park Ave intersection LOS³

Existing Peak PM Hour – LOS C

With buildout of Peak 7/8 MP- LOS D (TDA)

Reiling Road & Wellington Road PM Peak Hour Projected⁴

With full buildout of Wellington Neighborhood, Vista Point and Corkscrew – LOS B (Felsburg et al.)

Wellington Rd Royal Tiger Rd PM Peak Hour Projected⁵

With full buildout of Wellington Neighborhood, Vista Point and Corkscrew – LOS A (Felsburg et al.)

Listed above is the most recent data we have on various intersections level of service. In general most roadways within the Town of Breckenridge operate at a Level of Service B or better. Generally there is a surplus of capacity on weekdays and this capacity grows tighter on weekends. Keep in mind many different factors influence Level of Service in addition to density. Some factors are width of roadways, streetscaping, sight distance, weather and building setbacks. Because LOS is based on the freedom of movement, it is not always desirable to have a high LOS and un-impeded travel, such as in areas with high pedestrian levels, residential neighborhoods and school zones.

Roadway Congestion Influences

- *Increasing density may actually decrease traffic on typical corridors (lower vehicle miles traveled).* – Increasing density in the core of Town can help reduce traffic congestion and vehicle miles traveled. Regardless of the density being used for local workforce housing or short-term vacation rentals higher core densities allow for less dependence on automobile based travel. The creation of residential density in close proximity to jobs, recreation, shopping, entertainment, amenities for children and transit, drastically reduces vehicle miles traveled and relative congestion. Because these amenities are available nearby, they are more convenient to walk or take transit to. In Breckenridge we already have a relatively dense core area, but the creation of workforce affordable housing within Town limits will act to change some of the traffic patterns in Town. As new workforce housing is built, workers who have been commuting from out-of-town will move into the housing and the number of vehicle miles traveled (particularly on HWY 9) will be reduced. These workers may also be able to use other forms of transportation such as bus, walking or bicycling instead relying solely on the automobile.
- *Jobs and skier days influence road congestion more than density* – Unlike the creation of residential density in Town, which allows for more individuals to live or stay close to amenities and thereby not to have to drive as much. In contrast, the creation of new jobs, and the attraction of more vacationers increases vehicle miles traveled and congestion. This is because without the

¹ Stated LOS will be exceeded over the estimated projections of these studies during peak visitation days

² The results of this study were based off of data collected on January 19, 2001.

³ Projections in this report are based off of the tenth busiest ski day of the 1999-2000 season, a season in which the busiest day had 19,000 skiers. In recent years the ski resort has had days with over 23,000 skiers, which is a 21% growth over the busiest day in the 1999-2000 season. Additionally future projections in the study anticipated the installation of a gondola as a transportation source to Peak 8. One of the main reason for a low intersection LOS in this case is the relatively short signal for through and turning traffic on Ski Hill Road.

⁴ The results of this study were based off of data collected on various dates in September of 1999.

⁵ The results of this study were based off of data collected on various dates in September of 1999. Page 39 of 155

creation of new residential density people will have to travel from farther distances and be more dependent on their automobiles to accommodate job growth and greater numbers of tourists.

- *Roads should not be designed for peak traffic days* – During certain times of the year (Christmas, Presidents Day weekend, Spring Break and Fourth of July) our roadway infrastructure will often be utilized beyond its capacity. This is a situation that should not be addressed through roadway design; it must be addressed, as it currently is, through traffic management personal. Busy times of the year are the nature of our resort-based economy. If we designed roadways to accommodate these intense volumes of traffic, we would be forced to live with overbuilt roadway systems the other 90% of the year. Additional travel lanes and other increases in roadway capacity would change the visual character of our community. As the saying goes “you don’t build the church for Easter Sunday”.
- *Roadway expansion induces demand* –The process of expanding roadways generally encourages a greater of number vehicle trips per day than if the roadway were not expanded. This phenomenon is attributed to drivers initially experiencing less congestion just after a roadway is expanded and therefore are incentivised to make more trips as a result of the convenience. In the most recent traffic study conducted for sections of Highway 9 located within Breckenridge, traffic engineers have forecasted an additional 15% of “induced demand” beyond the forecasted growth attributed to population, employment and tourism because of the likelihood that highway 9 will be increased to four lanes continuously to Frisco. (Carter Burgess).

Areas that are projected to experience higher traffic volumes at buildout

- *Airport Road* – Airport Road is anticipated to be impacted the most of all Town roads at buildout because of proposed development of housing and CMC on Block 11. Currently we have no existing level of service data on Airport Road.
- *Park Avenue* – Park Avenue will continue to grow busier at buildout because of the re-alignment of Highway 9, and proposed development on the current parking lots.
- *Coyne Valley & Valley Brook Roads* – Coyne Valley and Valley Brook Roads will be affected by proposed housing on Block 11 in a similar to way Airport Road. Currently these roads are well below capacity and even at full buildout are anticipated to be below capacity. We would expect these roads will not exceed LOS B.

V. Parking

As the fifth element of the Town’s capacity analysis, staff completed a thorough analysis of every Town owned and Ski Resort operated parking lot located within the Town. Information in this analysis was obtained through site visits, Parking and Transit department records, Ski Resort Records and the Town’s 2004 Parking Study. Parking that is part of residential development was not included in this analysis.

Parking Management & Need

Parking in Breckenridge is always in demand because of the many destination-oriented activities that take place here, as well as Breckenridge being a primary employment center for the county. Breckenridge has 1,719 Town-controlled public parking spaces and 2,670 skier parking spaces controlled by the Breckenridge Ski Resort for a grand total of 4,389 parking spaces. According to Transportation and Parking and Fleet manager Jim Benkleman, “the town has adequate parking for future growth; it is more of a managing issue verses a numbers issue to accommodate future growth”. Though Breckenridge has adequate parking for future growth, parking around Town during busy times is not always perceived as convenient. Many residents and visitors are accustomed to having front door parking, and thus complain when it isn’t available to them at all times of the year. Much of Breckenridge’s appeal is its compact, dense, walkable urban core. The addition of more close-in surface

parking spaces will not only erode from our built character, it can also increase auto congestion and erode the pedestrian experience. As Breckenridge continues to grow as a place to visit and reside, effective parking management and education of residents and visitors will become increasingly important to continue to deliver a positive town experience.

Town Owned Public Parking Spaces

LOT	PAY*	FREE	ADA	TOTAL
Barney Ford		28	0	28
CMC North		63		63
CMC South		42		42
Courthouse		43	2	45
East Sawmill	84		5	89
Exchange, Lower Outdoor		12	0	12
Exchange, Lower Structure		41	2	43
Exchange, Upper		40	2	42
F-Lot	172		7	179
French St.		33	1	34
Ice House		46	2	48
Ice Rink		153	4	157
Klack Placer		71	2	73
Tiger Dredge	194		5	199
Tonopah		58	2	60
Wellington	44		2	46
TOTAL	494	630	36	1160
ON STREET				
Main, South		108	11	119
Main, North		39	3	42
Ridge, South		161	1	162
Ridge, North		33	1	34
Lincoln Ave.		22	0	22
Adams Ave.		15	0	15
French St.		157	8	165
TOTAL	0	535	24	559

Ski Resort Controlled Parking Spaces

LOT	PAY*	FREE	ADA	TOTAL
Miners	500		0	500
Tailings	500		0	500
Gold Rush Lot		320	0	320
Postal Lot		150	0	150
Peak 8 Base	380		0	380
Peak 9 (Beaver Run)	220		0	220
Satellite Lot (Block 11)		600		600
TOTAL	1600	1070	0	2670

*During much of the off-season many of the paid parking spaces are converted to free parking.

Total Parking Available

Controlled Spaces	PAY	FREE	ADA	TOTAL
Town & Ski Resort	2,094	2,235	60	4,389

VI. Transit

Breckenridge, because of the tourism influence, cannot use common indicators such as building density or pillow tops for extrapolating needs of transit service. The best method for solving Breckenridge's future transportation needs is through studying historical ridership patterns and looking for trends based on origination numbers, spatial analysis and demographics of stop location. By utilizing these methods clear patterns of use start to emerge that can be



utilized as indicators for future need. Below is a current snapshot of trends and supporting background information from the 2006 Breckenridge Freeride ridership data.

In general, ridership numbers are highest at ski resort portals and other major destinations such as F-Lot and City Market. Numbers from ski area portals are obviously strong during the ski season and then drop off substantially after the closing of the ski resort. Another unique demographic with strong ridership numbers is found near places of lower cost, higher density, local housing that are geographically outside of Breckenridge's central core. Examples of these types of stops can be found near Breck Terrace and Now Colorado. It is speculated that these types of developments have greater ridership because of the distance and geographic separation between the development and the town core, that many residents do not own cars, and the overall permanent population density is higher in and around the development compared with other areas of town.

Main Transportation Hubs & Ski Area Portals⁶

Breck Station:

- 111,390 riders (1st) originated at Breck Station, which amounts to 20.7% of all originations in the system

Beaver Run:

- 39,920 riders (3rd) originated at Beaver Run, which amounts to 7.5% of all originations in the system

City Market:

- 24,866 riders (4th) originated at City Market, which amounts to 4.7% of all originations in the system

F-lot:

- 18,254 riders (6th) originated at F Lot, which amounts to 3.3% of all originations in the system

Peak 8:

- 12,552 riders (7th) originated at Peak 8, which amounts to 2.3% of all originations in the system

⁶ This information is based off official Town of Breckenridge Transit numbers for the year of 2006 Page 42 of 155

Other Primary Places of Origination:

Breckenridge Terrace

- 56,549 riders (2nd) originated at a Breck Terrace stop, which amounts to 10.5% of all originations in the system, second only to Breck Station
- 4,533 ft. distance to intersection of N. Park and Main (edge of town)
- 7,053 ft. distance to Breck Station

Now Colorado & Flintstone Ln

- 23,817 riders (5th) originated at Now Colorado or Flintstone Ln, which amounts to 4.5% of all originations in the system
- 5,054 ft. distance to intersection of S. Park and Main (edge of town)
- 9,115 ft. distance to Breck Station

Ski & Racquet

- 10,927 riders originated at Ski & Racquet, which amounts to 2% of all originations in the system
- 2,371 ft. distance to intersection of S. Park and main (edge of town)
- 5,922 ft. distance to Breck Station
- Close to town, yet geographically isolated due to highway 9

Pinewood Village

- 8,444 riders originated at Pinewood Village, 1.5% of all riders
- Ridership decreases in warmer months most likely because people are willing to walk further in warm weather

Current & Future Needs

From the above information we can infer that transportation will be needed adjacent to current and future affordable housing and ski-area related development. To take care of existing needs, bus service should be expanded and integrated with existing Summit Stage bus service so that a loop is formed from Breck Station along Wellington Road to the Wellington Neighborhood, Vista Point and Gibson Heights, then returning to Breck Station via French Creek Village and County Road 450. Partnering with the County in this situation makes sense because this corridor has the highest concentration of workforce population in the Upper Blue Basin. In solving Breckenridge's transportation needs, solutions need to be created for where the biggest impacts lie, which aren't necessarily always within the town limits.

In addition to existing needs, public transportation will be an essential component to proposed workforce housing development on Block 11, the Stan Miller property and possibly Vic's Landing. These developments could all be serviced by a re-alignment and extension of the Yellow Route. The Yellow Route already has the greatest ridership within the Freeride system because of workforce housing projects such as Breck Terrace and Pinewood Village. With the addition of many other further outlying workforce housing units, as well as outlying ski area parking that has potential for a year round park-and-ride facility, the Yellow Route has great potential to expand its role in serving the transportation needs of Breckenridge and the upper Blue Basin.

Other currently un-served areas of Breckenridge were also looked at for possible public transportation expansion such as the Highlands, Shock Hill, and Upper Four O' Clock, however due to their inconsistent population densities (eg. Second home owners not here on permanent basis), high degree of

spatial separation and social demographics it is felt that public transportation service is not warranted for these areas at this time.

Recent Town upgrades to our parking and transportation systems

As pointed out in the beginning of the document Roads, Parking and Transit are extremely interconnected and in recent years the Town has much time in improving their infrastructure related to Roads, Parking and Transit. In 2001 Charlier and Associates produced *the Town of Breckenridge Transportation, Circulation and Main Street Reconstruction Plan*, within this document several recommendations for improvements to the Town were outlined. Below is the list of improvements recommended from that document and status of recommendation in brackets.

- State Highway 9 Re-alignment from Main Street to Park Avenue (completed in 2006)
- Traffic Circulation Improvements
 - Redesign of the North Park and Main Street intersection (completed in 2006)
 - Redesign of the South Park and Main Street intersection (completed in 2006)
- Create an intermodal center at the north end of Town to alleviate pressure of the South Park Avenue corridor (completed in 2004)
- Main Street streetscape improvements (currently working with design firm)
- Riverwalk extension south under Park Avenue and north from Ski Hill Road to French Street (Town will be working with a design firm)
- Construct gondola from intermodal center to Peak 7 & 8 (completed in 2006)
- Construct in town people mover to facilitate non-auto transportation within the core of Town (No Progress)
- Parking Management Plan (completed in 2006)

After reviewing the list from above it is apparent the Town and its leaders have aggressively addressed many of the Town's previous parking and transportation shortcomings. In addition the recommendations in *the Town of Breckenridge Transportation, Circulation and Main Street Reconstruction Plan* the Town has invested in other major projects that address parking and transportation needs such as the Exchange Lot parking structure and additional sidewalks and pedestrian routes in high traffic areas.

Council Discussion

Staff looks for any input the Council has on the information provided above. Particularly, input on the following questions would be helpful:

1. Does the Council agree with the proposed capacity measurements and are there other measurements the Council feels would be useful exploring?
2. Are there questions or additional information the Council desires regarding the Roads, Parking and Transit analysis?

Works Cited

French Gulch Travel Shed Traffic Analysis. TransPlan Associates, Inc.,
February 5, 2001

The Language of Traffic. Steven J. Dush, & Gregory P. Muhonen. American Planning Association.
2002.

Peaks 7&8 Planned Development Traffic Impact Assessment. TDA Colorado, Inc., December 14, 2000.

State Highway 9 Draft Environmental Impact Statement & 4(f) Evaluation. CarterBurgess, May 2002.

Wellington Road And Reiling Road Development Impact Study. Felsburg Holt & Ullevig, December
1999.



MEMORANDUM

TO: Town Council

FROM: Chris Neubecker, Senior Planner

DATE: January 16, 2008

SUBJECT: Planning Commission Top 5 Priorities

Recently the Town Council asked about the Planning Commission Top 5 Priorities list. This topic was discussed in the context of a concern raised about the size of some new homes, additions and remodels in the Weisshorn Subdivision.

On September 13, 2007, each Commissioner indicated their preferred Top 5 Priorities list for staff. Based on the input received, staff assigned a weighted scale to each topic, based on the their individual priority lists. (Five points were assigned to their first priority, and one point to their last priority.) The following list indicates the results, and is the Planning Commission's most recent Top 5 list.

New Top 5 List:

1. Single-Family Home Size Limits: Town Council discussed this topic as a work session on September 11, 2007. They indicated that FAR limits were the preferred method for regulating home size. We held a work session discussion with the Planning Commission on December 4, 2007. We anticipate returning to the Planning Commission on February 5, 2008.
2. Ground Floor Uses: Town Council adopted a restriction against new residential uses on the ground floor within the Downtown Overlay District on August 14, 2007. Planning Commission held a work session on October 16, 2007 concerning prohibition of new offices on the ground floor within the Downtown Overlay District. Planning Commission also discussed a revision to this ordinance on December 4, 2007.
3. Privacy Gates and Fences: Town Council most recently discussed this topic as a work session on January 8, 2008. This item may be ready for a first reading by February 12, 2008.
4. Solar Panels on Roofs: No research has yet been completed.
5. TDR Receiving Zones: No research has yet been completed.

Other topics that were also identified, which staff believes should be addressed soon include:

6. Lot Sizes and Footprint Lots: No research has yet been completed
7. Sunsetting Density for Positive Points: This topic was on the most recent Top 5 list. No significant work has been done.

Following are the status of several items from previous Top 5 lists:

1. Policy 8/R-Ridgeline and Hillside Development: Adopted October 24, 2006

2. Architectural Statement of Compliance: Adopted February 13, 2007

3. Certified Historic District Contractors: The Town Attorney and staff have some concerns with this topic, and we have not found a good way to address this issue. We do not have a good grasp on how much time it would take to develop the certification program or how it would be administered and tested. We do not know when this issue will return to the Planning Commission or Town Council.

4. Single-Family Lot Splits: Adopted October 24, 2006

5. Development Permits Expiring at C.O.: Adopted October 23, 2007

6. Policy 46/A-Exterior Lighting: Adopted June 12, 2007

7. Wildfire Mitigation: This is being incorporated into a new landscaping policy, which is expected to be presented to the Planning Commission on February 19, 2008. This topic will also discuss reforestation, which was identified as a priority by some Commissioners.

8. Green Building/LEED: Staff is working on this topic, but we are anticipating that it will be codified in the Building Code, and will not be a planning issue. For this reason, staff would recommend taking this topic off the Top 5 list. Some form of this code will likely be adopted countywide in spring or summer 2008.

9. Sunsetting Density for Positive Points: No significant work has been done.

10. Landscaping/Weeds: The noxious weeds policy was adopted April 10, 2007. A new landscaping policy is expected for presentation to the Planning Commission on February 19, 2008.

Other items for discussion or adding to the Top 5 list in the future:

Historic period of significance

Hardiplank outside historic district

Impact of short-term rentals

Accessory dwelling units

Moving historic buildings without negative points

Employee housing for projects that are less than 5,000 square feet

Development Agreement process and transfers of density

Staff will be available at the work session on Tuesday afternoon to discuss these priorities and our progress to date. We look forward to hearing your input on these topics, and your priorities for staff.



TOWN OF BRECKENRIDGE TOWN COUNCIL AGENDA
Tuesday, January 22, 2008 (Regular Meeting); 7:30 p.m.

- I CALL TO ORDER and ROLL CALL**
- II APPROVAL OF MINUTES** – January 8, 2008 Regular Meeting *Page 50*
- III APPROVAL OF AGENDA**
- IV COMMUNICATIONS TO COUNCIL**
- A. Citizens Comment - (Non-Agenda Items ONLY; 3 minute limit please)
- B. BRC Director's Report
- V CONTINUED BUSINESS**
- A. SECOND READING OF COUNCIL BILL, SERIES 2007 & 2008 – PUBLIC HEARINGS****
- 1. Council Bill No.41, Series 2007-** AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE A PARCEL OF LAND LOCATED IN THE B & L NO. 1 PLACER, MS 114044, THE ACCOMMODATION PLACER, MS 19361, AND THE BRADDOCK PLACER, M.S. 13465, COUNTY OF SUMMIT, AND STATE OF COLORADO (Miller — 40.41 acres, more or less) *Page 86*
- 2. Council Bill No.42, Series 2007-** AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICTS 1 AND 33 (Miller — 40.41 acres, more or less) *Page 86*
- 3. Council Bill No. 1, Series 2008-** AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MEMBERSHIP OF THE TOWN OF BRECKENRIDGE LIQUOR LICENSING AUTHORITY *Page 105*
- VI NEW BUSINESS**
- A. EMERGENCY ORDINANCE, SERIES 2008-**
- 1. Council Bill No. 2, Series 2008-** AN ORDINANCE AMENDING ORDINANCE NO. 2, SERIES 2008, RELATING TO THE TOWN'S GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008 AND DECLARING AN EMERGENCY *Page 109*
- B. FIRST READING OF COUNCIL BILL, SERIES 2008-**
- 1. Council Bill No. 3, Series 2008-** AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH JOSEPH S. MILLER AND BRADDOCK HOLDINGS, LLC, a Colorado limited liability company (Extended Vested Property Rights—Stan Miller Master Plan) *Page 93*
- 2. Council Bill No. 4, Series 2008-** AN ORDINANCE AUTHORIZING THE GRANTING OF A SIGN EASEMENT TO B & D LIMITED PARTNERSHIP *Page 120*
- 3. Council Bill No. 5, Series 2008-** AN ORDINANCE AUTHORIZING A SECOND AMENDED GRANT OF EASEMENTS TO B & D LIMITED PARTNERSHIP *Page 129*
- C. RESOLUTIONS, SERIES 2008-**
- 1. A RESOLUTION APPROVING AN ANNEXATION AGREEMENT WITH JOSEPH S. MILLER AND BRADDOCK HOLDINGS, LLC, A COLORADO LIMITED LIABILITY COMPANY (Miller — 40.41 acres, more or less) *Page 54***
- 2. A RESOLUTION APPOINTING PETER GROSSHUESCH AS THE TOWN OF BRECKENRIDGE'S REPRESENTATIVE ON THE NORTHWEST COLORADO COUNCIL OF GOVERNMENTS *Page 145***
- 3. A RESOLUTION APPROVING AN AGREEMENT WITH THE COLORADO ASSOCIATION OF TRANSIT AGENCIES AND THE MEMBERS OF THE COLORADO TRANSIT COALITION *Page 148***
- D. OTHER**
- VII PLANNING MATTERS**
- A. Planning Commission Decisions of January 15, 2008 *Page 2*
- B. Town Council Representative Report (Dr. Warner)
- VIII REPORT OF TOWN MANAGER AND STAFF***
- IX REPORT OF MAYOR AND COUNCILMEMBERS***
- A. CAST (Mayor Blake)

- B. Breckenridge Open Space Advisory Commission (Mr. Bergeron)
- C. BRC (Mr. Rossi)
- D. Multi-Jurisdictional Housing Authority (Mr. Millisor)
- E. Breckenridge Heritage Alliance (Ms. McAtamney)
- F. Liquor Licensing Authority (Mr. Bergeron)

X OTHER MATTERS

XI SCHEDULED MEETINGS

XII ADJOURNMENT

Page 155

*Report of Town Manager; Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item

** Second Readings are Final Action Items. Public comment will be allowed during the public comment portion of the reading.

CALL TO ORDER AND ROLL CALL

Mayor Blake called the January 8, 2008 Town Council Meeting to order at 7:30 p.m. The following members answered roll call: Mr. Bergeron , Mr. Mamula, Ms. McAtamney, Mr. Rossi, Mr. Millisor, Dr. Warner and Mayor Blake.

APPROVAL OF MINUTES – December 11, 2007 Regular Meeting

There were no corrections or changes to the minutes and were approved as presented. Council Bill 38 the second motion needs to be changed to read that Ms. McAtamney made the second, not Jeffrey.

APPROVAL OF AGENDA

Town Manager, Tim Gagen, had no changes.

COMMUNICATIONS TO COUNCIL

- A. Citizens Comment - (Non-Agenda Items ONLY; 3 minute limit please)
- B. BRC Director's Report – Corry Mihm, Executive Director, went through the schedule of activities for Ullr Week. NBS comes next week and there are about 1500 coming so far. Corry gave figures for the month of December. Extreme Makeover Home Edition will be on this Sunday. NYT article will run on January 30th. Welcome Center Numbers are up 29%. There were 308 nominations for the Friends Welcome Award last month. Webcam has frequent images of the Riverwalk construction. Next Mixer is January 23 at Blue Sky. They will be celebrating the BRC reaching 500 members at that Mixer.

CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2007 – PUBLIC HEARINGS**

1. Council Bill No.40, Series 2007- AN ORDINANCE AMENDING ARTICLE H OF CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING PROVISIONS CONCERNING THE MUNICIPAL OFFENSES OF ‘FRAUD IN THE PROCUREMENT OF TOWN ASSISTANCE’ AND ‘FRAUD IN CONNECTION WITH TOWN HOUSING PROGRAM’

Tim Berry commented that the Ordinance would make fraud in the procurement of Town assistance and fraud in connection with the Town's Housing Program municipal offenses. There were no changes from first reading.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve Council Bill No 40, Series 2007 on second reading. Mr. Mamula made the second. The motion passed 7-0.

2. Council Bill No.41, Series 2007- AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE A PARCEL OF LAND LOCATED IN THE B & L NO. 1 PLACER, MS 114044, THE ACCOMMODATION PLACER, MS 19361, AND THE BRADDOCK PLACER, M.S. 13465, COUNTY OF SUMMIT, AND STATE OF COLORADO (Miller — 40.41 acres, more or less)

Tim Berry commented that on December 11th the Council approved the first reading of the annexation ordinance. Based on input from that meeting staff began drafting the annexation agreement to reflect the plan that has been discussed. While the fundamental elements of the plan have not changed, staff wanted to review a few details that have not been specifically discussed previously. Staff requested that the Council continue the second reading until January 22nd, at which time they also expect to present the annexation agreement.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Millisor moved to continue Council Bill No 41, Series 2007 to the January 22, 2008 meeting. Dr. Warner made the second. The motion passed 7-0.

3. Council Bill No.42, Series 2007- AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICTS 1 AND 33 (Miller — 40.41 acres, more or less)

Tim Berry commented that on December 11th the Council approved the first reading of the ordinance that would place this property in LUD 1 & 33. Staff requested that the Council continue the second reading until January 22nd.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to continue Council Bill No 42, Series 2007 to the January 22, 2008 meeting. Mr. Mamula made the second. The motion passed 7-0.

4. Council Bill No.43, Series 2007- AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008 AND REPEALING ORDINANCE NO. 24, SERIES 2005.

Tim Gagen commented that the Ordinance would authorize the refunding of the Town of Breckenridge 1998 & 1999 GO Bonds. As part of the work on setting up the COP for the Childcare Facility we asked our Bond Advisor to recheck the possibility of this refunding. The analysis shows that the short-term bond market is favorable to refunding and that the interest savings after all cost is \$114,702.27. The Town is trying to lock this savings for the next 45+ days, which gives us time to adopt a Refunding Ordinance on 1st and 2nd reading with our current meeting schedule of 12/11 and 1/8. Given the remaining of the term of the existing bonds at 2013 and low short-term interest rates this is likely the last opportunity to refinance the bonds.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Ms. McAtmaney moved to approve Council Bill No 43, Series 2007 on second reading in the form that was handed out. Mr. Rossi made the second. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2008

1. Council Bill No. 1, Series 2008- AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MEMBERSHIP OF THE TOWN OF BRECKENRIDGE LIQUOR LICENSING AUTHORITY

Tim Berry commented that the Town Council recently voted to eliminate Council representation on the Liquor Licensing Authority. The Town Code states that “one member of the Authority shall be a member of the Town Council” therefore this ordinance would repeal this section and allow a new member to be appointed. All terms will now be 4-year terms to be staggered with 2 regular appointments every 2 years. The person appointed to fill the vacancy on the Liquor Licensing Authority caused by the ending of the term of office of Jeffrey Bergeron shall serve only until September, 2009, at which time a person shall be appointed for a term of four years.

Mr. Bergeron moved to approve Council Bill No 1, Series 2008 on first reading. Dr. Warner made the second. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2008

NONE

C. OTHER

1. ISSC Fire Special Permit Request

In conjunction with the 2008 International Snow Sculpture Championships, there is a request to have open fire(s) in a 55 gallon drum and/or in a “kiva” stove on Thursday, January 24, 2008 from 7pm-11:30pm and Friday, January 25, 2008 from 7pm to 1am on Saturday, January 26, 2008. Red, White and Blue would approve use of both a 55 gallon drum or a “kiva” stove. The proposed fires would be set up in the event site for International Snow Sculpture

Championships which is located in the Tiger Dredge Lot in front of the Riverwalk Center at 150 West Adams.

Dr. Warner moved to approve a special permit to allow open fires during the International Snow Sculpture Championships, on Thursday, January 24, 2008 from 7pm-11:30pm and on Friday, January 25, 2008 from 7pm to 1am on Saturday, January 26, 2008. All burning shall comply with the "Open Burning" requirements of Section 307 of the International Fire Code, 2003 Edition. In addition, the applicant shall obtain a bonfire or open burning permit from the Red, White & Blue Fire Department. Mr. Mamula made the second. The motion passed 7-0.

PLANNING MATTERS

- **Planning Commission Decisions of January 3, 2008.**

Mr. Mamula commented that he didn't think it was a big enough issue to call it up but wanted to make a statement for the record. Felt the planning commission should have added a finding that does not ignore the ridgeline that states that they understand that is a ridgeline in town and that the applicant met or mitigated the effect on the ridgeline. For future projects he stated that this is a prominent ridgeline in town.

With no requests for call up, Mayor Blake stated the Planning Commission decisions of the January 3, 2008 meeting will stand as presented.

- **Town Council Representative Report.**

Dr. Warner had nothing to add.

REPORT OF TOWN MANAGER AND STAFF

Tim Gagen, Town Manager, had nothing to report.

REPORT OF MAYOR AND COUNCILMEMBERS

A. Report of Mayor (CAST/I-70 Coalition)

Mayor Blake had nothing to report. Mr. Gagen commented on when the next meetings were.

B. Northwest Colorado Council of Governments/QQ (Ms. McAtamney)

Ms. McAtamney had nothing to report

C. Colorado Municipal League (Mr. Rossi)

Mr. Rossi had nothing to report

D. Breckenridge Open Space Advisory Commission (Mr. Bergeron)

Mr. Bergeron commented that they are going to work more on the Cucumber Gulch issues and signage. The Council agreed that a consultant did not need to be hired to create a new looking sign.

E. Summit Transit Board /Transit Advisory Committee (Mr. Mamula)

Mr. Mamula had nothing to report.

F. Police Department Advisory Committee (Mr. Millisor)

Mr. Millisor had nothing to report.

G. Arts Committee (Ms. McAtamney)

Ms. McAtamney had nothing to report.

H. Liquor Licensing Authority (Mr. Bergeron)

Mr. Bergeron commented that they are very much looking at the late night issues they are having around town. There has been a letter drafted asking bars to consider hiring an off-duty police officer to be present at the door.

I. BRC (Mr. Rossi)

Mr. Rossi had nothing to report.

J. Wildfire Council (Mr. Rossi)

Mr. Rossi had nothing to report.

- K. Breckenridge Economic Development Advisory Committee (Mr. Mamula)**
Mr. Mamula had nothing to report.
- L. Multi-Jurisdictional Housing Authority (Mr. Millisor)**
Mr. Millisor had nothing to report.
- M. Breckenridge Heritage Alliance (Ms. McAtamney)**
Ms. McAtamney had nothing to report.

OTHER MATTERS

Ms. McAtamney commented that the stoplight at Lincoln and Ski Hill only allows one car through. There is a ludicrous amount of snowmobiles going up Reiling Rd. Mr. Rossi commented that they were going through at 2am. Also many people are bringing up the live/work issue with the daycare scholarship program.

Mr. Millisor commented that the school has to replace the fields and can put up ¼ million and they are hoping to raise ¼ million and go to the Towns for the rest. Mr. Mamula commented that he was in for it as long as all the Towns are in for their shares. They all agreed. Tim Gagen clarified that everyone would be willing to have Tim talk to the other Towns about matching their contribution.

Mr. Mamula commented because of some things that happened this summer particularly in the Weisshorn that he thought it was important to possibly push aside some other planning things to take a look at the redevelopment parts of the code. He is afraid that all the houses will just be torn down and rebuilt and we will lose the character. It defeats the cohesiveness of the communities. He would like the planning commission to start looking at this and would like to see a redevelopment part of the code that refers to the scrape off houses.

Dr. Warner commented that he will be running for Mayor of Breckenridge.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss the regular meeting was adjourned at 8:16 pm.

Submitted by Alison Kellermann, Administrative Services Coordinator

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

Ernie Blake, Mayor

MEMO

TO: Town Council

FROM: Laurie Best and Michael Mosher

RE: Stan Miller Annexation Agreement

DATE: January 16, 2008 (for January 22nd meeting)

Staff has worked with the applicant to prepare an annexation agreement that formalizes the terms and conditions for the Stan Miller annexation. The agreement is included in your packet, and a resolution adopting the agreement is scheduled for your consideration during the evening session. Staff believes that the terms and conditions outlined in the agreement are consistent with the plan that has been previously reviewed by the Council, and that the terms and conditions are consistent with the Town's Affordable Housing Strategy and the recently adopted countywide deed restriction. Staff recommends approval of the annexation agreement as presented. Provided the Council is comfortable with the agreement and opts to proceed with approval of the resolution this evening, the annexation ordinance and the LUD ordinance are also scheduled for second and final reading this evening. In the event the Council is not prepared to act on the agreement this evening staff asks that both ordinances also be tabled.

Summary of Substantive Terms of Agreement

The Agreement provides that:

- The property will be developed as a maximum of 100 permanently affordable deed restricted units and 55 unrestricted market units
- The project density includes 22 SFEs that already exist in Town (19 SFEs that will be transferred to this site from the adjacent Braddock Flat parcel and 3 SFEs that already exist on the in-town portion of the site), 26 SFEs currently zoned under the County PUD, up to 7 TDRs which will be purchased by the applicant if all 55 market units are constructed, and 100 permanently affordable units. Excluding the SFEs which are already in Town, the percent of deed-restricted units is 75.2% of the total new residential units.
- The project is proposed to be developed in phases over the next 18 years. The applicant is requesting extended vesting for the Master Plan to allow the first phase (39 units) to be started in 2009 and completed in 5 to 6 years, and the second phase (116 units) to be completed by 2027. The applicant proposes public benefits for the annexation and the extended vesting including:
 - The reclamation and restoration of the portion of the Blue River running along the west edge of the property per the Blue River Restoration Master Plan. The river edges will be reclaimed and revegetated with natural landscaping and a soft surface trail will be created to link to planned trails at the north and south edges of the river corridor. This area (approximately 6.14 acres) will be dedicated as Public Open Space with a minimum of 8 public parking spaces.
 - The dedication of a new 60 foot-wide Right of Way and the construction of Stan Miller Drive on this Right of Way extending from Tiger Road to the soon to be

completed Stan Miller Drive on the south. This road will be able to handle the truck traffic for the neighboring service commercial uses, possible Summit Stage bus routing, as well as providing easy access to the housing component of this proposal. It is hoped that public transportation will utilize this link too. In addition, the current full-movement drive off of Highway 9 to the Stan Miller offices will be abandoned.

- Four separate pocket parks placed on 3 acres of private open space with public easements for access to the river. The HOA of the development will maintain the spaces while the public is allowed to access the parks and river. A minimum of eight public parking spaces will be provided unless the Town approves fewer spaces through the Master Plan process.
- 100 units of Permanently Affordable Housing in a variety of housing types and AMI targets per the recent Housing Assessment.
- To support the development of the permanently affordable housing the applicant is seeking fee waivers (annexation fee, water PIF, development permit and building permit fee) for the deed restricted units, and density for the deed restricted units from the Town through a transfer or waiver.
- The first phase is anticipated to include 17 permanently deed restricted units and 22 market units expected to be completed by 2015. The second phase is anticipated to include 83 permanently deed restricted units and 33 market units to be started in 2016 and expected to be completed by 2027.
- The intensity of the development is approximately 4.5 units per acre in Land Use District 33 and no development is to be permitted in Land Use District 1.
- The annexation and the effectiveness of the annexation agreement are contingent upon all of the following:
 - Final adoption of an ordinance amending the Land Use District Guidelines for Land Use District 33. Nothing in the annexation agreement shall obligate the Town to adopt the amendment.
 - Final approval of a master plan allocating the proposed density and housing types.
 - Approval of a Development Agreement providing not less than 18 years of extended vesting.
 - Approval by the Town and the owner of a Restrictive Housing Covenant for all of the property

If all of the foregoing events have not occurred on or before one year from the date of the annexation agreement then the agreement is null and void and of no further force or effect. Owner may pursue disconnection of the Property from the Town and the Town shall not object to such disconnection.

- The permanently deed restricted units will include one, two, and three bedroom units fully finished with minimums of 600 square feet, 900 square feet and 1,200 square feet respectively. The Restrictive Covenants shall contain a modification provision that requires the Town and the Owner to periodically review, and provided both parties agree, modify the terms to insure the restricted housing meets the then current needs of the community.
- Due to the extended vesting associated with this request, Miller, Braddock, and the Town agree to meet and confer at least every five years to determine if changed conditions suggest that modifications to either the Agreement of the Covenants are appropriate. The parties agree to meet sooner if the prevailing interest rate increases above 7.5% or thereafter by more than two percentage points.

- Owner shall execute and file Restrictive Housing Covenants for the first phase and the second phase that address sale price, ownership restrictions, market unit release rate, occupancy, employment, income testing, unit use, resale price, and remedies for breach or violation. The Restrictive Covenants shall include the following restrictions:
 - Initial sale price shall be as follows: 52 units at or below 100% AMI, 30 units below 125% AMI, 15 units below 150% AMI, and 3 units below 180% AMI. Affordable purchase price shall not exceed 30% of gross household income adjusted for household size based on average regional interest rates for 30 year fixed rate loan. The formula shall assume 10% downpayment, \$250 expenses (dues, insurance, taxes), and 1.5 persons per bedroom. For the purpose of determining affordable purchase price interest rates will be capped at 7.5%.
 - Employment: All restricted units must be occupied by a person who earns his or her living by working in Summit County a minimum of 30 hours per week for a business physically located in Summit County and providing goods or services to persons primarily in Summit County.
 - Type: Deed restricted units may include both ‘owner occupied’ units and ‘rental’ units. A minimum of 60 of the restricted units will be ‘owner occupied’ units that must be owner occupied, and are subject to the employment requirement, income cap, and appreciation cap. The agreement includes a 10% range for income testing for owner occupied units (i.e. a unit price at 100% AMI will be income tested at 110% AMI). If approved pursuant to the master plan, up to 40 units may be rental (i.e. apartment or rental condominiums) units. These units may be purchased by individuals or by employers. Tenants of rental units will be subject to employment restrictions and income testing at 100% AMI. In the event the master plan does not include a rental site, then all units in this development will be ‘owner occupied’ units that must be owner occupied, subject to employment requirement, income cap, and appreciation cap.
 - Priority for Upper Blue and Key Employees: Owner occupied restricted units must be marketed initially to employees of a business physically located in and serving the Upper Blue River Basin or an employee of a business, private organization, or governmental entity providing essential services in Summit County as determined by the Town, including but not limited to: municipal employees, school district employees, and emergency and medical personnel (Key Employees). After 60 days of actively marketing the Unit, if the seller is unable to enter into an acceptable sales contract with an Upper Blue or Key Employee then the Unit may be sold to an employee of a business physically located in and serving Summit County.
 - Release Rate Phase 1: Although the 22 SFEs of market rate density already exist in Town, the developer is willing to subject these SFEs to a release rate of one market unit released for every one deed restricted unit sold within the affordable purchase price. All 17 deed restricted units must be sold prior to the last market unit being sold in this phase.
 - Release Rate Phase 2: The initial release rate for the remaining 83 permanently deed restricted units and 33 market units is to be one market unit released for every three deed restricted units sold within the affordable purchase price.

- Resale Price: All Owner occupied units will be subject to an appreciation cap based on the lesser of AMI change (or alternative index acceptable to the Town) or 3% a year.
- No real estate commission or capital improvements may be added to the resale price.

Staff believes that the terms addressed in the annexation agreement are consistent with the plan that has been reviewed and previously discussed with the Council. We recommend approval of the agreement as presented and will be available to answer questions or discuss the agreement during the work session. Thank you.

1 ANNEXATION AGREEMENT

2
3 THIS ANNEXATION AGREEMENT ("Agreement") is dated _____, 2008
4 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("Town"),
5 JOSEPH S. MILLER ("Miller"), and BRADDOCK HOLDINGS, LLC, a Colorado limited
6 liability company ("Braddock"). Miller and Braddock are collectively referred to in this
7 Agreement as ("Owner").
8

9 WHEREAS, Miller owns the real property described in **Exhibit "A"** ("Annexation
10 Property"); and
11

12 WHEREAS, Braddock owns the 2.29 Acre Parcel (as hereafter defined) and is acquiring
13 the Sale Parcel (as hereafter defined); and
14

15 WHEREAS, Miller proposes the annexation of the Annexation Property to the Town; and
16

17 WHEREAS, the Town has determined that it would be in the best interest of the public
18 health, safety, and welfare of its citizens to impose certain terms and conditions on the Owner in
19 connection with the annexation of the Annexation Property to the Town; and
20

21 WHEREAS, Owner and Town have come to an Agreement with respect to the terms and
22 conditions of the annexation of the Annexation Property to the Town, all as more fully set forth
23 hereafter.
24

25 NOW, THEREFORE, in consideration of the recitals, promises, and covenants contained
26 herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby
27 acknowledged, the parties agree as follows:
28

29 1. **DEFINITIONS.** As used in this Agreement, unless the context clearly requires
30 otherwise:

31 "2.29 Acre Parcel" means that parcel of land already located within the boundaries of the
32 Town as of the date of this Agreement as described on the attached **Exhibit "B"**.
33

34 "AMI" means Area Median Income for Summit County, Colorado published by the
35 United States Department of Housing and Urban Development, or if no longer published,
36 any successor index.
37

38 "Annexation Ordinance" means the ordinance adopted by the Town Council of the Town
39 of Breckenridge pursuant to the Municipal Annexation Act of 1965 (Section 31-12-101,
40 et seq., C.R.S.) officially annexing the Annexation Property to the Town of Breckenridge.
41

42 "Annexation Property" means that certain real property described on the attached **Exhibit**
43 **"A"**.
44

1
2 "Annexation Surcharge" or "Surcharge" means the fee due and payable to the Town
3 pursuant to Section 8 of this Agreement. Such fee shall be paid to the Town as a general
4 annexation fee and in lieu of the transfer of raw water to the Town by the Owner.
5

6 "Applicable Town Ordinances" means all ordinances of the Town which regulate the
7 development, subdivision, and use of the Master Planned Property, as in effect from time
8 to time. Such ordinances shall include, but shall not be limited to, the Town's:
9

- 10 (i) Development Code;
- 11 (ii) Street Standards;
- 12 (iii) Lighting Ordinance;
- 13 (iv) Drainage Ordinance;
- 14 (v) Flood Prevention Ordinance;
- 15 (vi) Water Quality Ordinance;
- 16 (vii) Subdivision Ordinance;
- 17 (viii) Building, Technical and Construction Codes;
- 18 (ix) ordinances concerning annexation/water surcharges;
- 19 (x) ordinances concerning payment of fees;
- 20 (xi) ordinances concerning public dedications; and
- 21 (xii) all other applicable Town Ordinances, Resolutions, regulations and polices.

22 "Braddock" means Braddock Holdings, LLC, a Colorado limited liability company, its
23 successors and assigns, and all other subsequent owners of Braddock's interest in the
24 Master Planned Property.
25

26 "Development Permit" means Development Permit No. 2008006 issued or to be issued
27 by the Town approving a master plan for the Master Planned Property, and any
28 amendments thereto subsequently approved by the Town through its land use regulatory
29 system.
30

31 "Guidelines" means the Town of Breckenridge Affordable Housing Guidelines, as
32 amended from time to time by the Town Council following a public hearing.
33

1 “Key Employee” means an employee of a business, private organization, or
2 governmental entity providing essential services in Summit County, Colorado as
3 determined by the Town, including, but not limited to, (i) municipal employees; (ii)
4 Summit School District employees; and (iii) emergency and medical personnel.
5

6 “Master Plan” means the master plan approved by the Development Permit.
7

8 “Master Planned Property” means both the Annexation Property and the 2.29 Acre
9 Parcel.
10

11 "Miller" means Joseph S. Miller, his successors and assigns, and all other subsequent
12 owners of Miller’s interest in the Master Planned Property.
13

14 “Owner” means Miller and Braddock collectively, their successors and assigns, and all
15 other subsequent owners of the Master Planned Property, or any interest therein.
16

17 “Owner-Occupied Restricted Units” means the Restricted Units described in Section
18 3.8(c).
19

20 “Phase I” means the 2.29 Acre Parcel and the Sale Parcel together.
21

22 “Phase II” means the Remainder Parcel.
23

24 "PIF" means the current Town Plant Investment Fee as provided for by the Ordinances or
25 regulations of the Town at the time such charges are due and payable to the Town as
26 provided in Section 7 of this Agreement.
27

28 “Remainder Parcel” means all of the Master Planned Property except for the Sale Parcel
29 and the 2.29 Acre Parcel.
30

31 “Rental Restricted Units” means the Restricted Units described in Section 3.8(d).
32

33 “Restricted Units” means the 100 residential Units approved for construction on the
34 Master Planned Property pursuant to the Development Permit which are to be and shall
35 remain in perpetuity subject to the Restrictive Covenants, including both the Owner-
36 Occupied Restricted Units and the Rental Restricted Units. Unless otherwise indicated,
37 the term “Restricted Units” includes both the Owner-Occupied Restricted Units and the
38 Rental Restricted Units.
39

40 “Restrictive Covenants” collectively means the restrictive covenant executed by
41 Braddock encumbering the Master Planned Property for the benefit of the Town as
42 described in Section 3.8 of this Agreement, and the restrictive covenants executed by
43 Owner encumbering the Remainder Parcel for the benefit of the Town as described in
44 Section 3.8 of this Agreement.

1
2 “Sale Parcel” means the northerly portion of the Master Planned Property consisting of
3 approximately 12 acres that owner intends to sell to Braddock.

4
5 “SFE” means a single family equivalent of density as defined by the Applicable Town
6 Ordinances.

7
8 “TDR” means a transferable development right as created pursuant to the
9 intergovernmental agreement between the Town and the Board of County Commissioners
10 of Summit County, Colorado.

11
12 “Units” includes both the Restricted Units and the Unrestricted Units.

13
14 “Unrestricted Units” means the 55 residential Units approved for construction on the
15 Master Planned Property pursuant to the Development Permit which are not Restricted
16 Units.

17
18 “Upper Blue Employee” mean an employee of a business physically located in and
19 serving the Upper Blue River Basin.

20
21 “Upper Blue River Basin” means the geographic area bounded by Farmers Korner to the
22 north; Hoosier Pass to the south; the Continental Divide to the East; and the top of the
23 Ten Mile Range to the west.

- 24
25
26 2. **DEVELOPMENT SUBJECT TO APPLICABLE TOWN ORDINANCES AND**
27 **DEVELOPMENT PERMIT.** Upon the annexation to the Town, development of the
28 Master Planned Property shall conform in all respects with the Applicable Town
29 Ordinances and the Development Permit. The Master Planned Property shall only be
30 developed in accordance with this Agreement and the Development Permit. All parties
31 acknowledge that pursuant to Section 31-12-115, C.R.S., the Development Permit shall
32 not become effective until the Annexation Ordinance has been passed on final reading.

33 3. **PROPOSED USE OF THE MASTER PLANNED PROPERTY.**

34 3.1 **Land Use District Designation.** Upon annexation the Annexation Property shall
35 be placed in Land Use District 33 and Land Use District 1. However, all of the
36 development of the Master Planned Property will occur in Land Use District 33,
37 and no development of the Master Planned Property shall be permitted within
38 Land Use District 1.

39 3.2 **General Development Concept.** The general development concept for the
40 Master Planned Property is as follows:

- 1 (a) **Single Master Plan.** The Annexation Property and the 2.29 Acre Parcel
2 shall be developed pursuant to a single master plan approved in
3 accordance with Policy 39(Absolute) of the Town’s Development Code.
- 4 (b) **Units.** The Master Plan shall provide for development of a maximum of
5 155 Units on the Master Planned Property. One hundred of the Units shall
6 be Restricted Units, and 55 of the Units shall be Unrestricted Units. The
7 Restricted Units shall include not less than 60 Owner-Occupied Restricted
8 Units, and the remainder of the Restricted Units may be Rental Restricted
9 Units if located on the Remainder Parcel in a multi-family configuration
10 approved pursuant to the Master Plan.
- 11 (c) **Density.** The 155 SFEs of density required for the development of the
12 Master Planned Property shall be provided as follows:
- 13 (i) 22 SFEs already exist within the Town as of the date of this
14 Agreement (19 SFEs to be transferred to the Master Planned
15 Property from Braddock’s adjacent “Braddock Flats” parcel and 3
16 SFEs that currently exist on the 2.29 Acre Parcel);
- 17 (ii) 26 SFEs exist on the Annexation Property under Summit County
18 zoning as of the date of this Agreement;
- 19 (iii) If required to complete the development of the 55 Unrestricted
20 Units, 7 TDRs are to be purchased for the development of the
21 Master Planned Property; and
- 22 (iv) 100 SFEs are to be provided by the Town pursuant to Section 3.5.
- 23 (d) **Phasing; Extended Vested Property Rights.** The Town acknowledges
24 that the Owner intends to sell the Sale Parcel to Braddock, and that
25 Braddock intends to develop the Sale Parcel as soon as possible. The
26 development of the Sale Parcel is planned to include 17 Restricted Units
27 and 22 Unrestricted Units. The Town further acknowledges that the
28 Owner intends to continue the current operations of Stan Miller, Inc. on
29 the Remainder Parcel for approximately 10 years and that development of
30 Units on the Remainder Parcel is not likely to occur until after those
31 current operations cease.
- 32 The development of the Master Planned Property shall be phased over a
33 period of approximately 18 years, and the Owner will request of the Town
34 18 years of extended vested property rights for the Development Permit to
35 reflect such phasing. Phase I will be undertaken by Braddock commencing
36 in 2009 and is expected to be completed in five to six years. Phase II will

1 be undertaken by Miller, and is expected to be completed by the end of
2 2027.

3 3.3 **Construction of Restricted Units.** The 100 Restricted Units shall be constructed
4 in accordance with the following schedule:

5 (a) 17 of the Restricted Units shall be constructed as part of Phase I; and

6 (b) the remaining 83 Restricted Units shall be constructed as part of Phase II.

7 3.4 **Development Density In Land Use District 33.** The Town of Breckenridge Land
8 Use District Guidelines which are in effect as of the date of this Agreement
9 provide that a 1 to 75 floor area ratio is acceptable for service commercial
10 development in Land Use District 33. However, the parties acknowledge that the
11 Town staff has recommended to the Town Council that the Land Use District
12 Guidelines for Land Use District 33 be amended to provide that a density of
13 approximately 4.5 units per acre is acceptable for residential development in Land
14 Use District 33 if the new Town density to be developed consists of not less than
15 seventy five percent (75%) affordable housing units that are encumbered with a
16 Town-approved restrictive covenant. Such an amendment is required in order for
17 the Development Permit to be approved. The staff's recommendation has not been
18 approved or acted upon by the Town as of the date of this Agreement. Nothing in
19 this Agreement shall obligate the Town to adopt the proposed amendments to the
20 Land Use District Guidelines for Land Use District 33. If such amendments are
21 not adopted within one year of the date of this Agreement, the Owner shall have
22 the rights and remedies provided in Section 12 of this Agreement.

23 3.5 **Transfer of Density.** Within 60 days after the last of the contingencies in Section
24 12 have been satisfied, the Town shall provide the density necessary for the
25 development of the Restricted Units by transfer or exemption, and, if by transfer,
26 the Town and the Owner shall enter into and record a density transfer agreement
27 and covenant in a form acceptable to the Town Attorney.

28 3.6 **Purchase of TDRs.** Owner shall pay the cost of purchasing the 7 TDRs required
29 for the development of the Master Planned Property if required to complete the
30 development of the 55 Unrestricted Units, and Town shall have no liability for
31 such cost. The timing for the purchase of the 7 TDRs for the Master Planned
32 Property shall be determined in connection with the approval of the Master Plan.

33 3.7 **Minimum Unit Sizes.** The minimum size for the 100 Restricted Units shall be as
34 follows: one-bedroom Restricted Units shall be a minimum of 600 square feet in
35 size; two-bedroom Restricted Units shall be a minimum of 900 square feet in size;
36 and three-bedroom Restricted Units shall be a minimum of 1200 square feet in
37 size. There shall be no minimum size for the Unrestricted Units.

1 3.8 **Restrictive Covenants.**

2 **(a) Restrictive Covenants—Filing Against Master Planned Property.**

3 (i) At the time of the issuance of the first building permit for the
4 construction of improvements to the Sale Parcel, Braddock shall
5 execute and file the Restrictive Covenant for the Sale Parcel with
6 the Clerk and Recorder of Summit County, Colorado. As
7 originally filed, the Restrictive Covenant for the Sale Parcel shall
8 encumber both the Restricted Units and the Unrestricted Units.
9 The Unrestricted Units may be released from the Restrictive
10 Covenant as provided in Section 3.8(g).

11 (ii) At the time of the issuance of the first building permit for the
12 construction of improvements to the Remainder Parcel, Miller
13 shall execute and file the Restrictive Covenant for the Remainder
14 Parcel with the Clerk and Recorder of Summit County, Colorado.
15 As originally filed, the Restrictive Covenant for the Remainder
16 Parcel shall encumber both the Restricted Units and the
17 Unrestricted Units. The Unrestricted Units may be released from
18 the Restrictive Covenant as provided in Section 3.8(g).

19 **(b) Restrictive Covenant—Approval, Priority and Required General**
20 **Topics.** The forms of the Restrictive Covenants shall be subject to the
21 approval of the Town, and neither Miller nor Braddock shall file the
22 Restrictive Covenants until they have been reviewed and approved by the
23 Town. At the time of recording, the Restrictive Covenants shall be
24 superior in priority to all liens and encumbrances against the Sale Parcel
25 and the Remainder Parcel, except for the lien of the general property taxes
26 for the year in which a Restrictive Covenant is recorded and subsequent
27 years. The Restrictive Covenants shall contain, without limitation,
28 provisions regulating and limiting: (i) the ownership of each Restricted
29 Unit; (ii) the occupancy and use of each Restricted Unit; (iii) the sale and
30 resale of each Restricted Unit; and (iv) remedies for the breach or other
31 violation of the Restrictive Covenant.

32 **(c) Restrictive Covenants—Mandatory Provisions Re: Owner-Occupied**
33 **Restricted Units.** It shall be the stated intent of the Owner-Occupied
34 Restrictive Covenants to ensure that each Owner-Occupied Restricted Unit
35 is the exclusive and permanent residence of the owner of such unit.
36 Therefore, and without limiting the generality of Section 3.8(b), the
37 Restrictive Covenants shall provide that (i) each Owner-Occupied
38 Restricted Unit shall be owned only by a natural person, unless otherwise
39 allowed by the terms of the Restrictive Covenant; (ii) each owner of a
40 Owner-Occupied Restricted Unit shall be a 18 years of age or older who,

1 during the entire period of his or her occupancy of the Owner-Occupied
2 Restricted Unit earns his or her living by working in Summit County,
3 Colorado an average of at least 30 hours per week for a business
4 physically located in Summit County, Colorado and providing goods or
5 services to persons located primarily in Summit County, Colorado; and
6 (iii) at all times, an owner of a Owner-Occupied Restricted Unit shall: (a)
7 occupy the Owner-Occupied Restricted Unit as his or her sole place of
8 residence, unless otherwise allowed by the terms of the applicable
9 Restrictive Covenant, (b) not engage in any business activity on or in such
10 Owner-Occupied Restricted Unit, other than as permitted in the applicable
11 land use regulations of the Town or by applicable Town ordinance, (c) sell
12 or transfer the Owner-Occupied Restricted Unit only in accordance with
13 the terms, conditions and limitations of the applicable Restrictive
14 Covenant, (d) not sell or otherwise transfer the Owner-Occupied
15 Restricted Unit for use in a trade or business, (e) not permit any use of
16 occupancy of the Owner-Occupied Restricted Unit except in compliance
17 with the terms, conditions and limitations of the applicable Restrictive
18 Covenant, and (f) not encumber the Owner-Occupied Restricted Unit in an
19 amount in excess of the owner's purchase price.

20 (d) **Restrictive Covenants—Mandatory Provisions Re: Rental Restricted**
21 **Units.** It shall be the stated intent of the Rental Restrictive Covenants to
22 ensure that each Rental Restricted Unit is the exclusive residence of the
23 tenant of such unit. Therefore, and without limiting the generality of
24 Section 3.8(b), the Restrictive Covenants shall provide that (i) each
25 Rental Restricted Unit may be owned by any legal entity capable of taking
26 title to such Rental Restricted Unit under Colorado law; (ii) each tenant of
27 a Rental Restricted Unit shall be a 18 years of age or older who, during
28 the entire period of his or her occupancy of the Restricted Unit earns his or
29 her living by working in Summit County, Colorado an average of at least
30 30 hours per week for a business physically located in Summit County,
31 Colorado and providing goods or services to persons located primarily in
32 Summit County, Colorado; and (iii) each tenant of a Rental Restricted
33 Unit shall: (a) occupy the Restricted Unit as his or her sole place of
34 residence, unless otherwise allowed by the terms of the applicable
35 Restrictive Covenant, and (b) not engage in any business activity on or in
36 such Restricted Unit, other than as permitted in the applicable land use
37 regulations of the Town or by applicable Town ordinance. At all times, an
38 owner of a Rental Restricted Unit shall: (i) sell or transfer the Rental
39 Restricted Unit only in accordance with the terms, conditions and
40 limitations of the applicable Restrictive Covenant, (ii) not sell or otherwise
41 transfer the Rental Restricted Unit for use in a trade or business, (iii) and
42 not permit any use of occupancy of the Rental Restricted Unit except in

1 compliance with the terms, conditions and limitations of the applicable
2 Restrictive Covenant.

3 (e) **Restrictive Covenants—Exceptions.** The Restrictive Covenants shall
4 provide that it shall not be a violation of the Restrictive Covenants if: (i)
5 rooms within a Owner-Occupied Restricted Unit are rented to qualified
6 occupants sharing the Owner-Occupied Restricted Unit with the unit
7 owner; (ii) a Owner-Occupied Restricted Unit is rented for use and
8 occupancy as qualifying employee housing for a maximum cumulative
9 total of 12 months during the time of ownership by a unit owner or while
10 the Owner-Occupied Restricted Unit is initially being marketed by the
11 Owner; (iii) a Owner-Occupied Restricted Unit is owned or occupied by a
12 person age 65 years or older who has owned and occupied the unit and
13 worked at paid employment in Summit County, Colorado at least 30 hours
14 per week on an annual basis, for the previous 7 years, together with such
15 person’s spouse and minor children, if any; (iv) a Owner-Occupied
16 Restricted Unit is owned or occupied by a person otherwise authorized to
17 own or occupy the Owner-Occupied Restricted Unit pursuant to the
18 applicable Restrictive Covenant who becomes disabled after commencing
19 ownership or occupancy of the Owner-Occupied Restricted Unit such that
20 he or she cannot work the required number of hours each week required
21 by the applicable Restrictive Covenant, provided, however, that such
22 person shall be permitted to own or rent the Owner-Occupied Restricted
23 Unit for a maximum period of one year following the commencement of
24 such person’s disability unless a longer period of ownership or occupancy
25 is authorized by the Town; and (v) guests visiting a qualified occupant and
26 paying no rent or other consideration.

27 (f) **Restrictive Covenants—Sale and Resale Limitations.**

28 (i) **Initial Sale Price.** The Restrictive Covenants shall contain
29 provisions governing the sale and resale of each of the Restricted
30 Units. Unless otherwise agreed by the Town, the Restrictive
31 Covenants taken together shall provide that: (i) 52 of the Restricted
32 Units will initially be sold by the Owner at a price that is equal to
33 or less than 100% of the AMI based on the most current data as of
34 the date of sale; provided, however, that there is no required initial
35 sales price for any building containing Rental Restricted Units; (ii)
36 30 of the Restricted Units will initially be sold by the Owner at a
37 price that is equal to or less than 125% of the AMI for Summit
38 County, Colorado based on the most current data as of the date of
39 sale; (iii) 15 of the Restrictive Units will Initially be sold by the
40 Owner at a price that is equal to or less than 150% of the AMI for
41 Summit County, Colorado based on the most current data as of the

1 date of sale; (iv) 3 of the Restricted Units will initially be sold by
2 the Owner at a price that is equal to or less than 180% of the AMI
3 for Summit County, Colorado based on the most current data as of
4 the date of sale; and (v) each prospective purchaser of a Restricted
5 Unit shall meet income testing standards acceptable to the Town
6 and consistent with the requirements of the applicable Restrictive
7 Covenant. The affordable price calculations shall include the
8 following: (i) a purchase price shall not exceed 30% of gross
9 household income adjusted for household size based on average
10 regional interest rates for a 30 year fixed-rate loan at an interest
11 rate not to exceed 7.5 per cent (7.5%) per annum, based on the
12 Federal Home Loan Mortgage Corporation (Freddie Mac®) index,
13 or other index acceptable the Town; (ii) 10% down payment; (iii)
14 \$250 monthly expenses (homeowner association dues; insurance;
15 taxes); and (iv) a family size based on 1.5 persons per bedroom.

16 (ii) **Income Testing Standards—Owner-Occupied Restricted Units.**

17 The Town’s methodology for performing income testing for the
18 Owner-Occupied Restricted Units shall be substantially as follows:
19 (i) determine the size of the prospective purchaser’s household
20 (this is based on the number of bedrooms in the particular Owner-
21 Occupied Restricted Unit and a factor of 1.5 persons per bedroom
22 [i.e., a two bedroom Owner-Occupied Restricted Unit equates to a
23 three person household regardless of the actual size of the
24 prospective purchaser’s family]); (ii) determine the AMI target for
25 the particular Owner-Occupied Restricted Unit (either 100%,
26 125%, 150% or 180%); (iii) determine the prospective purchaser’s
27 maximum allowed income using the AMI in effect at the time of
28 sale for the applicable household size and the AMI percent
29 calculated in item (ii); and (iv) determine the prospective
30 purchaser’s most recent annual adjusted gross income based on the
31 prospective purchaser’s federal income tax and pay records. A
32 prospective purchaser shall be qualified to purchase an Owner-
33 Occupied Restricted Unit if his or her adjusted gross income does
34 not exceed the maximum allowed income by more than ten percent
35 (i.e., a prospective purchaser may qualify to purchase a 100% AMI
36 Owner-Occupied Restricted Unit if his or her income does not
37 exceed 110% of the AMI). Income testing is required at the time
38 of the initial sale of an Owner-Occupied Restricted Unit by the
39 Owner, and on each subsequent resale.

40 (iii) **Income Testing Standards—Rental Restricted Units.** The
41 Town’s income testing standards for the Rental Restricted Units
42 shall be designed and implemented so as to make the Rental

1 Restricted Units available for rental by persons earning 100% or
2 less of the AMI.

3 (iv) **Initial Marketing Restriction—Owner-Occupied Restricted**
4 **Units.** Owner-Occupied Restricted Units shall initially be
5 marketed to Upper Blue Employees or Key Employees. If, after 60
6 days of actively marketing an Owner-Occupied Restricted Unit to
7 an Upper Blue Employees and Key Employees, the Owner is
8 unable to enter into an acceptable sales contract with an Upper
9 Blue Employee or a Key Employee, then the Owner-Occupied
10 Restricted Unit may be sold to an employee of a business
11 physically located in and serving Summit County, Colorado (even
12 though such person is neither an Upper Blue Employee nor a Key
13 Employee).

14 (v) **Initial Marketing Restriction—Rental Restricted Units.** Rental
15 Restricted Units shall initially be made available for rental to
16 Upper Blue Employees and Key Employees. If, after 60 days of
17 actively soliciting the rental of an Rental Restricted Unit by an
18 Upper Blue Employee or a Key Employee, the owner is unable to
19 rent the Rental Restricted Unit to either an Upper Blue Employee
20 or a Key Employee, then the Rental Restricted Unit may be rented
21 to an employee of a business physically located in and serving
22 Summit County, Colorado (even though such person is neither an
23 Upper Blue Employee nor a Key Employee). After the initial 60
24 day period described above, if a Rental Restricted Unit becomes
25 available for rental a qualified Upper Blue Employee or a qualified
26 Key Employee shall be given preference over all other prospective
27 tenants.

28 (vi) **Resale Price Limit.** Subsequent to the initial sale of an Owner-
29 Occupied Restricted Unit by the Owner, the total price for which
30 such Owner-Occupied Restricted Unit may be re-sold shall be
31 determined as follows:

32 (1) The selling owner’s purchase price at the time of the
33 acquisition of the Owner-Occupied Restricted Unit,
34 exclusive of any real estate commission paid at the time of
35 acquisition, shall be the Base Price Limit.

36 (2) The Base Price Limit shall be increased to reflect a cost of
37 living adjustment. Such amount shall be the selling
38 owner’s “Adjusted Price Limit.” The Adjusted Price Limit
39 shall be the lesser of:

The Base Price Limit	X	.0025	X	the number of whole months from the date of a Unit Owner's purchase to the date of a Unit Owner's sale of the Residential Unit	+	The Base Price Limit ¹	=	ADJUSTED PRICE LIMIT
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OR

The Base Price Limit	X	100% of AMI most recently released prior to the selling owner's sale	÷	100% of AMI in effect at the time of the selling owner's purchase of the Residential Unit ²	=	ADJUSTED PRICE LIMIT
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(3) The resale price of any Owner-Occupied Residential Unit shall not exceed such Adjusted Price Limit. The Adjusted Price Limit shall not take into consideration any capital improvements made to the Owner-Occupied Restricted Unit by the selling owner, nor any real estate commission paid by the selling unit owner.

(4) Notwithstanding anything contained in the Restrictive Covenant to the contrary, the Adjusted Price Limit shall never be less than the purchase price actually paid by the selling owner for the Owner-Occupied Restricted Unit.

(5) If the owner of a Restricted Unit sells the Owner-Occupied Restricted Unit through the services of the Summit Housing Authority, a commission of not more than 2% of the Adjusted Price Limit may be paid to the Summit Housing Authority.

¹ The Base Price Limit multiplied by one quarter of one percent (0.25%) multiplied by the number of whole months from the date of a Unit Owner's purchase to the date of a Unit Owner's sale of the Owner-Occupied Restricted Unit plus the Base Price Limit.

² The Base Price Limit multiplied by a fraction the numerator of which is the 100% of AMI most recently released prior to a selling owner's sale and the denominator of which is the 100% of AMI in effect at the time of the selling owner's purchase of the Owner-Occupied Restricted Unit.

1 (vii) **Appreciation Limiting Note and Deed of Trust.** Compliance
2 with the terms and conditions of the Restrictive Covenant shall be
3 secured by an “Appreciation-limiting Promissory Note and Deed
4 of Trust, in a form acceptable to the Town, which Note and Deed
5 of Trust shall be executed by each and every owner of an Owner-
6 Occupied Restricted Unit.

7 (g) **Release Ratio For Unrestricted Units.** In Phase I, one Unrestricted Unit
8 may be released from the Restrictive Covenant for each Restricted Unit
9 sold within the affordable purchase price range. All 17 Phase I Restricted
10 Units shall be sold prior to the last Phase I Unrestricted Unit being sold.
11 In Phase II, one Unrestricted Unit may be released from the Restrictive
12 Covenant for each three Restricted Units sold within the affordable
13 purchase price range.

14 (h) **Restrictive Covenants—Final Form.** The final form of the Restrictive
15 Covenants may include provisions which vary from the specific
16 requirements of Sections 3.8(c), 3.8(d), 3.8(e), and 3.8(f) only if the Town
17 Attorney approves such provisions as being fully consistent with the intent
18 of this Agreement, and with the standard housing covenant approved for
19 use within Summit County, Colorado. Once a Restrictive Covenant has
20 been recorded with the Summit County Clerk and Recorder, the provisions
21 of the Restrictive Covenant shall control over the provisions of this
22 Section 3.8.

23 (i) **Administrative Guidelines.** The Restrictive Covenants and the
24 Guidelines shall be interpreted in accordance with the following standards:

25 (1) to the extent the Guidelines are inconsistent with the
26 Restrictive Covenants, the Restrictive Covenant shall
27 control;

28 (2) to the extent the Restrictive Covenants are ambiguous or
29 unclear, the Guidelines shall control; and

30 (3) if the Guidelines are less burdensome or less restrictive
31 than the Restrictive Covenants, even if they are inconsistent
32 with the Restrictive Covenants, the Guidelines shall
33 control.

34 4. **PUBLIC BENEFITS.** As public benefits and inducements to the Town to annex the
35 Annexation Property, Owner and Braddock shall provide the following at no cost to the
36 Town:

- 1 4.1 **Reclamation/Restoration of the Blue River.** The portion the Blue River running
2 along the westerly edge of the Master Planned Property shall be reclaimed and
3 restored in accordance with the Blue River Restoration Master Plan. The river
4 edges will be reclaimed and revegetated with natural landscaping and a soft
5 surface trail will be created to link to planned trails at the northerly and southerly
6 edges of the river corridor. The reclaimed/restored area, consisting of
7 approximately 6.14 acres, will be dedicated to the Town as public open space.
8 The timing of the reclamation and restoration of the Blue River, and the
9 dedication of the 6.14 acres of public open space to the Town, shall be established
10 in the Master Plan.
- 11 4.2 **Right of Way Dedication; Construction of Stan Miller Drive.** A new 60 foot
12 wide right of way shall be dedicated to the Town and “Stan Miller Drive” shall be
13 constructed by Owner within the dedicated right of way extending from the
14 completed Tiger Road on the north to the soon-to-be completed Stan Miller Drive
15 on the south. In addition, the full-movement curb cut off of Highway 9 to the
16 current Stan Miller, Inc. business office will be abandoned. The timing of the
17 dedication of the right of way and the construction of Stan Miller Drive shall be
18 established in the Master Plan.
- 19 4.3 **Pocket Parks.** Four separate pocket parks will be placed on three acres of private
20 open space with public easements for access to the Blue River. Owner or
21 Braddock (as applicable) shall require the homeowners’ association for the
22 portion of the Master Planned Property where the pocket parks are located to
23 maintain the parks, but the public shall be allowed access to the pocket parks and
24 the river, and shall be provided not less than eight parking spaces within the
25 pocket parks, unless a smaller number is approved as part of the Master Plan. The
26 timing of the construction and dedication of the pocket parks shall be established
27 in the Master Plan.
- 28 4.4 **Restricted Units.** The parties acknowledge that the construction of the Restricted
29 Units will also provide a substantial public benefit.
- 30 4.5 **Form of Dedications.** All dedications required by this Section 4 shall be
31 evidenced by an appropriate general warranty deed conveying marketable fee
32 simple absolute title to the dedicated property to the Town, free and clear of all
33 liens and encumbrances except the lien of the general property taxes for the year
34 of conveyance, and subsequent years. The dedicator shall provide the Town with
35 a title insurance policy in an amount of \$50,000 for each dedicated parcel. The
36 form and substance of the deeds and title insurance policies shall be subject to the
37 reasonable approval of the Town Attorney.
- 38 4.6 **Indemnification.** Owner and Braddock shall indemnify and defend the Town
39 from all costs and expenses, including, but not limited to, attorneys’ fees and costs
40 of litigation, arising from the work and dedications required by this Section 4.

1 4.7 **Public Benefits for Extended Vesting.** While nothing in this Agreement shall
2 obligate the Town to provide extended vested property rights for the Development
3 Permit, Town acknowledges that if, in its discretion, extended vested property
4 rights for the Development Permit are granted, no public benefits other than those
5 set forth in this Section 4 shall be required of Owner or Braddock.

6 5. **UTILITY SERVICE AND PUBLIC IMPROVEMENTS.**

7 5.1 **Extensions of Utility Services and Public Improvements.** Owner shall pay all
8 costs for the design and construction of all public improvements and utility
9 services necessary to serve the Master Planned Property, including, but not
10 limited to, roads, curbs, gutters, sanitary and drainage sewers, water, street lights,
11 electricity, telephone, gas, and cable television service, all in accordance with
12 applicable Town or public utility company standards and specifications. Owner
13 shall dedicate to the Town and applicable public utility companies without charge,
14 free and clear of all liens and encumbrances, those easements and rights-of-way
15 necessary for installation and maintenance of said utility lines and other public
16 improvements, including public streets and trails, and in addition shall convey the
17 public improvements to the appropriate entity upon completion and acceptance of
18 the improvements.

19 5.2 **Sanitation District Connection Fees.** Without limiting the generality of Section
20 5.1, Owner shall pay all fees and charges required to connect the Units to the
21 Breckenridge Sanitation District.

22 5.3 **Reimbursement For Improvements.** Pursuant to Section 9-2-3-7 of the
23 Breckenridge Town Code, Owner may be eligible for reimbursement from future
24 connector(s) to the public improvements and utility services described in Section
25 5.1 which are extended by Owner to the Master Planned Property. Any claim for
26 reimbursement shall be subject to the provisions and requirements of said Section
27 9-2-3-7 of the Breckenridge Town Code, as the same may be amended from time
28 to time.

29 5.4 **Town Provision of Services.** Upon the extension of utility services and public
30 improvements as provided for in 5.1 above and acceptance by the Town of the
31 utility services and public improvements to be dedicated to the Town, the Town
32 shall make available and provide all Town provided utilities and services to the
33 Master Planned Property and Units or other improvements served by such utility
34 services and public improvements on the normal and customary basis as such
35 utilities and services are provided and for the normal and customary charges for
36 such utilities and services, except as such charges may be waived by the Town as
37 hereinafter provided.

1 6. **PUBLIC DEDICATIONS.** Except as expressly provided in this Agreement, there are
2 no public dedications required as part of the annexation of the Annexation Property to the
3 Town. The need for road rights-of-ways, open space, and pedestrian, bicycle, and skier
4 access and trails will be evaluated during the subdivision process and site-specific
5 development review process, and dedications made in accordance with Town regulations
6 at such time.

7 **7. WATER CHARGES**

8 **7.1 PIF Charges.**

9 (a) Pursuant to Section 12-4-9(A)(2) of the Breckenridge Town Code, the
10 Town hereby waives the PIF charges for each of the Restricted Units.

11 (b) Owner shall pay to the Town applicable PIF charges for each of the
12 Unrestricted Units. Such charges shall be paid for each Unrestricted Unit
13 at or prior to the first to occur of connection of the Unrestricted Unit to the
14 Town's water utility system, or the issuance of a building permit for such
15 Unrestricted Unit. If, for any reason, an Unrestricted Unit is not owned by
16 the Owner at the time of the connection, the PIF shall be paid by the then-
17 current owner of such Unrestricted Unit.

18 **7.2 Water Rates.** Water users on the Master Planned Property (including owners of
19 both the Restricted Units and the Unrestricted Units) shall pay the then-current
20 rates for water service and other water charges paid by in-Town water users,
21 subject to all decreases or increases in fees adopted in accordance with Town
22 ordinances and regulations. Such water users are subject to all rules, regulations
23 and ordinances pertaining to the Town's water utility system, including all future
24 amendments.

25 **8. ANNEXATION SURCHARGE.**

26 **8.1 Surcharge Fees.**

27 (a) No Annexation Surcharge shall be required to be paid with respect to any
28 of the Restricted Units.

29 (b) An Annexation Surcharge shall be paid by the Owner to the Town for 33
30 of the Unrestricted Units, but not for the 22 Unrestricted Units to be
31 constructed using the 22 SFEs of density already within the Town for
32 which Annexation Surcharges previously were paid. The Annexation
33 Surcharges for the 33 Unrestricted Units shall be due and payable for each
34 Unrestricted Unit prior to the first to occur of: (i) connection of the
35 Unrestricted Unit to the Town's water utility system; or (ii) issuance of a
36 building permit for such Unrestricted Unit. The amount of the Annexation

1 Surcharge for each Unrestricted Unit shall be equal to the then-current PIF
2 charge per SFE at the time the Annexation Surcharge becomes due.

3 (c) Upon receipt of the Annexation Surcharges, such funds may be deposited
4 by the Town into the Town's General Fund.

5 9. **OTHER TOWN CHARGES:** The Town hereby waives the following fees, charges or
6 taxes:

7 A. application fees for the Development Permit;

8
9 B. fees for future development permit applications, review of plans, building permits
10 and any similar application or permit fees for the future improvement of any
11 Restricted Unit; and

12
13 C. real estate transfer taxes upon the transfer of any Restricted Unit.
14

15 Nothing contained herein shall constitute a waiver by the Town of its rights to collect all
16 of its normal and customary fees and taxes with respect to any portion of the Master
17 Planned Property except for the Restricted Units.
18

19 10. **VESTED PROPERTY RIGHTS.** The Owner hereby waives any and all vested
20 property rights that may exist on the Annexation Property. Further, nothing contained
21 herein shall be construed as to create a vested property right for the Master Planned
22 Property.

23 11. **NO RIGHT OF WAY DEVOTED TO AGRICULTURAL USE.** Owner states,
24 represents and warrants to Town that as of the date of this Agreement no portion of the
25 Annexation Property consists of a public transportation right-of-way, a customary or
26 regular use of which involves the movement of any agricultural vehicles and equipment
27 as defined in Section 31-12-115(6)(c), C.R.S. As such, the parties agree that the special
28 notice provisions of Section 31-12-115(6)(b), C.R.S., are not applicable to the annexation
29 of the Annexation Property to the Town.

30 12. **ANNEXATION CONTINGENCIES.** Town and Owner agree that the annexation of
31 the Annexation Property and the effectiveness of this Agreement are contingent upon the
32 occurrence of all of the following events, and the annexation and this Agreement shall be
33 effective on the date on which the last of the following events occurs:

34 A. final approval by the Town of the Development Permit by the Town through its
35 land use regulatory system;

36
37 B. final adoption by the Town of an ordinance amending the Land Use District
38 Guidelines for Land Use District 33 as described in Section 3.4;
39

- 1 C. final adoption of an ordinance placing the Annexation Property into Land Use
- 2 Districts 1 and 33;
- 3
- 4 D. the Town and the Owner's agreement on the terms of the Restrictive Covenant;
- 5 and
- 6
- 7 E. Town's final approval of a Development Agreement providing not less than 18
- 8 years of extended vested property rights for the Development Permit,
- 9

10 provided, however, that, if all of the foregoing events have not occurred on or before one
 11 year from the date hereof, then this Agreement shall be null and void and of no further
 12 force or effect, and Owner may pursue disconnection of the Annexation Property from
 13 the Town, and Town shall not object to such disconnection.

- 14
- 15 13. **PERIODIC REVIEW OF AGREEMENT.** Miller, Braddock, and Town agree that for
- 16 so long as either Miller or Braddock own any of the Master Planned Property, they will
- 17 meet and confer at least each five years to determine if changed conditions suggest that
- 18 modifications to either this Agreement or to the Restrictive Covenants are appropriate.
- 19 The parties agree to meet and confer sooner than each five years if the prevailing interest
- 20 rate on a 30 year fixed rate mortgage increases above 7.5 per cent (7.5%) per annum, or
- 21 thereafter by more than two percentage points at any time.

22 14. **MISCELLANEOUS.**

23 14.1 **Effective Date.** This Agreement is contingent upon the Town approval of the
 24 annexation and shall become effective as of the date and time when the
 25 annexation itself becomes effective.

26 14.2 **Parties' Authority.** The Town and Owner represent that each has the authority to
 27 enter into this Agreement according to applicable Colorado law and the Town's
 28 Home Rule Charter and Ordinances, and each represents that the terms and
 29 conditions hereof are not in violation of any agreement previously entered into by
 30 such party. This Agreement shall not become effective until a resolution or other
 31 necessary authorizations for the execution of the Agreement are effective.

32 14.3 **Recording.** This Agreement **SHALL BE RECORDED** in the Summit County
 33 Clerk and Recorder's Office in order to put prospective purchasers of the
 34 Annexation Property or other interested parties on notice as to the terms and
 35 conditions contained herein.

36 14.4 **Entire Agreement.** This Agreement and the exhibits hereto represent the entire
 37 understanding between the parties concerning the annexation of the Annexation
 38 Property to the Town, and no other agreement concerning the Annexation
 39 Property, oral or written, made prior to the date of this Agreement, which
 40 conflicts with the terms of this Agreement shall be valid as between the parties.

1 Telecopier number: (970)547-3104
2 Telephone number: (970)453-2251

3
4 with a copy in each case (which shall not constitute notice) to:

5
6 Timothy H. Berry, Esq.
7 Timothy H. Berry, P.C.
8 131 West 5th Street
9 P. O. Box 2
10 Leadville, Colorado 80461
11 Telecopier number: (719)486-3039
12 Telephone number: (719)486-1889

13
14 If intended for Owner, to:

15
16 Joseph S. Miller
17 615 19 1/2 Road
18 Grand Junction, Colorado 81503

19
20 Telecopier number: () **[TO BE INSERTED]**
21 Telephone number: () **[TO BE INSERTED]**

22
23 If intended for Braddock, to:

24
25 Braddock Holdings, LLC
26 135 S. Main Street
27 P. O. Box 7
28 Breckenridge, CO 80424
29 Telecopier number: (970)453-6502
30 Telephone number: (970)453-2325

31
32 with a copy in each case (which shall not constitute notice) to:

33
34 Stephen C. West, Esq.
35 West, Brown, Huntley & Thompson, P.C.
36 100 South Ridge St.
37 P.O. Box 588
38 Breckenridge, CO 80424
39 Telecopier number: (970)453-0192
40 Telephone number: (970)453-2901

41
42 Any notice delivered by mail in accordance with this Section shall be deemed to
43 have been duly given and received on the third business day after the same is
44 deposited in any post office or postal box regularly maintained by the United

1 States postal service. Any notice delivered by telecopier in accordance with this
2 Section shall be deemed to have been duly given and received upon receipt if
3 concurrently with sending by telecopier receipt is confirmed orally by telephone
4 and a copy of said notice is sent by certified mail, return receipt requested, on the
5 same day to the intended recipient. Any notice delivered by hand or commercial
6 carrier shall be deemed to have been duly given and received upon actual receipt.
7 Any party, by notice given as provided above, may change the address to which
8 future notices may be sent.
9

10 14.14 **Waiver.** The failure of any party to exercise any of its rights under this
11 Agreement shall not be a waiver of those rights. A party waives only those rights
12 specified in writing and signed by the party waiving such rights.

13 14.15 **Applicable Law.** This Agreement shall be interpreted in all respects in
14 accordance with the laws of the State of Colorado, without regard to principles of
15 conflicts of laws.

16 14.16 **Counterparts.** This Agreement may be executed in several counterparts and/or
17 signature pages and all counterparts and signature pages so executed shall
18 constitute one agreement binding on all parties hereto, notwithstanding that all the
19 parties are not signatories to the original or the same counterpart or signature
20 page.

21 14.17 **Section Headings.** Section headings are inserted for convenience only and in no
22 way limit or define the interpretation to be placed upon this Agreement.

23 14.18 **Amendment.** This Agreement may be modified or amended only by a duly
24 authorized written instrument executed by the parties hereto. Oral amendments to
25 this Agreement are not permitted.

26 14.19 **No Adverse Construction.** Both parties acknowledge having had the opportunity
27 to participate in the drafting of this Agreement. This Agreement shall not be
28 construed against either party based upon authorship.

29 TOWN OF BRECKENRIDGE, a Colorado
30 municipal corporation
31

32
33
34 By _____
35 Timothy J. Gagen, Town Manager
36
37

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF SUMMIT)
4

5 The foregoing instrument was acknowledged before me this ____ day of
6 _____, 2008, by Joseph S. Miller.

7
8 WITNESS my hand and official seal.

9
10 My commission expires: _____.

11
12
13 _____
14 Notary Public
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25 STATE OF COLORADO)
26) ss.
27 COUNTY OF SUMMIT)
28

29 The foregoing instrument was acknowledged before me this ____ day of
30 _____, 2007, by Kenneth M. Adams, President of Breckenridge Lands, Inc., Manager
31 of Braddock Holdings, LLC, a Colorado limited liability company.

32
33 WITNESS my hand and official seal.

34 My commission expires: _____.

35
36
37 _____
38 Notary Public
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EXHIBIT "A"

Legal Description of the Annexation Property

A parcel of real property situated in Section 18, Township 6 South, Range 77 West of the Sixth Principal Meridian in the Town of Breckenridge, County of Summit, State of Colorado and being more particularly described as follows:

A part of the B & L No. 1 Placer (MS 114044), a part of the Accommodation Placer (MS 19361) and a part the Braddock Placer (MS 13465) more particularly described as follows;

Beginning at corner 5 of the B & L No. 1 Placer, corner also being corner 15 of the Munroe Placer (MS 1150) and the southwesterly corner of the West Braddock Subdivision;

thence the following four (4) courses along the southerly boundary West Braddock Subdivision:

1. thence $S75^{\circ}18'02''$, 660.00 feet along the 5-6 line of the B & L No. 1 Placer and the 15-14 line of the Munroe Placer to corner 6 of the B & L No. 1 Placer, corner 14 line of the Munroe Placer and corner 1 of the Accommodation Placer;

2. thence $S56^{\circ}04'10''E$, 310.00 feet;

3. thence $S05^{\circ}1'33''W$, 617.00 feet;

4. thence $S84^{\circ}28'27''E$, 452.80 feet to a point on the westerly right of way of Colorado State Highway 9;

thence $S12^{\circ}45'46''W$, 202.80 feet along the westerly right of way of Colorado State Highway 9 to the northeasterly corner of the Breckenridge Building Center property;

thence the following four (4) courses along the northerly and westerly boundaries of the Breckenridge Building Center property:

1. thence $N84^{\circ}21''W$, 522.58 feet;

2. thence $S05^{\circ}21'39''W$, 528.18 feet to a point on the 8-9 line of the B & L No. 1 Placer and the 3-4 line of the Accommodation Placer;

3. thence $S56^{\circ}14'04''E$, 53.84 feet along the 8-9 line of the B & L No. 1 Placer and the 3-4 line of the Accommodation Placer to corner 9 of the B & L No. 1 Placer and corner 4 of the Accommodation Placer;

4. thence $S11^{\circ}35'37''W$, 233.91 feet along the 9-10 line of the B & L No. 1 Placer and the 4-5 line of the Accommodation Placer;

thence $S87^{\circ}17'57''W$, 875.28 feet to a point on the 2-3 line of the B & L No. 1 Placer;

thence $N31^{\circ}46'32''E$, 373.09 feet along the 2-3 line of the B & L No. 1 Placer to corner 3 of the B & L No. 1 Placer;

thence $N20^{\circ}02'19''W$, 689.13 feet along the 3-4 line of the B & L No. 1 Placer to corner 4 of the B & L No. 1 Placer;

thence N13°35'04"E, 1037.85 feet along the 4-5 line of the B & L No. 1 Placer to the point of beginning.

Described parcel contains 40.41 acres, more or less.

Perimeter of parcel = 6556.46 feet;

Perimeter of parcel contiguous with Town of Breckenridge = 4456.39 feet

Perimeter of parcel contiguous with Town of Breckenridge = 67.97%

EXHIBIT "B"

Legal Description of 2.29 Acre Parcel

Parcel D-2, West Braddock Subdivision, according to the plat recorded November 19, 2007 under Reception No. 874097 of the records of the Clerk and Recorder of Summit County, Colorado

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill Nos. 41 and 42 (Stan Miller Annexation Ordinance and Zoning Ordinance)

DATE: January 15, 2008 (for January 22nd meeting)

The second reading of the Stan Miller Annexation Ordinance and the Stan Miller Zoning Ordinance were both continued to your meeting on January 22nd. There are no changes proposed to either ordinance from first reading.

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

1 **FOR WORKSESSION/SECOND READING – JAN. 22**

2
3 **NO CHANGES FROM FIRST READING**

4
5 COUNCIL BILL NO. 41

6
7 Series 2007

8
9 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE A PARCEL OF
10 LAND LOCATED IN THE B & L NO. 1 PLACER, MS 114044, THE ACCOMMODATION
11 PLACER, MS 19361, AND THE BRADDOCK PLACER, M.S. 13465, COUNTY OF
12 SUMMIT, AND STATE OF COLORADO
13 (Miller — 40.41 acres, more or less)
14

15 WHEREAS, the Town Council of the Town of Breckenridge has found a Petition For
16 Annexation of the hereinafter described parcel of land to be in substantial compliance with the
17 requirements of Section 31-12-107(1), C.R.S.; and
18

19 WHEREAS, after notice as required by Section 31-12-108, C.R.S., the Town Council
20 held a public hearing on the proposed annexation on October 9, 2007; and
21

22 WHEREAS, the Town Council has by resolution determined that the requirements of
23 Sections 31-12-104 and 105, C.R.S., have been met; that an election is not required; and that no
24 additional terms or conditions are to be imposed on the annexed area.
25

26 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
27 BRECKENRIDGE, COLORADO:
28

29 Section 1. The following described parcel of land, to wit:

30
31 A parcel of real property situated in Section 18, Township 6 South, Range 77
32 West of the Sixth Principal Meridian in the Town of Breckenridge, County of
33 Summit, State of Colorado and being more particularly described as follows:
34

35 A part of the B & L No. 1 Placer (MS 114044), a part of the Accommodation
36 Placer (MS 19361) and a part the Braddock Placer (MS 13465) more particularly
37 described as follows:
38

39 Beginning at corner 5 of the B & L No. 1 Placer, corner also being corner 15 of
40 the Munroe Placer (MS 1150) and the southwesterly corner of the West Braddock
41 Subdivision;
42

43 thence the following four (4) courses along the southerly boundary West
44 Braddock Subdivision:

1 1. thence S75°18'02", 660.00 feet along the 5-6 line of the B & L No.
2 1 Placer and the 15-14 line of the Munroe Placer to corner 6 of the B & L No. 1
3 Placer, corner 14 line of the Munroe Placer and corner 1 of the Accommodation
4 Placer;

5 2. thence S56°04'10"E, 310.00 feet;

6 3. thence S05°1'33"W, 617.00 feet;

7 4. thence S84°28'27"E, 452.80 feet to a point on the westerly right of
8 way of Colorado State Highway 9;

9
10 thence S12°45'46"W, 202.80 feet along the westerly right of way of Colorado
11 State Highway 9 to the northeasterly corner of the Breckenridge Building Center
12 property;

13
14 thence the following four (4) courses along the northerly and westerly boundaries
15 of the Breckenridge Building Center property:

16 1. thence N84°21"W, 522.58 feet;

17 2. thence S05°21'39"W, 528.18 feet to a point on the 8-9 line of the B
18 & L No. 1 Placer and the 3-4 line of the Accommodation Placer;

19 3. thence S56°14'04"E, 53.84 feet along the 8-9 line of the B & L No.
20 1 Placer and the 3-4 line of the Accommodation Placer to corner 9 of the B & L
21 No. 1 Placer and corner 4 of the Accommodation Placer;

22 4. thence S11°35'37"W, 233.91 feet along the 9-10 line of the B & L
23 No. 1 Placer and the 4-5 line of the Accommodation Placer;

24
25 thence S87°17'57"W, 875.28 feet to a point on the 2-3 line of the B & L
26 No. 1 Placer;

27
28 thence N31°46'32"E, 373.09 feet along the 2-3 line of the B & L No. 1 Placer to
29 corner 3 of the B & L No. 1 Placer;

30
31 thence N20°02'19"W, 689.13 feet along the 3-4 line of the B & L No. 1 Placer to
32 corner 4 of the B & L No. 1 Placer;

33
34 thence N13°35'04"E, 1037.85 feet along the 4-5 line of the B & L No. 1 Placer to
35 the point of beginning.

36
37 Described parcel contains 40.41 acres, more or less.

38
39 Perimeter of parcel = 6556.46 feet;

40 Perimeter of parcel contiguous with Town of Breckenridge = 4456.39 feet

41 Perimeter of parcel contiguous with Town of Breckenridge = 67.97%

42
43 is hereby annexed to and made a part of the Town of Breckenridge, Colorado.
44

1 **FOR WORKSESSION/SECOND READING – JAN .22**

2
3 **NO CHANGES FROM FIRST READING**

4
5 COUNCIL BILL NO. 42

6
7 Series 2007

8
9 AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE
10 DISTRICTS 1 AND 33
11 (Miller — 40.41 acres, more or less)

12
13 WHEREAS, the Town has heretofore annexed to the Town the hereafter described parcel
14 of land owned by Joseph S. Miller; and

15
16 WHEREAS, the Town is required by Section 31-12-115(2), C.R.S., to zone all newly
17 annexed areas within ninety (90) days of annexation; and

18
19 WHEREAS, the Town's Planning Commission has recommended that the recently
20 annexed parcel be placed within Land Use Districts 1 and 33; and

21
22 WHEREAS, the Town's Annexation Plan adopted pursuant to Section 31-12-105(1)(e),
23 C.R.S., indicates that the property should be placed in Land Use Districts 1 and 33; and

24
25 WHEREAS, the Town Council finds and determines that the property should properly be
26 placed in Land Use Districts 1 and 33.

27
28 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
29 BRECKENRIDGE, COLORADO:

30
31 Section 1. The following described real property, to wit:

32
33 A parcel of real property situated in Section 18, Township 6 South, Range 77
34 West of the Sixth Principal Meridian in the Town of Breckenridge, County of
35 Summit, State of Colorado and being more particularly described as follows:

36
37 A part of the B & L No. 1 Placer (MS 114044), a part of the Accommodation
38 Placer (MS 19361) and a part the Braddock Placer (MS 13465) more particularly
39 described as follows:

40
41 Beginning at corner 5 of the B & L No. 1 Placer, corner also being corner 15 of
42 the Munroe Placer (MS 1150) and the southwesterly corner of the West Braddock
43 Subdivision;

1 thence the following four (4) courses along the southerly boundary West
2 Braddock Subdivision:

3 1. thence S75°18'02", 660.00 feet along the 5-6 line of the B & L No.
4 1 Placer and the 15-14 line of the Munroe Placer to corner 6 of the B & L No. 1
5 Placer, corner 14 line of the Munroe Placer and corner 1 of the Accommodation
6 Placer;

7 2. thence S56°04'10"E, 310.00 feet;

8 3. thence S05°1'33"W, 617.00 feet;

9 4. thence S84°28'27"E, 452.80 feet to a point on the westerly right of
10 way of Colorado State Highway 9;

11
12 thence S12°45'46"W, 202.80 feet along the westerly right of way of Colorado
13 State Highway 9 to the northeasterly corner of the Breckenridge Building Center
14 property;

15
16 thence the following four (4) courses along the northerly and westerly boundaries
17 of the Breckenridge Building Center property:

18 1. thence N84°21"W, 522.58 feet;

19 2. thence S05°21'39"W, 528.18 feet to a point on the 8-9 line of the B
20 & L No. 1 Placer and the 3-4 line of the Accommodation Placer;

21 3. thence S56°14'04"E, 53.84 feet along the 8-9 line of the B & L No.
22 1 Placer and the 3-4 line of the Accommodation Placer to corner 9 of the B & L
23 No. 1 Placer and corner 4 of the Accommodation Placer;

24 4. thence S11°35'37"W, 233.91 feet along the 9-10 line of the B & L
25 No. 1 Placer and the 4-5 line of the Accommodation Placer;

26
27 thence S87°17'57"W, 875.28 feet to a point on the 2-3 line of the B & L
28 No. 1 Placer;

29
30 thence N31°46'32"E, 373.09 feet along the 2-3 line of the B & L No. 1 Placer to
31 corner 3 of the B & L No. 1 Placer;

32
33 thence N20°02'19"W, 689.13 feet along the 3-4 line of the B & L No. 1 Placer to
34 corner 4 of the B & L No. 1 Placer;

35
36 thence N13°35'04"E, 1037.85 feet along the 4-5 line of the B & L No. 1 Placer to
37 the point of beginning.

38
39 is hereby placed in Breckenridge Land Use Districts 1 and 33.

40
41 Section 2. The Town staff is hereby directed to change the Town's Land Use District
42 Map to indicate that the abovedescribed property has been annexed and placed within Land Use
43 Districts 1 and 33.

44
45 Section 3. This ordinance shall be published and become effective as provided by
46 Section 5.9 of the Breckenridge Town Charter.

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INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this _____ day of _____, 2007. A Public
Hearing on the Ordinance shall be held at the regular meeting of the Town Council of the Town
of Breckenridge, Colorado, on the _____ day of _____, 2007, at 7:30 p.m.
or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Ernie Blake, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

MEMO

TO: Town Council

FROM: Michael Mosher, Planner III

RE: Extended Vested Property Rights Development Agreement for the Stan Miller Development

DATE: January 16, 2008 (for January 22nd meeting)

This is the Council's first review of the draft Development Agreement for the Stan Miller Development with Joseph S. Miller and Braddock Holdings, LLC (applicants) related to the development of the Stan Miller Annexation property. If approved, the Development Agreement would extend the vested property rights period for the development from 3 to 18 years.

Staff notes that the section that outlines the "commitments" which the Developer is to make to the Town, as encouraged in Section 9-9-4 of the Breckenridge Town Code, is provided for in the Annexation Agreement between the Town and Developers.

Additionally, Staff notes that pursuant to section 9-9-10 of the Code, the Council has the option to review and approve (or reject) this agreement or, prior to any decision, refers this matter to the Planning Commission for its review and comment.

Enclosed with this memo is the draft Development Agreement along with a letter from West, Brown, Huntley & Thompson, P.C. addressing the submittal requirements for the Development Agreement.

We would be happy to discuss this matter with you on Tuesday.

LAW OFFICES
WEST, BROWN, HUNTLEY & THOMPSON, P.C.
100 SOUTH RIDGE STREET, SUITE 204
POST OFFICE BOX 588
BRECKENRIDGE, COLORADO 80424
TELEPHONE (970) 453-2901
FAX (970) 453-0192

STEPHEN C. WEST
D. WAYNE BROWN
FELICE F. HUNTLEY
MARK D. THOMPSON

ERIN C. HUNTER
JOSHUA N. REIDER

JILL D. BLOCK
Paralegal

January 11, 2008

VIA HAND DELIVERY

Michael Mosher and Laurie Best
Department of Community Development
Town of Breckenridge
150 Ski Hill Road
Breckenridge, Colorado

Re: Development Agreement to extend vesting of Development Permit for Master Plan for Joseph S. Miller and Braddock Holdings Properties

Dear Mosh and Laurie:

Don Nilsson has or very shortly will be submitting the formal application for the Master Plan for the combined Miller Annexation and Braddock Holdings properties. In connection with that application and the annexation of the Miller property, the applicants consistently have expressed the need for extended vesting for a period of eighteen years.

In discussions with Tim Berry about terms of the Annexation Agreement and the need for the extended vesting, he has requested that a separate development agreement for the extended vesting be processed. Accordingly, on behalf of the applicants, I am submitting this letter to address the submittal requirements for such a development agreement. Because the extended vesting has been discussed with Council previously and is going to be included in the Annexation Agreement as a condition of the annexation, we request that you schedule the initial discussion of the enclosed Development Agreement with Town Council for its work session on January 22, 2008 when the Annexation Agreement and other annexation actions are expected to be presented. I will work with Tim Berry on a draft ordinance for possible first reading by the Town Council on January 22nd if all goes well at the work session.

With respect to the encouraged commitments provided for in Section 9-9-4 of the Town Code in connection with an application for a development agreement, they are addressed in the proposed Annexation Agreement.

Michael Mosher and Laurie Best
Department of Community Development
Town of Breckenridge
January 11, 2008
Page 2

The submittal requirements set forth in Section 9-9-9 of the Town Code are complied with as follows: Subsection A has been or will be satisfied in connection with the application for the development permit for the Master Plan; Subsections B and C are not relevant because the applicants own the properties covered by that application; this letter and the enclosed Agreement contain the requirements set forth in Subsections D and E; and Subsection F is satisfied with the submittal of the proposed Agreement itself. If any additional information or documentation is needed, I trust you will let me know.

We look forward to working with you, Tim Berry and the Town Council on the terms of this proposed Development Agreement.

Respectfully,

Stephen C. West, Agent
for Joseph S. Miller and Braddock Holdings, LLC

SCW/amw

cc: Timothy H. Berry, Esq. (w/enc. via email)
Don Nilsson (w/enc. via email)
Kenneth M. Adams (w/enc. via email)

Enclosure

5159.06

1 E. The commitments to the Town to enable the Town to obtain supplemental
2 benefits which could not be obtained by the Town through existing regulations, standards or
3 policies, as encouraged in Section 9-9-4 of the Breckenridge Town Code, are provided for in the
4 Annexation Agreement between the Town and the Developers.

5
6 F. A Development Agreement between the Town and the Developers providing for
7 the requested extension of the vested property rights has been prepared, a copy of which is
8 marked Exhibit "A", attached hereto and incorporated herein by reference.

9
10 G. The Town Council has reviewed the Development Agreement.

11
12 H. The extension of the vested property rights for the Development Permit as
13 provided for in the Development Agreement is warranted in light of all relevant circumstances.

14
15 I. The procedures to be used to review and approve a Development Agreement are
16 provided in Chapter 9 of Title 9 of the Breckenridge Town Code. The requirements of such
17 Chapter have been met in connection with the approval of the Development Agreement and this
18 ordinance.

19
20 Section 2. Approval of Development Agreement. The Development Agreement between
21 the Town and Developers (Exhibit "A" to this ordinance) is approved, and the Town Manager is
22 hereby authorized, empowered and directed to execute such Agreement for and on behalf of the
23 Town of Breckenridge.

24
25 Section 3. Notice of Approval. The Development Agreement shall contain a notice in the
26 form provided in Section 9-9-13 of the Breckenridge Town Code. In addition, a notice in
27 compliance with the requirements of Section 9-9-13 of the Breckenridge Town Code shall be
28 published by the Town Clerk one time in a newspaper of general circulation in the Town within
29 fourteen days after the adoption of this ordinance. Such notice shall satisfy the requirement of
30 Section 24-68-103, C.R.S.

31
32 Section 4. Police Power Finding. The Town Council hereby finds, determines and
33 declares that this ordinance is necessary and proper to provide for the safety, preserve the health,
34 promote the prosperity, and improve the order, comfort and convenience of the Town of
35 Breckenridge and the inhabitants thereof.

36
37 Section 5. Authority. The Town Council hereby finds, determines and declares that it has
38 the power to adopt this ordinance pursuant to the authority granted to home rule municipalities
39 by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town
40 Charter.

41
42 Section 6. Effective Date. This ordinance shall be published and become effective as
43 provided by Section 5.9 of the Breckenridge Town Charter.

44
45 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
46 PUBLISHED IN FULL this ____ day of _____, 2008. A Public Hearing shall be held at the

1 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
2 ____, 2008, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
3 Town.

4
5 TOWN OF BRECKENRIDGE
6

7
8 By _____
9 Ernie Blake, Mayor

10
11 ATTEST:

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15 _____
16 Mary Jean Loufek, CMC, Town Clerk
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APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED
PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED
STATUTES, AS AMENDED

DEVELOPMENT AGREEMENT
FOR
EXTENDED VESTING

This Development Agreement for Extended Vesting (“Agreement”) is made as of the _____ day of _____, 2008, between the TOWN OF BRECKENRIDGE, a municipal corporation of the State of Colorado (the “Town”) and JOSEPH S. MILLER and BRADDOCK HOLDINGS, LLC, a Colorado limited liability company, (the “Developers”).

Recitals

A. Pursuant to a Class A Development Application the Town has approved or will approve a master plan (“Master Plan”) for the development of the property described in Exhibit A attached hereto (“Property”) and has issued or will issue Development Permit No. _____ (“Development Permit”).

B. Pursuant to the Breckenridge Town Code the vested property rights period for the Development Permit is three years. As used in this Agreement, the term “vested property rights period” shall have the meaning, purpose and effect afforded such term in the Breckenridge Town Code.

C. The Breckenridge Town Code, including Section 9-1-17-11:E of the Development Code, authorizes the vested property rights for a phased development to be as provided for in a development permit and Section 9-1-17-11:K of the Development Code authorizes the Town Council to enter into a development agreement to provide for a vested property rights period of more than three years when warranted in light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles and market conditions.

D. The Town Council has received a completed application and all required fees and submittals for a development agreement, had a preliminary discussion of the application and this Agreement, determined that it should commence proceedings for the approval of this Agreement, and, in accordance with the procedures set forth in Subsection 9-9-10:C of the Breckenridge Town Code, has approved this Agreement by non-emergency ordinance.

E. The commitments to the Town to enable the Town to obtain supplemental benefits which could not be obtained by the Town through existing regulations, standards or policies, as encouraged in Section 9-9-4 of the Breckenridge Town Code, are provided for in the Annexation Agreement between the Town and Developers.

AGREEMENT

1. The Town acknowledges and agrees that it has determined that circumstances warrant an extension of the vested property rights for the Development Permit and the Master Plan based on the anticipated phasing of the development as approved by the Planning Commission, the anticipated economic cycles during the period of time that the phased development is to occur and the current market conditions, which are likely to result in the phasing of the development over substantially longer than three years.

2. The Town acknowledges and agrees that the Development Permit and the Master Plan constitute site specific development plans, and the Town, by approving this Agreement, hereby specifically designates the Development Permit and the Master Plan as a site specific development plans.

3. Pursuant to its authority under Section 9-1-17-11:K of the Development Code, the Town Council, on behalf of the Town, agrees that the vested property rights period for the Development Permit and the Master Plan shall be extended to the date which is eighteen (18) years from the date of approval by the Town Council of the Development Permit.

4. Except as provided in Section 24-68-105, C.R.S. and except as specifically provided for herein or in the Development Permit or Master Plan, the execution of this Agreement shall not preclude the current or future application of municipal, state or federal ordinances, laws, rules or regulations to the Property (collectively, "laws"), including, but not limited to, building, fire, plumbing, engineering, electrical and mechanical codes, and the Town's Development Code, Subdivision Standards and other land use laws, as the same may be in effect from time to time throughout the term of this Agreement. Except to the extent the Town otherwise specifically agrees, any development of the Property shall be done in compliance with the then-current laws of the Town.

5. Nothing in this Agreement shall preclude or otherwise limit the lawful authority of the Town to adopt or amend any Town law, including, but not limited to the Town's: (i) Development Code, (ii) Master Plan, (iii) Land Use Guidelines and (iv) Subdivision Standards.

6. This Agreement shall run with the title to the Property and be binding upon and inure to the benefit of the owners and their successors and assigns, including specifically, but not limited to, such entity or entities affiliated with Developers as actually take title to any portion of the Property.

7. Prior to any action against the Town for breach of this Agreement, Developers shall give the Town a sixty (60) day written notice of any claim by the Developers of a breach or default by the Town, and the Town shall have the opportunity to cure such alleged default within such time period.

8. The Town shall not be responsible for and the Developers shall have no remedy against the Town if completion of the development or subdivision is prevented or delayed for reasons beyond the control of the Town.

9. Actual development of the Property shall require the issuance of such other and further permits and approvals by the Town as may be required from time to time by applicable Town ordinances.

10. No official or employee of the Town shall be personally responsible for any actual or alleged breach of this Agreement by the Town.

11. The Developers agree to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or intentional act or omission of Developers; any subcontractor of Developers, or any officer, employee, representative, or agent of Developers or of any subcontractor of Developers, or which arise out of any worker's compensation claim of any employee of Developers, or of any employee of any subcontractor of Developers; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of Town, its officers, employees, or agents. Developers agree to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of the Developers. Developers also agree to bear all other costs and expenses related thereto, including court costs and attorney's fees.

12. If any provision of this Agreement shall be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of the remaining provisions of the Agreement.

13. This Agreement constitutes a vested property right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended.

14. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Developers; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the Developers or the acceptance of any improvements.

15. This Agreement shall be recorded in the office of the Clerk and Recorder of Summit County, Colorado.

16. Nothing contained in this Agreement shall constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.

17. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement shall be deemed to be proper only if such action is commenced in District Court

of Summit County, Colorado. The Developers expressly waive their right to bring such action in or to remove such action to any other court, whether state or federal.

18. Any notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed as follows:

If To The Town: Timothy J. Gagen, Town Manager
Town of Breckenridge
P.O. Box 168
Breckenridge, CO 80424

With A Copy (which shall not constitute notice to the Town) to: Timothy H. Berry, Esq.
Town Attorney
P.O. Box 2
Leadville, CO 80461

If To The Developers: Joseph S. Miller
615 19 ½ Road
Grand Junction, CO 81503

and

Kenneth M. Adams
Braddock Holdings, LLC
P.O. Box 7
Breckenridge, CO 80424

With A Copy (which shall not constitute notice) to: Stephen C. West, Esq.
West, Brown, Huntley & Thompson, P.C.
P.O. Box 588
Breckenridge, CO 80424

Notices mailed in accordance with the provisions of this paragraph shall be deemed to have been given upon delivery. Notices personally delivered shall be deemed to have been given upon delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process.

19. This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement and supersedes any prior agreement or understanding relating to such subject matter.

20. This Agreement shall be interpreted in accordance with the laws of the State of Colorado.

TOWN OF BRECKENRIDGE

Attest:

Mary Jean Loufek, CMC
Town Clerk

By:_____
Timothy J. Gagen,
Town Manager

Joseph S. Miller

BRADDOCK HOLDINGS, LLC,
a Colorado limited liability company
By: Breckenridge Lands, Inc.,
its Manager

By:_____
Kenneth M. Adams, President

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this ____ day of _____, 2008 by Timothy J. Gagen as Town Manager and Mary Jean Loufek, CMC, of the Town of Breckenridge.

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

Notary Public

MEMO

TO: Town Council
FROM: Town Attorney
RE: Liquor Licensing Authority Membership Ordinance
DATE: January 15, 2008 (for January 22nd meeting)

The second reading of the ordinance eliminating the requirement that a member of Town Council sit on the Liquor Licensing Authority is scheduled for your meeting on January 22nd. There are no changes proposed to ordinance from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – JAN. 22***

2
3 ***NO CHANGES FROM FIRST READING***

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

7
8 COUNCIL BILL NO. 1

9
10 Series 2008

11
12 AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 2 OF THE BRECKENRIDGE
13 TOWN CODE CONCERNING THE MEMBERSHIP OF THE TOWN OF BRECKENRIDGE
14 LIQUOR LICENSING AUTHORITY

15
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
17 COLORADO:

18
19 Section 1. Subsection D of Section 2-5-1 of the Breckenridge Town Code is hereby
20 repealed.

21
22 **[Drafter’s Note:** The repealed subsection reads as follows:

23
24 “Section 9.2(b) of the Town Charter provides that no Town board or commission shall have
25 more than one council member appointed to serve on such board or commission.”]

26
27 Section 2. Subsection B of Section 2-5-3 of the Breckenridge Town Code is hereby
28 repealed.

29
30 **[Drafter’s Note:** The repealed subsection reads as follows:

31
32 “One member of the Authority shall be a member of the Town Council; provided, however, that
33 the Mayor shall not serve on the Authority.”]

34
35 Section 3. Subsection A of Section 2-5-4 of the Breckenridge Town Code is hereby
36 repealed.

37
38 **[Drafter’s Note:** The repealed subsection reads as follows:

39
40 “The term of the member of the Authority who is a member of the Town Council shall be one
41 year commencing on the second Tuesday of April each year, except that the term of the Town
42 Council member who is appointed to the first Authority shall expire on the second Tuesday of
43 April, 2004”.]

1 Section 4. Subsection B of Section 2-5-4 of the Breckenridge Town Code is hereby
2 amended so as to read in its entirety as follows:
3

4 B. The terms of the ~~four remaining~~ members of the Authority shall be four years;
5 ~~except that the terms of two of such members appointed to the first Authority~~
6 ~~shall be two years, and the terms of the remaining two members of the first~~
7 ~~Authority shall be four years.~~ **The terms shall be staggered.**
8

9 Section 5. Nothing in this ordinance shall affect the terms of office of those members of
10 the Liquor Licensing Authority in office at the time of the adoption of this ordinance.
11

12 Section 6. The person appointed to fill the vacancy on the Liquor Licensing Authority
13 caused by the ending of the term of office of Jeffrey Bergeron (the member of the Liquor
14 Licensing Authority who is also a member of the Town Council) shall serve only until
15 September, 2009, at which time a person shall be appointed for a term of four years as provided
16 in Section 4 of this ordinance.
17

18 Section 7. Three members of the Liquor Licensing Authority shall be appointed in
19 September, 2009 and two members of the Authority shall be appointed in September, 2011.
20

21 Section 8. Except as specifically amended hereby, the Breckenridge Town Code, and the
22 various secondary codes adopted by reference therein, shall continue in full force and effect.
23

24 Section 9. The Town Council hereby finds, determines and declares that it has the power
25 to adopt this ordinance pursuant to the provisions of Section 12-47-103(17), C.R.S., and the
26 powers possessed by home rule municipalities in Colorado.
27

28 Section 10. The Town Council hereby finds, determines and declares that it has the
29 power to adopt this ordinance pursuant to the authority granted to home rule municipalities by
30 Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town
31 Charter.
32

33 Section 11. This ordinance shall be published as provided by Section 5.9 of the
34 Breckenridge Town Charter, and shall become effective April 8, 2008.
35

36 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
37 PUBLISHED IN FULL this ____ day of _____, 2008. A Public Hearing shall be held at the
38 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
39 _____, 2008, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
40 Town.
41
42

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
Ernie Blake, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

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Sherman & Howard L.L.C.

ATTORNEYS & COUNSELORS AT LAW
633 SEVENTEENTH STREET, SUITE 3000
DENVER, COLORADO 80202
TELEPHONE: 303 297-2900
FAX: 303 298-0940
OFFICES IN: COLORADO SPRINGS
RENO • LAS VEGAS • PHOENIX

Dee P. Wisor
Direct Dial Number: (303) 299-8228
E-Mail: dwisor@sah.com

January 15, 2008

Town of Breckenridge, Colorado
150 Ski Hill Road
Box 168
Breckenridge, CO 80424

Attn: Tim Gagen

Re: Amendment of the ordinance authorizing the Town's General Obligation Refunding Bonds, Series 2008

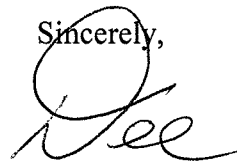
Dear Members of Council:

Enclosed please find a draft emergency ordinance for your consideration at the regular meeting of the Council on January 22, 2008 (the "Amending Ordinance"). This ordinance amends certain provisions of the ordinance adopted by the Council on January 8, 2008 (the "Original Ordinance"), which authorized the issuance of the Town's General Obligation Refunding Bonds, Series 2008 (the "2008 Bonds").

The purpose of the amendment is to authorize the refunding of less than all of the Town's currently outstanding General Obligation Bonds, Series 1998 (the "1998 Bonds") and General Obligation Bonds, Series 1999A (the "1999A Bonds"). Currently, the Original Ordinance only authorizes the refunding of all the 1998 Bonds and 1999A Bonds maturing on and after December 1, 2009. However, the current market will not support a refunding of all such bonds. Therefore, the plan of finance for the 2008 Bonds calls for the refunding of most, but not all, of the 1998 Bonds and 1999A Bonds that have not yet been repaid. The Amending Ordinance authorizes the Town to accomplish this partial refunding. The ordinance is presented in emergency form in order to avoid delaying the closing of the 2008 Bonds, currently scheduled for January 23, 2008.

If you have any questions regarding this matter, please do not hesitate to contact me at (303) 299-8228.

Sincerely,



Dee P. Wisor

DPW/jw
Enclosure

COUNCIL BILL NO. __
SERIES 2008

ORDINANCE NO. __
SERIES 2008

AN ORDINANCE AMENDING ORDINANCE NO. 2, SERIES 2008, RELATING TO THE TOWN'S GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008 AND DECLARING AN EMERGENCY

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

Section 1. Recitals.

A. The Town of Breckenridge, Colorado (the "Town") is a municipal corporation duly organized and existing under the its home rule charter (the "Charter") adopted pursuant to Article XX of the Constitution of the State of Colorado.

B. The Town has previously adopted Ordinance No. 2, Series 2008 (the "Original Ordinance"), authorizing the issuance of the Town's General Obligation Refunding Bonds, Series 2008 (the "Bonds").

C. The Town Council is authorized to amend the Original Ordinance prior to the issuance of any of the Bonds.

D. The Town Council desires to amend the Original Ordinance in order to delegate to the Mayor or the Town Manager the authority to designate which of the Town's General Obligation Bonds, Series 1998, and General Obligation Bonds, Series 1999A shall be refunded with the proceeds of the Bonds.

E. The timely issuance of the Bonds and the savings to the Town resulting therefrom are dependent upon the amendment of the Original Ordinance, and, therefore, the amendment of the Original Ordinance is necessary for the preservation of public property, health, welfare, peace or safety.

Section 2. Amendments to Definitions. The definitions in Section 1 of the Original Ordinance are hereby amended or added as follows. Any definitions contained in

Section 1 of the Original Ordinance not amended by this Section shall retain the meanings given thereto by the Original Ordinance.

Amending Ordinance: this ordinance, which amends the Original Ordinance.

Original Ordinance: Ordinance No. 2, Series 2008, adopted by the Town Council on January 8, 2008.

Ordinance: the Original Ordinance, as amended by this Amending Ordinance, authorizing the issuance of the Bonds.

Refunded Bonds: the 1998 Bonds and the 1999A Bonds to be refunded using the proceeds of the Bonds, as set forth in the Sale Certificate.

Sale Certificate: the certificate executed by the Mayor or the Town Manager dated on or before the date of delivery of the Bonds, setting forth (i) the rates of interest on the Bonds; (ii) the price at which the Bonds will be sold; (iii) the aggregate principal amount of the Bonds; (iv) the amount of principal of the Bonds maturing on each date; (v) the dates on which principal and interest will be paid and the first interest payment date; (vi) the Purchaser of the Bonds; and (vii) the 1998 Bonds and 1999A Bonds that will constitute the Refunded Bonds, all subject to the parameters and restrictions contained in this Ordinance.

Section 3. Form of Notice. Section 24 of the Original Ordinance is hereby amended to state as follows:

The notice of refunding, defeasance and redemption so to be given forthwith shall be in substantially the following form:

(Form of Notice)

NOTICE OF REFUNDING, DEFEASANCE AND REDEMPTION
TOWN OF BRECKENRIDGE, COLORADO

CUSIP NOS. _____

NOTICE IS HEREBY GIVEN that the Town of Breckenridge, Colorado, in the County of Summit and State of Colorado (the “Town”) has caused to be deposited in escrow with American National Bank, in Denver, Colorado, refunding bond proceeds and other moneys which have been invested (except for a small initial cash balance remaining uninvested) in certificates of indebtedness, notes, bonds and similar securities which are direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America to refund, pay, redeem and discharge the principal and interest in connection with certain of its outstanding General Obligation Bonds, Series 1998 maturing on and after December 1, 2009, (the “1998 Bonds”), as set forth below and certain of its outstanding General Obligation Bonds, Series 1999A maturing on and after December 1, 2009 (the “1999A Bonds”), as set forth below.

The 1998 Bonds and the 1999A Bonds to be refunded are as follows (collectively, the “Refunded Bonds”):

<u>1998 Bonds</u> <u>Maturity to be</u> <u>Refunded</u>	<u>1998 Bonds</u> <u>Principal Amount to</u> <u>be Refunded</u>	<u>1999A Bonds</u> <u>Maturity to</u> <u>be Refunded</u>	<u>1999A Bonds</u> <u>Principal Amount to</u> <u>be Refunded</u>
---	---	--	--

The Refunded Bonds will be called for redemption on December 1, 2008 (the “Redemption Date”). On the Redemption Date, the principal of the Refunded Bonds and accrued interest to the Redemption Date will become due and payable at the paying agent, American National Bank, Denver, Colorado (the “Paying Agent”), and from and after the Redemption Date interest on the Refunded Bonds will cease to accrue.

The escrow, including the known minimum yield from such investments and any temporary reinvestments and the initial cash balance remaining uninvested, is fully sufficient at

the time of the deposit and at all times subsequent, to pay the interest on the Refunded Bonds as the same comes due on and before the Redemption Date and the principal of the Refunded Bonds as the same comes due on the Redemption Date.

In compliance with federal law, the Paying Agent is required to withhold at the current backup withholding rate a percentage from payments of principal to individuals who fail to furnish valid Taxpayer Identification Numbers. A completed Form W-9 should be presented with your bond.

The above-referenced CUSIP numbers were assigned to these issues by Standard & Poor's Corporation and are intended solely for bondholders' convenience. Neither the Paying Agent nor the Town shall be responsible for selection or use of the CUSIP numbers, nor is any representation made as to their correctness on the Refunded Bonds or as indicated in any redemption notice.

DATED _____, 2008.

AMERICAN NATIONAL BANK

By: _____

(End of Form of Notice)

Section 4. Severability. If any one or more sections, sentences, clauses or parts of this Amending Ordinance shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Amending Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Amending Ordinance so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this Amending Ordinance in any one or more instances shall not affect or prejudice in any way the applicability and validity of this Amending Ordinance in any other instances.

Section 5. Repealer; Amendment to Original Ordinance. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Amending Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed. The Original Ordinance is hereby amended only to the extent described in this Amending Ordinance. Except as amended by this Amending Ordinance, the Original Ordinance remains in full force and effect according to its terms.

Section 6. Ratification. All actions heretofore taken (not inconsistent with the provisions of the Ordinance) by the Town Council and other officers of the Town relating to the Ordinance, the Refunding Project and the sale and issuance of the Bonds for the purposes provided in the Ordinance are ratified, approved and confirmed.

Section 7. Disposition of Ordinance. This Amending Ordinance, as adopted by the Town Council, shall be numbered and recorded by the Town Clerk in the official records of the Town. The adoption and publication shall be authenticated by the signatures of the Mayor or Mayor Pro Tem, and Town Clerk, and by the certificate of publication.

Section 8. Declaration of Emergency; Effective Date. This Amending Ordinance shall be adopted as an emergency ordinance pursuant to Section 5.11 of the Charter. The Town Council hereby finds that the adoption of this Amending Ordinance is necessary for the preservation of public property, health, welfare, peace or safety. Pursuant to Section 5.11 of the Charter, this Amending Ordinance shall take effect immediately upon final adoption hereof.

INTRODUCED, READ BY TITLE, APPROVED, FINALLY ADOPTED AS
AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED IN FULL on the 22nd day of
January, 2008.

(SEAL)

Attest:

Mayor
Town of Breckenridge, Colorado

Town Clerk
Town of Breckenridge, Colorado

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

I, Mary Jean Loufek, the Town Clerk of the Town of Breckenridge, Colorado, do hereby certify:

1. That the foregoing pages are a true, perfect and complete copy of an emergency ordinance (the “Amending Ordinance”) adopted by the Town Council constituting the governing board of the Town of Breckenridge (the “Town Council”), by vote had and taken at an open, regular meeting of the Town Council held at the Breckenridge Town Hall on January 22, 2008, as recorded in the regular book of official records of the proceedings of said Town of Breckenridge kept in my office.

2. That the Amending Ordinance was read by title (copies of the Amending Ordinance being available at the meeting), duly moved and seconded and the Amending Ordinance was finally adopted by a vote of at least five of the members of the Town Council at the regular meeting of the Town Council held at the Breckenridge Town Hall, on January 22, 2008, as follows:

<u>Name</u>	<u>Voting “Yes”</u>	<u>Voting “No”</u>	<u>Absent</u>	<u>Abstaining</u>
Ernie Blake, Mayor				
Jeffrey Bergeron				
Eric Mamula				
Jennifer McAtamney				
Rob Millisor				
Dave Rossi				
John Warner				

3. That the Amending Ordinance was published in full in the *The Summit County Journal*, a newspaper of general circulation within the Town within ten days of the

adoption thereof on _____, 2008. The affidavit of publication is attached hereto as Exhibit A.

4. The members of the Town Council were present the meeting and voted on the passage of the Amending Ordinance as set forth above.

5. There are no bylaws, rules or regulations of the Town Council that might prohibit the adoption of the Amending Ordinance.

6. Notice of the meeting of January 22, 2008, in the form attached hereto as Exhibit B was posted at the Breckenridge Town Hall, prior to the meeting in accordance with the Charter.

WITNESS my hand and the seal of said Town affixed this _____, 2008.

(SEAL)

Town Clerk

EXHIBIT A

AFFIDAVIT OF PUBLICATION

(published _____, 2008)

EXHIBIT B

Notice of the Meeting
of January 22, 2008

MEMO

TO: Town Council

FROM: Town Attorney

RE: Proposed Sign Easement for new Breckenridge Building Center Building

DATE: January 16, 2008 (for January 22nd meeting)

In 2006 the Town approved a sign variance to authorize the placement of a 28 square foot off-premise sign for the new Breckenridge Building Center building. The proposed location of the sign is on property owned by the Town. Therefore, in order to finalize the sign that was approved in 2006 it is necessary for the Town to grant the BBC permission to place its new sign on Town property.

B & D Limited Partnership, the developer of the new BBC building, has requested that the Town grant it an easement for its new sign. The sign is proposed to be located near the intersection of Highway 9 and the new BBC as more clearly depicted in the proposed easement.

Enclosed is the proposed Sign Easement document. It is a standard Town easement form with one notable exception. Pursuant to the proposed easement, B & D will pay the Town \$500 per year for the easement grant. The rental is to be paid in 5 year installments to minimize the accounting for both parties. If B & D should fail to pay the required rental, the Town can terminate the easement and require B & D to reconvey the easement to the Town, thereby clearing the Town's title to the land.

Also enclosed is a proposed ordinance for use in approving the Sign Easement.

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

1 ***FOR WORKSESSION/FIRST READING - JAN. 22***

2
3 COUNCIL BILL NO. ____

4
5 Series 2008

6
7 AN ORDINANCE AUTHORIZING THE GRANTING OF A SIGN EASEMENT TO B & D
8 LIMITED PARTNERSHIP

9
10 WHEREAS, B & D Limited Partnership, an Illinois limited partnership authorized to do
11 business in the State of Colorado, has requested the granting of a sign easement over, across and
12 through certain Town property; and

13
14 WHEREAS, the Town Council of the Town of Breckenridge has determined that it
15 should grant the requested easement; and

16
17 WHEREAS, the Town Attorney has informed the Town Council that, in his opinion,
18 Section 15.3 of the Breckenridge Town Charter requires that granting of such easement be
19 authorized by Ordinance.

20
21 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
22 BRECKENRIDGE, COLORADO:

23
24 Section 1. The Town Manager is hereby authorized, empowered and directed to execute,
25 acknowledge and deliver to B & D Limited Partnership, an Illinois limited partnership authorized
26 to do business in the State of Colorado, a sign easement in substantially the form which is
27 marked Exhibit "A", attached hereto and incorporated herein by reference.

28
29 Section 2. The Town Council hereby finds, determines and declares that it has the power
30 to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article
31 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

32
33 Section 3. This ordinance shall be published and become effective as provided by
34 Section 5.9 of the Breckenridge Town Charter.

35
36 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
37 PUBLISHED IN FULL this ____ day of _____, 2008. A Public Hearing shall be
38 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
39 ____ day of _____, 2008, at 7:30 P.M., or as soon thereafter as possible in the
40 Municipal Building of the Town.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
Ernie Blake, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

GRANT OF SIGN EASEMENT

THIS GRANT OF SIGN EASEMENT ("Grant") is made and entered into at Breckenridge, Colorado this ____ day of _____, 2008 by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation, whose address is P. O. Box 168, Breckenridge, CO 80424 ("Grantor") and B & D LIMITED PARTNERSHIP, an Illinois limited partnership authorized to do business in Colorado, whose address is 1480 Sequoia Drive, Aurora, IL 60506, ("Grantee").

WITNESSETH THAT:

In consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

1. Fee.

A. The Grantee agrees to pay the Grantor \$500.00 per calendar year for the easement provided for in this Grant. Within fifteen (15) days of notice of execution of this Grant by Grantor, Grantee shall pay Grantor \$2,500.00 for the fee for calendar years 2008 through 2012. On or before January 1, 2013 and on or before January 1 of each fifth calendar year thereafter, Grantee shall pay Grantor \$2,500.00 for the next succeeding five years.

B. In the event any payment provided for herein is not made timely, Grantor will give Grantee written notice of the failure by Grantee to make the required payment and Grantee shall have thirty (30) days from the date such notice is given within which to make the required payment. If Grantee fails to make payment within such thirty (30) days, Grantor may give written notice to Grantee that this Grant will terminate if the required payment, plus a 20% late payment fee, is not paid within fifteen (15) days from the date such termination notice is given.

2. Grant of Easement. The Grantor hereby grants to the Grantee, its successors and assigns, a perpetual, non-exclusive easement over, under, upon, in, across and through the following parcels of real property situate in the County of Summit and State of Colorado, to wit:

See Exhibit A attached hereto

("Easement Premises").

3. Easement Appurtenant. The easement herein granted is for the benefit of and shall be appurtenant to the following described real property situate in the County of Summit and State of Colorado, to wit:

See Exhibit B attached hereto

("Benefited Property").

4. Use Of Easement Premises. The easement herein granted may be used by Grantee to construct and maintain the sign authorized by Development Permit No. 2006138 issued by Grantor, as amended ("Permit"). No other use of the Easement Premises may be made or permitted by Grantee without Grantor's prior permission.

5. Grantor's Use Of Easement Premises. Grantor shall have the right to use and occupy the Easement Premises for any purpose not inconsistent with Grantee's full and complete enjoyment of the rights hereby granted.

6. Improvements. Grantee, at its sole cost, may construct upon the Easement Premises any and all improvements authorized by the Permit. Grantee shall indemnify and hold Grantor harmless from all costs (including Grantor's reasonable attorney's fees) arising out of the construction of such improvements within the Easement Premises.

7. Maintenance Of Easement Premises. Grantor shall have no responsibility for the maintenance or upkeep of the Easement Premises. Grantee shall provide such maintenance or upkeep as shall be required with respect to the Easement Premises and the improvements thereto.

8. Non-Waiver Of Governmental Immunity. The parties hereto understand and agree that Grantor is relying on, and does not waive or intend to waive by any provision of this Grant, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or an other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other law or limitation otherwise available to Grantor, its officers, or its employees.

9. Grantee's Duty Of Care. Grantee shall exercise the rights herein granted to it with due care.

10. Indemnification. To the fullest extent permitted by law, Grantee shall indemnify, and hold Grantor harmless from all claims, demands, judgments and causes of action (including Grantor's reasonable attorney's fees) arising from the use of the Easement Premises by the Grantee, its agents, employees, officers, contractors, licensees, lessees, invitees, successors and assigns.

11. Binding Effect. The provisions of this Grant shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including Grantee's successors in title to the Benefited Property. If the Benefited Property is subdivided, Grantee may assign its rights and obligations hereunder to the owners of one or more of the subdivided properties.

12. Notices. All notices required or permitted under this Grant, shall be given by registered or certified mail, return receipt requested, postage prepaid, addressed to the parties at their addresses first set forth above, or at such other address as either party may provide to the other party in writing. Any notice delivered by mail shall be deemed to have been duly given on the third (3rd) business day after the same is deposited in any post office or postal box regularly maintained by the United States Postal Services.

13. Remedies: In addition to such other remedies as the parties may be entitled to in connection with the enforcement of the terms of this Grant, Grantor and Grantee each shall have the right of specific performance of the terms of this Grant and the right to obtain from any court of competent jurisdiction a temporary restraining order, permanent injunction and permanent injunction to obtain such performance. Any equitable relief provided for in this paragraph may be sought singly or in combination with such legal remedies as the Grantor or Grantee may be entitled to, either pursuant to the provisions of this Grant or under the laws of the State of Colorado.

14. Attorney's Fees. If any action is brought in a court of law by either party to this Grant concerning the enforcement, interpretation or construction of this Grant, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness fees, incurred in the prosecution or defense of such action.

GRANTOR:

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
Timothy J. Gagen, Town Manager

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

GRANTEE:

B & D LIMITED PARTNERSHIP, an Illinois
limited partnership authorized to do business in
Colorado

By: DSB Holdings, Inc, an Illinois corporation
as General Partner

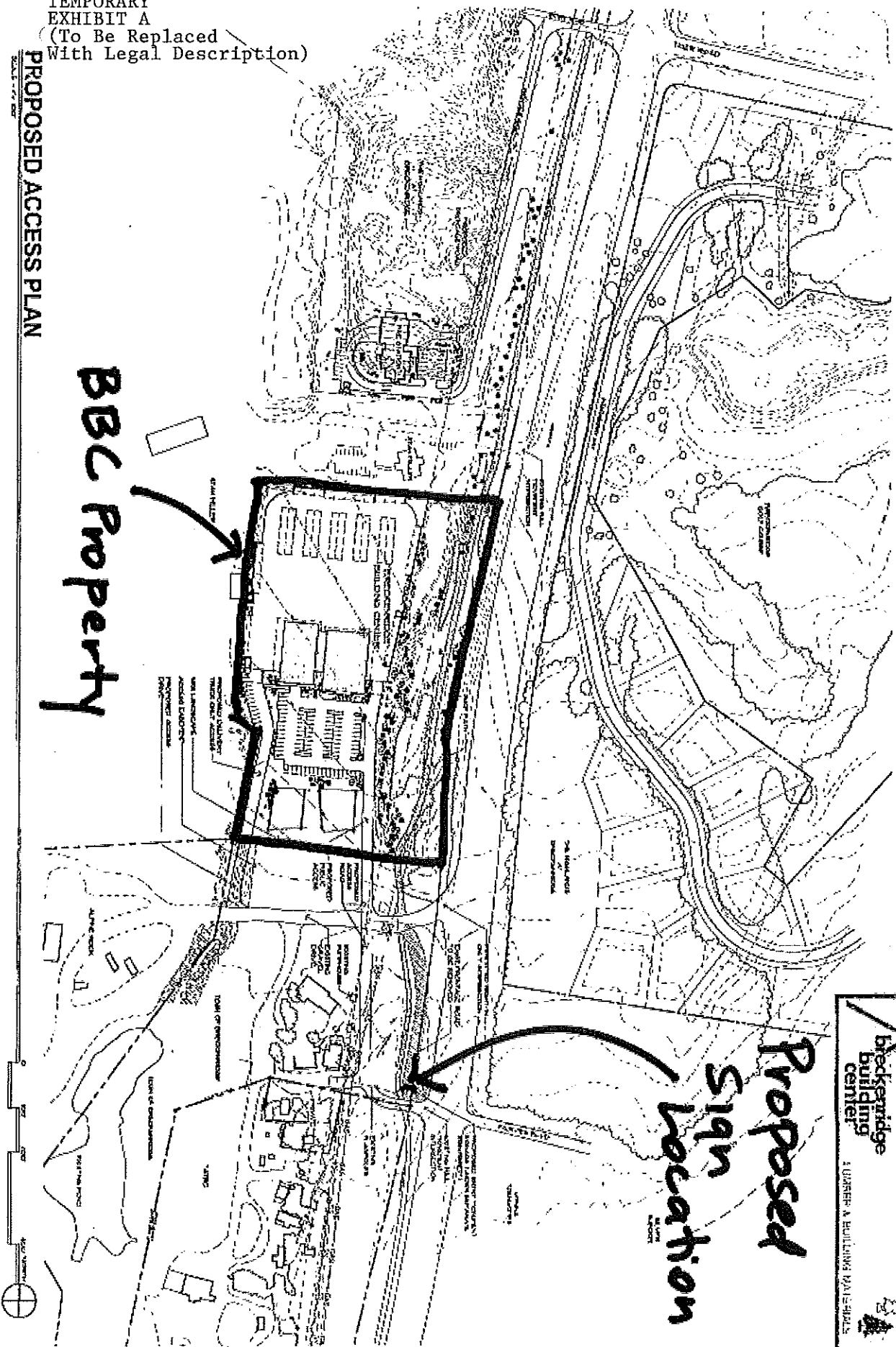
By: _____
Jon A. Brownson, Vice President

TEMPORARY
EXHIBIT A
(To Be Replaced
With Legal Description)

PROPOSED ACCESS PLAN

BBC Property

Proposed
Sign
Location



Breckenridge Building Center
 1 QUINN & BUILDING MAINS


BAKER • HOGAN • HOUX
ARCHITECTURE & PLANNING / A.L.A. / P.C.
P.O. BOX 921, 169 EAST ADAMS, BRECKENRIDGE, CO. COLORADO 80424 (970) 532-6130

BRECKENRIDGE BUILDING CENTER
LOT 1 PLACER PLATS, TOWN OF BRECKENRIDGE, COLORADO

SP-2

Page 127 of 155

EXHIBIT B
BENEFITED PROPERTY

A parcel of land situated in Section 18, Township 6 South, Range 77 West of the Sixth Principal Meridian in the Town of Breckenridge, County of Summit and State of Colorado. Being more particularly described as follows:

Beginning at corner number 4 of the Accomodation Placer (MS 19361), also being corner number 9 of the B & L No. 1 Placer (MS 14044);

thence N56°14'04"W, 53.84 feet along the 3-4 line of the Accomodation Placer;

thence N05°21'39"E, 528.18 feet;

thence S84°38'21"E, 522.58 feet to a point on the westerly right of way of Colorado State Highway 9;

thence the following five (5) courses along the westerly right of Colorado State Highway 9;

(1) thence S12°28'39"W, 18.36 feet;

(2) thence S11°58'31"W, 201.96 feet;

(3) thence S13°32'03"W, 301.19 feet;

(4) thence S00°03'50"E, 203.42 feet;

(5) thence S05°04'30"W, 84.92 feet;

thence N82°21'02"W, 452.27 feet to a point on the 4-5 line of the Accomodation Placer;

thence N11°35'37"E, 233.91 feet along the 4-5 line of the Accomodation Placer to the point of beginning.

Described parcel contains 8.59 acres more or less.

MEMO

TO: Town Council

FROM: Town Attorney

RE: Proposed Second Amended Grant of Easements for BBC Access

DATE: January 16, 2008 (for January 22nd meeting)

Last year the Town entered into an amended agreement with B & D Limited Partnership, the developer of the new BBC building, concerning the access to the new BBC building. You will recall that the new access is to be constructed over Town-owned land, and therefore it was necessary for the Town to grant B & D an easement.

Since then, the Town Engineer has determined that the new BBC access would work better if it was made to align with the proposed new Stan Miller Drive. He thought it made the best sense for B & D to build the first phase of what will become Stan Miller Drive in the preferred location. Doing this will avoid waste; the road can be built once in the correct location and no part of the road will have to be realigned to match up with the final alignment of Stan Miller Drive.

As a result, the Town Engineer requested that the BBC access be placed in a new alignment that will fit with the ultimate alignment of Stan Miller Drive, instead of in the location described in the 2007 amended agreement. Using this new alignment would mean that portions of two of B & D's existing ingress and egress easements will not need to be improved and can be totally eliminated. B & D agreed to the change in the alignment of its access, and further agreed to donate to the Town at no cost a couple of small parcels of land that are required for the ultimate construction of Stan Miller Drive as currently designed.

As part of the realignment proposal, the Town Engineer agreed that (subject to final Town Council approval) the Town would pay B & D the additional costs that it will incur to build its access in the new alignment requested by the Town (that is, the incremental difference between the cost of the road in the new alignment and what it would have cost B & D to build the road in the previously approved alignment).

In order to memorialize this agreement, a proposed Second Amended Grants of Easement between the Town and B & D has been prepared, and it is enclosed with this memo. The proposed agreement would supersede the 2007 agreement in its entirety. As you will see, the proposed agreement provides for both a permanent easement to serve the new BBC building, as well as a temporary easement that is to be used by B & D to provide access to the new BBC building only so long as CDOT permits access to the temporary easement premises from Highway 9. It is unclear at this time how long CDOT will allow the temporary easement to be used. The permanent easement is to be eliminated and reconveyed to the Town when Stan Miller

Drive is constructed and made a public road. The locations of the new permanent easement and the temporary easement are both shown in the exhibits to the Easement Agreement.

The provisions concerning the Town's agreement to pay for the incremental cost difference incurred by B & D in constructing the access road in the new location are set forth in Section 8 of the Easement Agreement. B & D is still calculating what it would have cost to build the road in the previously approved alignment, and such cost is currently left blank in Section 8. This amount will be finally determined before the time of second reading of the ordinance. Once that figure is calculated and agreed to, the Town's financial obligation under the proposed new agreement would be determined by subtracting the agreed costs to construct the road in the old alignment from B & D's actual costs (based on invoices) to construct the road in the new alignment. The most recent information received from B & D suggests that the Town's share of the costs is expected to be about \$20,000.

This ordinance has been scheduled for worksession and first reading next Tuesday because it is related in some ways to placement of the new BBC sign. BBC has indicated a real need to finalize the Sign Easement because the opening of the new store is quickly approaching and the sign will need to be erected soon, and it seemed appropriate to us to present both of the easements to you at the same time, even though the financial component of the Second Amended agreement is still being determined. I hope that you are comfortable proceeding with your consideration of the Second Amended agreement concurrently with your consideration of the Sign Easement.

I look forward to speaking with you about this matter on Tuesday.

1 **FOR WORKSESSION/FIRST READING – JAN. 22**

2
3 COUNCIL BILL NO. ____

4
5 Series 2008

6
7 AN ORDINANCE AUTHORIZING A SECOND AMENDED GRANT OF EASEMENTS TO
8 B & D LIMITED PARTNERSHIP
9

10 WHEREAS, by that certain Amended Grant of Easements dated January 25, 2007 and
11 recorded February 1, 2007 at Reception No. 846004 of the records of the records of the Clerk
12 and Recorder of Summit County, Colorado (“Amended Grant”) the Town granted to B & D
13 Limited Partnership, an Illinois limited partnership authorized to do business in Colorado (“B &
14 D”), certain easements over, across and through certain Town property; and
15

16 WHEREAS, the Town Council finds and determines that it is necessary to amend the
17 Amended Grant; and
18

19 WHEREAS, a proposed Second Amended Grant of Easements between the Town and
20 B & D has been prepared, a copy of which is marked Exhibit “A”, attached hereto and
21 incorporated herein by reference; and
22

23 WHEREAS, the Town Council has reviewed the proposed Second Amended Grant of
24 Easements document; and
25

26 WHEREAS, the Town Attorney has informed the Town Council that, in his opinion,
27 Section 15.3 of the Breckenridge Town Charter requires that the approval of the Second
28 Amended Grant of Easements be authorized by ordinance.
29

30 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
31 BRECKENRIDGE, COLORADO:
32

33 Section 1. The Town Manager is hereby authorized, empowered and directed to execute,
34 acknowledge and deliver to B & D Limited Partnership, an Illinois limited partnership authorized
35 to do business in the State of Colorado, the Second Amended Grant of Easements in substantially
36 the form which is marked Exhibit "A", attached hereto and incorporated herein by reference.
37

38 Section 2. The Town Council hereby finds, determines and declares that it has the power
39 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
40 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
41

42 Section 3. This ordinance shall be published and become effective as provided by
43 Section 5.9 of the Breckenridge Town Charter.
44

45 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
46 PUBLISHED IN FULL this ____ day of _____, 2008. A Public Hearing shall be

1 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
2 ____ day of _____, 2008, at 7:30 P.M., or as soon thereafter as possible in the
3 Municipal Building of the Town.

4
5 TOWN OF BRECKENRIDGE
6

7
8 By: _____
9 Ernie Blake, Mayor

10
11 ATTEST:

12
13
14
15 _____
16 Mary Jean Loufek, CMC
17 Town Clerk
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SECOND AMENDED
GRANT OF EASEMENTS

THIS SECOND AMENDED GRANT OF EASEMENTS ("Second Amended Grant") is made and entered into at Breckenridge, Colorado this _____ day of _____, 2008, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation, whose address is P. O. Box 168, Breckenridge, CO 80424 ("Grantor") and B & D LIMITED PARTNERSHIP, an Illinois limited partnership authorized to do business in Colorado, whose address is 1480 Sequoia Drive, Aurora, IL 60506, ("Grantee").

WITNESSETH THAT:

WHEREAS, Grantor and Grantee entered into an Amended Grant of Easements dated January 25, 2007 and recorded in the Summit County, Colorado records on February 1, 2007 at Reception No. 846004 and re-recorded on August 6, 2007 at Reception No. 863597 ("Amended Grant"); and

WHEREAS, Grantor has requested that Grantee obtain access to Grantee's property described in Exhibit A attached hereto ("Benefited Property") by means of the ingress and egress easement described in Exhibit B attached hereto ("New Easement Premises"), which New Easement Premises the Town intends ultimately to become a public road ("New Road"); and

WHEREAS, construction of the New Road would mean that portions of the two access easements provided for in the Amended Grant would not need to be improved and, therefore, could be eliminated.

NOW, THEREFORE, in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

1. Termination of Amended Grant. The Amended Grant is hereby terminated and shall no longer encumber the Easement Premises described therein.
2. Easement for New Road. The Grantor hereby grants to the Grantee, its successors and assigns, a non-exclusive easement for ingress and egress over, under, upon, in, across and through the New Easement Premises.
3. Temporary Delivery Easement. The Grantor hereby grants to the Grantee, its successors and assigns, a non-exclusive easement for ingress and egress over, under, upon, in, across and through the following parcel of real property situate in the County of Summit and State of Colorado, to wit:

See Exhibit C attached hereto

("Temporary Easement Premises").

4. Easements Appurtenant. The easements herein granted are for the benefit of and appurtenant to the Benefited Property.

5. Use of New Easement Premises and Temporary Easement Premises.

A. The New Easement Premises are intended to be used to provide ingress and egress for the Grantee, its agents, employees, officers, contractors, licensees, lessees, invitees, successors and assigns for deliveries to and from the Benefited Property. No other use of the Easement Premises shall be made or permitted by Grantee without Grantor's prior permission.

B. The Temporary Easement Premises are intended to be used to provide ingress and egress for the Grantee, its agents, employees, officers, contractors, licensees, lessees, invitees, successors and assigns for deliveries to and from the Benefited Property for so long as the Colorado Department of Transportation permits access to and from the Temporary Easement Premises from Colorado Highway 9. No other use of the Temporary Easement Premises shall be made or permitted by Grantee without Grantor's prior permission.

6. Grantor's Use Of New and Temporary Easement Premises. Grantor shall have the right to use and occupy the New and Temporary Easement Premises for any purpose not inconsistent with Grantee's full and complete enjoyment of the rights hereby granted.

7. Improvements to New Easement Premises and Temporary Easement Premises.

A. Grantee has constructed upon the New Easement Premises, at the direction of the Grantor, road improvements sufficient to allow for a certificate of occupancy to be issued for improvements under construction on the Benefited Property and will construct the remainder of the improvements, including asphalt, to complete the New Road within the New Easement Premises to meet Town standards for a public road, as reasonable determined by the Town Engineer ("Acceptance").

B. Grantee, at its sole cost, may construct upon the Temporary Easement Premises any and all improvements necessary or desirable in order to make the Temporary Easement Premises useable for the stated purpose. Grantee shall indemnify and hold Grantor harmless from all costs (including Grantor's reasonable attorney's fees) arising out of the construction of improvements to the Temporary Easement Premises.

8. Payment for Improvements to New Easement Premises. Grantor agrees to pay Grantee for the difference between the cost of construction of the New Road within the New Easement Premises as provided for in paragraph 7.A. above and \$_____, which amount Grantor and Grantee have agreed upon as the fair and reasonable estimated cost for Grantee to have completed the improvements to the Easement Premises described in the Amended Grant as required to obtain a certificate of occupancy for the improvements under construction on the Benefited Property. Such payment shall be made by Grantor to Grantee within fifteen (15) days after submission of invoices evidencing the total cost of construction of the New Road within the New Easement Premises as required by paragraph 7.A. above.

9. Maintenance Of New Easement Premises and Temporary Easement Premises.

A. Until Acceptance, Grantor shall have no responsibility for the maintenance and upkeep of the New Easement Premises and Grantee, along with other beneficiaries of access over some or all of the New Easement Premises, together shall provide such maintenance or upkeep as is required with respect to the New Easement Premises and the improvements thereto, which maintenance and upkeep shall include any required plowing and removal of snow.

B. Grantor shall have no responsibility for the maintenance or upkeep of the Temporary Easement Premises. Grantee, along with the other beneficiaries of non-exclusive easements over portions of the Temporary Easement Premises, together shall provide such maintenance or upkeep as shall be required with respect to the Temporary Easement Premises and the improvements thereto and landscaping thereon, which maintenance and upkeep shall include any required plowing and removal of snow.

10. Non-Waiver Of Governmental Immunity. The parties hereto understand and agree that Grantor is relying on, and does not waive or intend to waive by any provision of this Second Amended Grant, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or an other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other law or limitation otherwise available to Grantee, its officers, or its employees.

11. Grantee's Duty Of Care. Grantee shall exercise the rights herein granted to it with due care.

12. Indemnification.

A. Until Acceptance, to the fullest extent permitted by law, Grantee shall indemnify, and hold Grantor harmless from all claims, demands, judgments and causes of action (including Grantor's reasonable attorney's fees) arising from the use of the New Easement Premises by the Grantee, its agents, employees, officers, contractors, licensees, lessees, invitees, successors and assigns, provided, however, Grantee shall have no obligation under this paragraph to the extent any claim, demand, judgment or cause of action is caused by the negligence or intentional act of either other beneficiaries of non-exclusive easements over the New Easement Premises, their agents, employees, officers, contractors, licensees, lessees, invitees, successors or assigns or Grantor, its agents, employees, officers, contractors, licensees, lessees, invitees, successors or assigns.

B. To the fullest extent permitted by law, Grantee shall indemnify, and hold Grantor harmless from all claims, demands, judgments and causes of action (including Grantor's reasonable attorney's fees) arising from the use of the Temporary Easement Premises by the Grantee, its agents, employees, officers, contractors, licensees, lessees, invitees, successors and assigns, provided, however, Grantee shall have no obligation under this paragraph to the extent any claim, demand, judgment or cause of action is caused by the negligence or intentional act of either other beneficiaries of non-exclusive easements over the Temporary Easement Premises, their agents, employees, officers, contractors, licensees, lessees, invitees, successors or assigns or

Grantor, its agents, employees, officers, contractors, licensees, lessees, invitees, successors or assigns.

13. Elimination of New Easement Premises and Temporary Easement Premises.

A. At such time as the Town records in the Summit County, Colorado real estate records a deed of dedication to make the New Easement Premises a right-of-way for use of the public, the easement hereby granted to and for the New Easement Premises automatically will be terminated.

B. In the event that a right-of-way is created adjacent to the westerly property boundary of the Benefited Property; such right-of-way continues along and adjacent to such westerly boundary for at least six hundred-fifty feet (650') from the southwesterly corner of Benefited Property; such right-of-way is improved, at no cost to Grantee, to Grantor's standards for a municipal street serving the types of uses permitted for the Benefited Property; and the Grantor permits and the improvement of the right-of-way is constructed to allow for four (4) full turning access locations reasonably acceptable to Grantee, including the curb cuts required for all four of such locations, the easement to and for the Temporary Easement Premises will terminate. In connection with the creation of such right-of-way, Grantee agrees to dedicate to the Town, at no cost to the Town, the two small portions of the Benefited Property identified on Exhibit D attached hereto in order to provide for a consistent width for such right-of-way and to make such right-of-way contiguous with the Benefited Property. Further, at such time as the conditions of this paragraph 13.B. have been satisfied, Grantee agrees to execute such reasonable document for recording in the Summit County, Colorado real estate records may be requested by the Grantor to effect the termination of the Temporary Easement Premises.

C. After the easement to and for the New Easement Premises has been terminated in accordance with paragraph 13.A. above and the easement to and for the Temporary Easement Premises has been terminated in accordance with paragraph 13.B. above, Grantor and Grantee shall execute a document reasonably acceptable to their respective attorneys terminating this Second Amended Grant and such document shall be recorded in the Summit County, Colorado real estate records.

14. Binding Effect. The provisions of this Second Amended Grant shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

15. Notices. All notices required or permitted under this Second Amended Grant, shall be given by registered or certified mail, return receipt requested, postage prepaid, addressed to the parties at their addresses first set forth above, or at such other address as either party may provide to the other party in writing. Any notice delivered by mail shall be deemed to have been duly given on the third (3rd) business day after the same is deposited in any post office or postal box regularly maintained by the United States Postal Services.

16. Remedies: In addition to such other remedies as the parties may be entitled to in connection with the enforcement of the terms of this Second Amended Grant, Grantor and Grantee each shall have the right of specific performance of the terms of this Second Amended Grant and the right to obtain from any court of competent jurisdiction a temporary restraining

order, permanent injunction and permanent injunction to obtain such performance. Any equitable relief provided for in this paragraph may be sought singly or in combination with such legal remedies as the Grantor or Grantee may be entitled to, either pursuant to the provisions of this Second Amended Grant or under the laws of the State of Colorado.

17. Attorney's Fees. If any action is brought in a court of law by either party to this Second Amended Grant concerning the enforcement, interpretation or construction of this Second Amended Grant, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness fees, incurred in the prosecution or defense of such action.

GRANTOR:

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

ATTEST:

By _____
Timothy J. Gagen, Town Manager

Mary Jean Loufek, CMC, Town Clerk

GRANTEE:

B & D LIMITED PARTNERSHIP, an Illinois limited partnership authorized to do business in Colorado

By: DSB Holdings, Inc, an Illinois corporation as General Partner

By: _____
Jon A. Brownson, Vice President

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

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

Notary Public

EXHIBIT A
BENEFITED PROPERTY

A parcel of land situated in Section 18, Township 6 South, Range 77 West of the Sixth Principal Meridian in the Town of Breckenridge, County of Summit and State of Colorado. Being more particularly described as follows:

Beginning at corner number 4 of the Accomodation Placer (MS 19361), also being corner number 9 of the B & L No. 1 Placer (MS 14044);

thence N56°14'04"W, 53.84 feet along the 3-4 line of the Accomodation Placer;

thence N05°21'39"E, 528.18 feet;

thence S84°38'21"E, 522.58 feet to a point on the westerly right of way of Colorado State Highway 9;

thence the following five (5) courses along the westerly right of Colorado State Highway 9;

(1) thence S12°28'39"W, 18.36 feet;

(2) thence S11°58'31"W, 201.96 feet;

(3) thence S13°32'03"W, 301.19 feet;

(4) thence S00°03'50"E, 203.42 feet;

(5) thence S05°04'30"W, 84.92 feet;

thence N82°21'02"W, 452.27 feet to a point on the 4-5 line of the Accomodation Placer;

thence N11°35'37"E, 233.91 feet along the 4-5 line of the Accomodation Placer to the point of beginning.

Described parcel contains 8.59 acres more or less.

EXHIBIT B

EASEMENT DESCRIPTION

An easement located in parcels of land owned by The Town of Breckenridge and described under reception no. 699409 and reception no. 809344 in the records of the Clerk and Recorder of Summit County, Colorado and situated in Section 18, Township 6 South, Range 77 West of the Sixth Principal Meridian, Town of Breckenridge, County of Summit, State of Colorado. Being more particularly described as follows:

Beginning the southeasterly corner of land described under reception no. 699409, a point on the westerly right of way of Colorado State Highway 9;

thence N78°19'56"W, 152.38 feet along the southerly boundary of land described under reception no. 699409 to the northeasterly corner of land described under reception no. 809344;

thence S11°26'20"W, 30.00 feet along the easterly boundary of land described under reception no. 809344;

thence N78°19'56"W, 50.06 feet;

thence 113.18' feet along the arc of a tangent curve to the right with a central angle of 32°25'27", a radius of 200.00 feet and a chord that bears N62°07'13"W, 111.68 feet;

thence 252.45' feet along the arc of a compound curve to the right with a central angle of 54°35'00", a radius of 265.00 feet and a chord that bears N18°36'59"W, 243.02 feet;

thence N08°40'31"E, 129.56 feet;

thence 148.34 feet along the arc of a tangent curve to the left with a central angle of 22°58'14", a radius of 370.00 feet and a chord that bears N02°48'36"W, 147.35 feet;

thence N14°17'43"W, 10.40 feet to a point on the southerly boundary of land described under reception no. 631011;

thence S82°21'02"E, 64.45 feet along the southerly boundary of land described under reception no. 631011;

thence 158.70 feet along the arc of a non-tangent curve to the right with a central angle of 21°08'46", a radius of 430.00 feet and a chord that bears S01°53'52"E, 157.80 feet;

thence S08°40'31"W, 129.56 feet;

thence 195.30 feet along the arc of a tangent curve to the left with a central angle of 54°35'00", a radius of 205.00 feet and a chord that bears S18°36'59"E, 187.99 feet;

thence 79.23' feet along the arc of a compound curve to the left with a central angle of 32°25'27", a radius of 140.00 feet and a chord that bears S62°07'13"E, 78.17 feet;

thence S78°19'56"E, 202.02 feet to a point on the westerly right of way of Colorado State Highway 9;

thence 30.00 feet along the arc of a non-tangent curve to the right with a central angle of 00°37'02", a radius of 2784.80 feet and a chord that bears S11°05'30"W, 30.00 feet along the westerly right of way of Colorado State Highway 9 to the point of beginning.

Described easement contains 1.01 acres, more or less.

SHEET 1 OF 2

CURFMAN
ENGINEERING

CURFMAN ENGINEERING, INC.

4009 LISSA DRIVE • LOVELAND, CO • 80537

PHONE: 970-390-8428 • FAX: 970-203-0412

kcurfman@msn.com

EXHIBIT B

COLORADO STATE
HIGHWAY 9

POINT OF
BEGINNING

UNPLATTED
(REC. NO.
631011)

TOWN OF BRECKENRIDGE
(REC. NO. 699409)

LOT 2
TATRO
SUBDIVISION

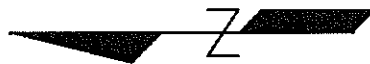
TOWN OF
BRECKENRIDGE
(REC. NO. 809344)

LOT 2
TATRO
SUBDIVISION

UNPLATTED
(REC. NO. 231067)

LINE	BEARING	DISTANCE
L1	S11°26'20"W	30.00'
L2	N78°19'56"W	50.06'
L3	N14°17'43"W	10.40'

CURVE	DELTA	RADIUS	LENGTH	CHD BRG	CHD DIST	TANGENT
C1	32°25'27"	200.00'	113.18'	N62°07'13"W	111.68'	58.15'
C2	54°35'00"	285.00'	252.45'	N18°36'59"W	243.02'	136.73'
C3	22°58'14"	370.00'	148.34'	N02°48'36"W	147.35'	75.18'
C5	21°08'46"	430.00'	158.70'	S01°53'52"E	157.80'	80.26'
C6	54°35'00"	205.00'	195.30'	S18°36'59"E	187.99'	105.77'
C7	32°25'27"	140.00'	78.23'	S62°07'13"E	78.17'	40.71'
C8	0°37'02"	2784.80'	30.00'	S11°05'30"W	30.00'	15.00'



SHEET 2 OF 2

SCALE: 1"=100'

CURFMAN
ENGINEERING

CURFMAN ENGINEERING, INC.

4009 LISSA DRIVE • LOVELAND, CO • 80537

PHONE: 970-390-8428 • FAX: 970-203-0412

kcurfman@msn.com

EXHIBIT C

EASEMENT DESCRIPTION

An easement located in the parcel of land owned by The Town of Breckenridge and described under reception no. 699409 in the records of the Clerk and Recorder of Summit County, Colorado and situated in Section 18, Township 6 South, Range 77 West of the Sixth Principal Meridian, Town of Breckenridge, County of Summit, State of Colorado. Being more particularly described as follows:

Beginning at a point on the northerly boundary of land described under reception no. 699409 from which the northeasterly corner said parcel bears N82°21'02"W, 138.84 feet;

thence S08°08'23"W, 81.60 feet;

thence 41.33 feet along the arc of a tangent curve to the left with a central angle of 6°18'54", a radius of 375.00 feet and a chord that bears S04°58'56"W, 41.31 feet;

thence 145.45 feet along the arc of a non-tangent curve to the left with a central angle of 10°45'10", a radius of 775.00 feet and a chord that bears N84°59'52"E, 145.23 feet to a point on the westerly right of way of Colorado State Highway 9;

thence the following two (2) courses along the westerly right of way of Colorado State Highway 9;

1. S05°04'31"W, 25.91 feet;
2. S05°39'48"W, 25.92 feet;

thence 189.11 feet along the arc of a non-tangent curve to the right with a central angle of 13°08'01", a radius of 825.00 feet and a chord that bears S87°09'54"W, 188.70 feet;

thence 96.75 feet along the arc of a non-tangent curve to the right with a central angle of 13°02'35", a radius of 425.00 feet and a chord that bears N01°37'05"E, 96.54 feet;

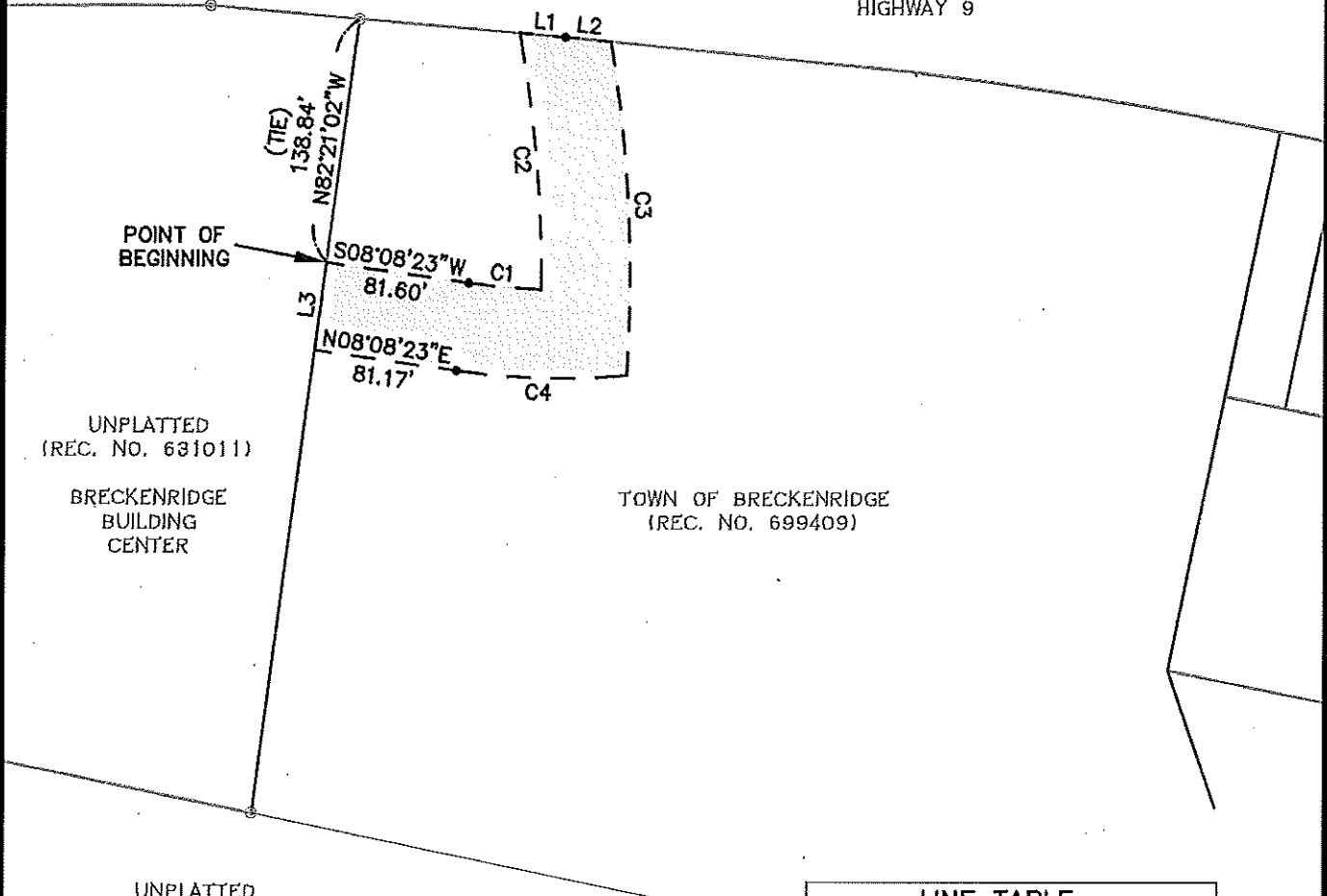
thence N08°08'23"E, 81.17 feet to a point on the northerly boundary of land described under reception no. 699409;

thence S82°21'02"E, 50.00 feet along the northerly boundary of land described under reception no. 699409 to the point of beginning.

Described easement contains 0.37 acres, more or less.

EXHIBIT C

COLORADO STATE
HIGHWAY 9



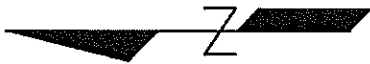
UNPLATTED
(REC. NO. 631011)
BRECKENRIDGE
BUILDING
CENTER

TOWN OF BRECKENRIDGE
(REC. NO. 699409)

UNPLATTED
(REC. NO. 231067)
ALPINE ROCK
COMPANY

LINE	BEARING	DISTANCE
L1	S05°04'31"W	25.91'
L2	S05°39'48"W	25.92'
L3	S82°21'02"E	50.00'

CURVE	DELTA	RADIUS	LENGTH	CHD BRG	CHD DIST	TANGENT
C1	6°18'54"	375.00'	41.33'	S04°58'56"W	41.31'	20.69'
C2	10°45'10"	775.00'	145.45'	N84°59'52"E	145.23'	72.94'
C3	13°08'01"	825.00'	189.11'	S87°09'54"W	188.70'	94.97'
C4	13°02'35"	425.00'	96.75'	N01°37'05"E	96.54'	48.58'



SHEET 2 OF 2

SCALE: 1"=100'

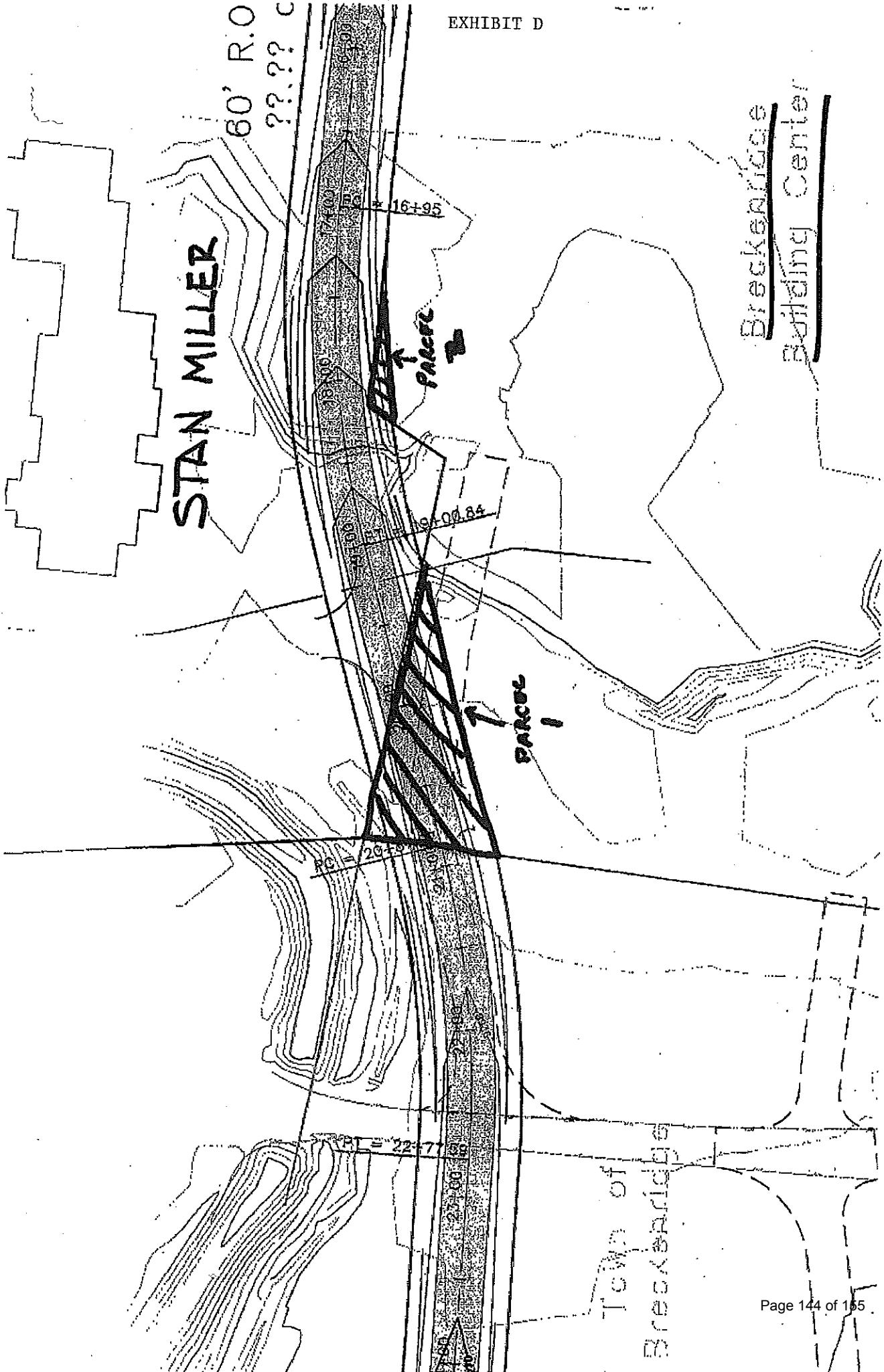
CURFMAN
ENGINEERING

CURFMAN ENGINEERING, INC.
4039 LISSA DRIVE • LOVELAND, CO • 80537
PHONE: 970.390.8428 • FAX: 970.203.0412
kwcurfman@msb.com

STAN MILLER

60' R.O.
?? ?? C

Brecksville
Building Center



16+95

PARCEL

20+80

PARCEL 1

20+80

22+77

Town of
Brecksville



MEMORANDUM

To: Town Council
From: Peter Grosshuesch, Director of Community Development
Subject: NWCCOG Appointment
Date: January 17, 2008

Pursuant to the recent reassignment of Committee responsibilities, I will become the Town's appointed representative to the North West Colorado Council of Governments. Attached is a resolution formalizing that appointment.

1 A RESOLUTION

2
3 SERIES 2008

4
5 A RESOLUTION APPOINTING PETER GROSSHUESCH AS THE TOWN OF
6 BRECKENRIDGE’S REPRESENTATIVE ON THE NORTHWEST COLORADO COUNCIL
7 OF GOVERNMENTS

8
9 WHEREAS, the Town of Breckenridge is a member of the Northwest Colorado Council
10 of Governments (“NWCOG”); and

11
12 WHEREAS, Article II, Section 1 of the NWCOG Bylaws provides that a member
13 jurisdiction may by resolution appoint a senior administrative official to act for the member in
14 lieu of an elected official; and

15
16 WHEREAS, the Town Council of the Town of Breckenridge finds and determines that
17 Peter Grosshuesch, the Director of the Town’s Department of Community Development, should
18 be appointed to serve as the Town’s representative to the NWCOG pursuant to Article II, Section
19 1 of the NWCOG Bylaws.

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

23
24 Section 1. Peter Grosshuesch, the Director of the Town’s Department of Community
25 Development, is appointed to serve as the Town’s representative on the Northwest Colorado
26 Council of Governments. In connection with his appointment, Mr. Grosshuesch shall have the
27 authority to vote on behalf of the Town and to otherwise participate fully in all matters that come
28 before the Northwest Colorado Council of Governments.

29
30 Section 2. This resolution shall become effective upon its adoption.

31
32 RESOLUTION APPROVED AND ADOPTED this ___ day of January, 2008.

33
34 TOWN OF BRECKENRIDGE

35
36 ATTEST:

37
38 By _____
39 Ernie Blake, Mayor

40 _____
41 Mary Jean Loufek,
42 CMC, Town Clerk

Memorandum

To: Town Council
CC: Tim Gagen and Kate Boniface
From: Jim Benkelman
Date: 1/17/2008
Re: CASTA agreement and resolution

I have included for your approval the 2008 CASTA agreement (for Federal Fiscal year 2009 appropriations request) along with the resolution that we sign every year in order to participate in Federal 5309 Funding program. They are essentially the same as the "2007" agreement and resolution.

A RESOLUTION

SERIES 2008

A RESOLUTION APPROVING AN AGREEMENT WITH THE COLORADO ASSOCIATION OF TRANSIT AGENCIES AND THE MEMBERS OF THE COLORADO TRANSIT COALITION

WHEREAS, the Colorado Association of Transit Agencies, a Colorado non-profit corporation ("CASTA"), is a non-profit trade association which represents Colorado transit agencies; and

WHEREAS, the Federal Transit Administration ("FTA") provides capital funding to transit agencies under the Capital Program (49 U.S.C. Section 5309) The Safe, Affordable, Flexible and Efficient Transportation Equity Act – A Legacy for Users ("SAFETEA-LU"); and

WHEREAS, the Town of Breckenridge, along with a number of other Colorado transit agencies, desires to obtain statewide appropriations in SAFETEA-LU congressional earmarked funds, in the federal fiscal year 2007, pursuant to 49 U.S.C. Section 5309 for bus and bus-related capital purchases; and

WHEREAS, the Town and such other Colorado transit agencies have affiliated as a nonprofit unincorporated association known as the Colorado Transit Coalition ("Coalition") and have agreed that CASTA will act as a coordinator for the Coalition in seeking federal funding under 49 U.S.C. Section 5309; and

WHEREAS, CASTA will be entering into an agreement on behalf of the Coalition with a Washington, D.C. based public affairs and governmental relations consulting firm to obtain transportation funding consulting services; and

WHEREAS, a proposed Agreement has been prepared between CASTA and the members of the Coalition, including the Town of Breckenridge, setting forth the rights and responsibilities of each of the parties, a copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the Town Council has reviewed the proposed Agreement and finds and determines that approval of the Agreement would be in the best interests of the Town and its citizens.

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

Section 1. The proposed Agreement between the Colorado Association of Transit Agencies, a Colorado non-profit corporation, and the members of the nonprofit unincorporated association known as the Colorado Transit Coalition, including the Town of Breckenridge (Exhibit "A" hereto), is hereby approved; and the Town Manager is hereby authorized, empowered and directed to execute such Agreement for and on behalf of the Town of Breckenridge.

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

RESOLUTION APPROVED AND ADOPTED this 22th day of January, 2008.

ATTEST:

TOWN OF BRECKENRIDGE

Mary Jean Loufek, CMC, Town Clerk

Ernie Blake, Mayor

APPROVED IN FORM

Town Attorney

Date

AGREEMENT FOR 2009 APPROPRIATION REQUEST

This agreement is entered into by and between the Colorado Association of Transit Agencies (CASTA), a Colorado nonprofit corporation and each of the members of the Colorado Transit Coalition requesting 2009 appropriation for 5309 bus and bus facilities funding, which members are listed on Exhibit A, attached hereto and incorporated herein by this reference (referred to collectively as the “members”).

Whereas, CASTA is a nonprofit trade association located in Denver, Colorado and represents Colorado transit agencies, and

Whereas, the Federal Transit Administration (FTA) provides capital funding to transit agencies under the Capital Program (49 U.S.C. Section 5309) Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, or “SAFETEA-LU”, and

Whereas, a number of Colorado transit agencies are desirous of obtaining a statewide congressional earmark for the federal Fiscal Year 2009, under Section 5309 for bus and bus related capital purchases, and

Whereas, those Colorado transit agencies seeking U.S.C. 49, Section 5309 funding have affiliated as a nonprofit unincorporated association, known as Colorado Transit Coalition (Coalition), and have agreed that CASTA will act as a coordinator for the Coalition in seeking U.S.C. 49, Section 5309 funding, and

Whereas, CASTA has entered into an agreement with a Washington D.C. based public affairs and governmental relations consulting firm to provide transportation funding consulting services on behalf of the Coalition.

Now therefore, CASTA and each of the Coalition members agree as follows:

1. Term of Agreement. The term of this agreement shall be from January 1, 2008 through December 31, 2008.

2. Membership. Membership in the Coalition will be open to any Colorado transit agency that provides services which qualify for U.S.C. 49, Section 5309 Bus funding. Members who sign this agreement may not request U.S.C. 49, Section 5309 Bus and Bus Facilities funding either independently or with any other group for a new annual appropriation. While a multi-year effort is anticipated, members may participate on an annual basis dependent on the individual member’s capital needs. Members who do not request in a particular year will pay the flat rate portion of the dues, \$983, outside of this agreement.

3. Members’ Capital Requests. The members’ capital requests shall be handled as follows:

- a. Each member shall submit to CASTA by November 30, 2007 its final capital request, in a form acceptable to CASTA and consistent with the capital request amount set forth on Exhibit A for that member. CASTA shall then compile the capital requests into a statewide request document to be presented to Congress for consideration. All capital requests (as listed on Exhibit A) must be supported by accurate, current planning documents. The member must verify that matching funds are available to support a grant in the fiscal year it is available. The Colorado Department of Transportation and/or the Federal Transit Administration, as appropriate, will review the planning documents for each member to assure that projects are capable of being obligated within Fiscal Year 2009, prior to submittal of the request to Congress in 2008.
- b. If a member requests an addition or reduction to a capital request, the impact upon other members will be considered prior to any changes being approved by the Coalition members. A member will not be required to decrease a request that would place that member in the position of lacking sufficient funds to obtain usable units of equipment. For purposes of this agreement a usable unit of equipment will be as defined in the individual applicant's request.
- c. Fifteen percent of all funds earmarked for the CTC will be taken off the top and distributed equally among all the participants.
- d. The amount of the federal discretionary earmark for the Colorado Transit Coalition for 2009 published in the Federal Register will determine the way the funding is distributed. Refer to attached Exhibit A. If the 2009 Colorado Transit Coalition 5309 bus earmark is less than \$7 Million, 70% of the funding will be distributed to the vehicles group and 30% to the facilities group. If the earmark is \$7 Million or above, 60% of the funding will be distributed to the vehicles group and 40% to the facilities group.
- e. Following distribution of the initial 15% of funding, and determination of the split between the vehicles group and the facilities group as specified in section 3d above, the group requesting vehicles, equipment and facilities under \$1M federal funding will divide its share of the final U.S.C. 49, Section 5309 bus allocation based on a calculated rate proportionate to each member's capital request. No agency shall receive more than its original federal request. The bus and bus related allocation amounts will then be adjusted, as appropriate, to assure that each coalition member receives no more than the agency request, but an amount sufficient to obtain usable units of equipment by consensus of the Coalition members.

Following distribution of the initial 15% of funding, and determination of the split between the vehicles group and the facilities group as specified in section 3d above, the group requesting facilities (over \$1M federal) will divide its

share of funding of the final U.S.C. 49, Section 5309 bus allocation based on a calculated rate proportionate to each member's capital request. No agency shall receive more than its original federal request unless the full coalition membership approves.

For Example: Assuming that the allocation of funding is \$9M for 2009. 15% of \$9,000,000 (\$1,350,000) will be divided equally among all the transit agencies in both groups. That is \$46,552 will be allocated to each participant (\$1,350,000/29).

Sixty percent of the remaining \$7,650,000 (\$4,590,000) will be distributed to each agency in the Vehicles group according to the percentage of each agency's total request as shown on Exhibit A.

Forty percent (\$3,060,000) will be distributed to the agencies in the Facilities group. These funds will be allocated according to the calculated rate proportionate to each member's capital request. Overage of funding in the facilities group will be redistributed to the vehicles etc. group.

f. Each coalition member in the 2009 annual request agrees to pay to CASTA, an equal amount of fifteen percent of the \$190,000 administrative and consultant fees (e.g. 1/29 of \$28,500 = \$983). Members of the vehicles group will then pay their calculated rate on the remaining 60% of fees (\$96,900) while the Facilities Group members pay a calculated rate on the remaining 40% percent of fees (\$64,600) based on the percentage of the Statewide Request attributable to that member's capital request as set forth in Exhibit A.

The payments shall be made to CASTA in no more than four equal installments, upon execution of this Agreement or after February 1st, April 1st, July 1st and October 1st.

g. Within the Facilities Group (those asking for facilities of over \$1 Million federal share) it is expected that projects will be phased over a multi-year period, with a goal of completing each project within three years. Agencies in their third or final year of participation will be favored over those in the 1st and 2nd years so that the total request can be completed within the 3rd or final year *if possible*. Where this arrangement is untenable due to a low earmark(s) the agency may remain in the facilities group for a fourth or fifth year subject to consensus agreement of the entire Coalition.

For example: Agencies in their 1st and 2nd year of a facilities request will defer to the agency(s) in their 3rd or final year by allowing such agency(s) to be allocated the remainder of requested funding if that is needed and reasonable. The agency(s) making this concession will recoup that funding plus its forgone share in the following year.

4. Services of CASTA. During the term of this agreement, CASTA will provide the following services:

a. Act as the representative of the Coalition as it seeks U.S.C. 49, Section 5309 Bus Discretionary funding. The Executive Director of CASTA will serve as coordinator of the project for the Statewide Request.

b. Retain a Washington D.C. based consultant familiar with the congressional process of obtaining discretionary earmarks for the total cost not to exceed \$90,000 for the 5309 bus and bus facilities Colorado Transit Coalition work, including expenses.

c. Provide timely written reports and timely communications to each Coalition member.

5. Payment to CASTA for Services. For its services during the term of this agreement, CASTA will retain from the payments received from the 2009 CTC 5309 bus and bus facilities members a total of \$100,000 which amount includes all expenses to be incurred by CASTA.

6. Termination. Any party may withdraw from this agreement upon the giving of at least 30 days advance written notice to the other participants.

7. Appropriation of funds. The financial obligations of any participant in this Agreement which is a governmental entity subject to the direct or indirect financial obligation restrictions of the Colorado Constitution, Article X, Section 20(4)(b), or that government's local restrictions on contract appropriations, shall be subject to the appropriation and availability of funds in accord with Colorado and local law.

8. Addresses and Telephone Numbers. The name and address of each member is listed on Exhibit A. The name, address, and telephone number of CASTA is:

Colorado Association of Transit Agencies (CASTA)
Attn: Executive Director
1580 Lincoln Street, Suite 780
Denver, CO 80203
Tel: (303) 839-5197
Email: elena@coloradotransit.com

9. Signatures. The parties agree that this Agreement may be signed in counterparts with CASTA to retain the original signatures of all parties.

Dated: January 18, 2008

Colorado Association of Transit Agencies,
a Colorado nonprofit corporation

By:

Sherry Ellebracht
President,
Colorado Association of Transit Agencies

Organization: _____

Name: _____

Title: _____

Date: _____

Signature: _____



Scheduled Meetings, Important Dates and Events

Shading indicates Council 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. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge.

JANUARY 2008

Tuesday, January 22	Second Meeting of the Month
Tuesday, January 22; 2:30pm	Non-Profit Grant Reception
Tuesday, January 22; 6:00pm	Snow Sculpting Welcome Ceremony
Thursday, January 24-25	CAST (Winterpark)

FEBRUARY 2008

Tuesday, February 12	First Meeting of the Month
Tuesday, February 26	Second Meeting of the Month