



**BRECKENRIDGE TOWN COUNCIL REGULAR MEETING**

Tuesday, April 23, 2013; 7:30 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - APRIL 9, 2013</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. BRECKENRIDGE RESORT CHAMBER UPDATE	
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2013 - PUBLIC HEARINGS - NONE	
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2013	
	1. COUNCIL BILL NO. 11, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase 1 - 5.179 Acres)	<b>8</b>
	2. COUNCIL BILL NO. 12, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase II - 12.307 Acres)	<b>14</b>
	3. COUNCIL BILL NO. 13, SERIES 2013 - AN ORDINANCE APPROVING A LEASE WITH OPTION TO PURCHASE WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NON-PROFIT CORPORATION (524 Wellington Road)	<b>19</b>
	4. COUNCIL BILL NO. 14 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE" CONCERNING MOVING HISTORIC STRUCTURES	<b>55</b>
	B. RESOLUTIONS, SERIES 2013	
	1. A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE STATE OF COLORADO ACTING BY AND THROUGH THE STATE HISTORICAL SOCIETY (National Register Nomination For Valley Brook Cemetery)	<b>69</b>
	C. OTHER	
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISIONS	<b>101</b>
	B. PLANNING COMMISSION REPORT (MR. GALLAGHER)	
	C. CLASS D PERMIT RENEWALS - BUSINESS ON TOWN STREET (2 RENEWALS:HORSE & CARRIAGE AND BIKE BUS)	<b>111</b>
	D. TOWN PROJECT - BRECKENRIDGE ARTS DISTRICT	<b>113</b>
<b>VIII</b>	<b>REPORT OF TOWN MANAGER AND STAFF</b>	
<b>IX</b>	<b>REPORT OF MAYOR AND COUNCILMEMBERS</b>	
	A. CAST/MMC (MAYOR WARNER)	

\*Report of the 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.

- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)
- C. BRC (MR. BURKE)
- D. MARKETING COMMITTEE (MS. WOLFE)
- E. SUMMIT COMBINED HOUSING AUTHORITY (MR. DUDICK)
- F. BRECKENRIDGE HERITAGE ALLIANCE (MR. DUDICK)
- G. WATER TASK FORCE (MR. GALLAGHER)
- H. LANDFILL TASK FORCE (MS. WOLFE)
- I. PUBLIC ART COMMISSION (MR. GALLAGHER)

**X OTHER MATTERS**

**XI SCHEDULED MEETINGS**

**141**

**XII ADJOURNMENT**

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**CALL TO ORDER, ROLL CALL**

Mayor Pro Tem McAtamney called the meeting of April 9, 2013 to order at 7:34pm. The following members answered roll call: Mr. Gallagher, Ms. Wolfe, Mr. Brewer, Mr. Dudick, Mr. Burke and Mayor Pro Tem McAtamney. Mayor Warner was absent.

**APPROVAL OF MINUTES - MARCH 26, 2013**

With no changes or corrections to the meeting minutes of March 26, 2013, Mayor Pro Tem McAtamney declared they would stand as submitted.

**APPROVAL OF AGENDA**

Mr. Rick Holman, Assistant Town Manager, reported there were no changes to the agenda.

**COMMUNICATIONS TO COUNCIL**

- A. Citizen's Comment - (Non-Agenda Items ONLY: 3-minute limit please)  
Ms. McAtamney, Mayor Pro Tem, opened Citizen's Comment. Mr. Lee Edwards spoke about the Backstage Theater, the Arts District, and the McCain Property. With no further comments, Citizen's Comment was closed.
- B. Flight for Life presentation  
Ms. Deb Edwards, President and Chief Development Officer of Summit Medical Center Health Foundation, spoke about the Flight for Life program and the Flight for Life grant request to the Town of Breckenridge. Mr. Paul Chodkowski, CEO of St. Anthony Summit Medical Center, gave a presentation about the history of the Center and the Flight for Life program.
- C. Wounded Warriors  
Mr. John Ebright spoke about the Wounded Warriors program that recently came to Breckenridge for Wounded Warriors Family Ski Week and thanked the Town of Breckenridge.

**CONTINUED BUSINESS**

- A. Second Reading of Council Bills, Series 2013 - Public Hearings
1. COUNCIL BILL NO. 4, SERIES 2013 - AN ORDINANCE AUTHORIZING THE SALE OF TOWN-OWNED REAL PROPERTY (308 North French Street – Humphrey)  
Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated there are no changes to the ordinance from the first reading.  
Mayor Pro Tem McAtamney opened the public hearing. There were no comments and the public hearing was closed.  
Mr. Gallagher moved to approve COUNCIL BILL NO. 4, SERIES 2013 - AN ORDINANCE AUTHORIZING THE SALE OF TOWN-OWNED REAL PROPERTY (308 North French Street – Humphrey). Mr. Burke seconded the motion.  
The motion passed 6 – 0.
  2. COUNCIL BILL NO. 5, SERIES 2013 - AN ORDINANCE ADOPTING CHAPTER 12 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE; ESTABLISHING A “DISPOSABLE BAG FEE”; PROVIDING FOR THE PAYMENT AND COLLECTION OF SUCH FEE; AND PROVIDING OTHER DETAILS RELATED TO THE DISPOSABLE BAG FEE  
Mayor Pro Tem McAtamney read the title into the minutes. Mr. Truckey, Community Development Manager, stated the ordinance will go into effect October 1, 2013. Mr. Berry

stated staff generally followed the procedures outlined in the Nexus Study by the City of Boulder. There were no changes to the ordinance from the first reading.

Mayor Pro Tem McAtamney opened the public hearing. Ms. McAtamney thanked a group of local children for coming to Council to raise this issue. Ms. Wolfe thanked members of the business community for their work on the Task Force. There were no comments and the public hearing was closed.

Mr. Brewer moved to approve COUNCIL BILL NO. 5, SERIES 2013 - AN ORDINANCE ADOPTING CHAPTER 12 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE; ESTABLISHING A "DISPOSABLE BAG FEE"; PROVIDING FOR THE PAYMENT AND COLLECTION OF SUCH FEE; AND PROVIDING OTHER DETAILS RELATED TO THE DISPOSABLE BAG FEE. Mr. Gallagher seconded the motion.

The motion passed 6 – 0.

3. COUNCIL BILL NO. 6, SERIES 2013 - AN ORDINANCE AMENDING SECTION 9-1-18-5 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "DEVELOPMENT CODE", CONCERNING CALL UP HEARINGS HELD BY THE TOWN COUNCIL

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated the purpose of the ordinance is to clarify the call-up hearing procedures for council members. There were no changes to the ordinance from the first reading.

Mayor Pro Tem McAtamney opened the public hearing. There were no comments and the public hearing was closed.

Ms. Wolfe moved to approve COUNCIL BILL NO. 6, SERIES 2013 - AN ORDINANCE AMENDING SECTION 9-1-18-5 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "DEVELOPMENT CODE", CONCERNING CALL UP HEARINGS HELD BY THE TOWN COUNCIL. Mr. Burke seconded the motion.

The motion passed 6 – 0.

4. COUNCIL BILL NO. 7, SERIES 2013 - AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS, AND CHAPTER 3 OF TITLE 9 " OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF-STREET PARKING ORDINANCE"

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated this ordinance makes miscellaneous amendments to the code. The proposed amendment on the 2nd reading includes a change in the current In Lieu Parking Fee from \$13,000 to \$19,236 and council will review this amount annually with a CPI adjustment. Mayor Pro Tem McAtamney opened the public hearing.

Mr. Lee Edwards spoke about a portion of Land Use District 18-2 that was not included in the parking district.

With no further comments the public hearing was closed.

Mr. Brewer moved to approve COUNCIL BILL NO. 7, SERIES 2013 - AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS, AND CHAPTER 3 OF TITLE 9 " OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF-STREET PARKING ORDINANCE". Ms. Wolfe seconded the motion.

The motion passed 6 – 0.

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5. COUNCIL BILL NO. 8, SERIES 2013 - AN ORDINANCE PROVIDING FOR THE VACATION OF A RIGHT OF WAY (Portion of Skiwatch Drive)

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated this ordinance was requested in connection with a recently approved development. Notice was given to adjoining landowners and utility companies.

Mayor Pro Tem McAtamney opened the public hearing. There were no comments and the public hearing was closed.

Mr. Gallagher moved to approve COUNCIL BILL NO. 8, SERIES 2013 - AN ORDINANCE PROVIDING FOR THE VACATION OF A RIGHT OF WAY (Portion of Skiwatch Drive). Mr. Burke seconded the motion. The motion passed 5-0. Mr. Dudick abstained.

6. COUNCIL BILL NO. 9, SERIES 2013 - AN ORDINANCE APPROVING A LEASE WITH ALPINE ROCK COMPANY, A COLORADO CORPORATION d/b/a APC CONCRETE

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Daugherty stated the lease is a multi-year lease, which requires an ordinance. Mr. Berry stated that there is a minor amendment from the first reading, and the wording will indicate that this new lease will replace the old one.

Mayor Pro Tem McAtamney opened the public hearing. There were no comments and the public hearing was closed.

Ms. Wolfe moved to approve COUNCIL BILL NO. 9, SERIES 2013 - AN ORDINANCE APPROVING A LEASE WITH ALPINE ROCK COMPANY, A COLORADO CORPORATION d/b/a APC CONCRETE. Mr. Gallagher seconded the motion. The motion passed 6-0.

7. COUNCIL BILL NO. 10, SERIES 2013 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH MICHAEL R. CAVANAUGH (Brown Hotel - Lots 6 and 7, Abbett Addition)

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated the request for the development agreement came from Mr. Cavanaugh. No changes to the ordinance from first reading, but one change in the development agreement from first reading related to the parking easement; changes are reflected in packet.

Mayor Pro Tem McAtamney opened the public hearing. There were no comments and the public hearing was closed.

Mr. Burke moved to approve COUNCIL BILL NO. 10, SERIES 2013 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH MICHAEL R. CAVANAUGH (Brown Hotel - Lots 6 and 7, Abbett Addition). Mr. Dudick seconded the motion. The motion passed 6-0.

**NEW BUSINESS**

- A. First Reading of Council Bills, Series 2013 - None  
B. Resolutions, Series 2013

1. A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE SUMMIT COUNTY WEED ADVISORY BOARD .

Mayor Pro Tem McAtamney read the title into the minutes. Mr. Berry stated this IGA confirms and ratifies the existence of the Noxious Weed Board.

Mr. Gallagher moved to approve A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE SUMMIT COUNTY WEED ADVISORY BOARD. Mr. Burke seconded the motion.

The motion passed 6-0.

- C. Other
  - 1. BOSAC Appointments

Mr. Holman reviewed the voting procedures. Council members discussed their views of the candidates. A show of hands indicated majority in favor of Craig Campbell, Jeff Carlson and Jeff Cospolich.

Mr. Dudick moved to approve the BOSAC Appointments: Mr. Campbell, Mr. Carlson, Mr. Cospolich. Mr. Brewer seconded the motion.

The motion passed 6 – 0.

**PLANNING MATTERS**

- A. Planning Commission Decisions

With no request to call an item off the consent calendar, Mayor Pro Tem McAtamney declared the Planning Commission Decisions would stand approved as presented.

Mr. Berry then introduced the following Town Project with revised findings and conditions for approval: Railroad Park Project. Mr. Neubecker stated the Town has been working with the Breckenridge Heritage Alliance to develop a playground space at the Rotary Snowplow Park. The Planning Commission has recommended approval, but the Engineering Department has since asked that the Town make minor modifications to the conditions of approval due to possible flood plain issues and wetlands in the area. The applicant has received the revised conditions of approval and has accepted them.

Mr. Dudick moved to approve the Railroad Park Project with the revised findings and conditions. Ms. Wolfe seconded the motion.

The motion passed 6 – 0.
- B. Planning Commission Report (Mr. Gallagher)

Mr. Gallagher stated there will be a joint meeting with the Planning Commission in June and requests that Council provide agenda topics for that meeting to Peter Grosshuesch, Community Development Director.

**REPORT OF TOWN MANAGER AND STAFF**

Mr. Holman stated the Pinewood II point analysis is included in the packet. He also sent an email regarding the Town's naming rights policy for the Harris Street building. As a reminder, the Speakeasy Goodbye Party will be on April 19th.

**REPORT OF MAYOR AND COUNCILMEMBERS**

- A. Cast/MMC (Mayor Warner)

Mr. Warner emailed his report to the Council members.
- B. Breckenridge Open Space Advisory Committee (Mr. Brewer)

Mr. Brewer stated BOSAC attended a site visit on Monday, April 8th.
- C. BRC (Mr. Burke)

Mr. Burke emailed his report to Council members.
- D. Marketing Committee (Ms. Wolfe)

Ms. Wolfe stated the Town (BRC) is funding Breck Bike Week. Additionally, the SMARI

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research will be funded by the BRC and BMAC. Mr. Dudick asked about the Central Reservations 2013 budgeted revenue from a BMAC presentation. Council members are looking for clarification on the number compared to 2012 actuals.

- E. Summit Combined Housing Authority (Mr. Dudick)  
Mr. Dudick stated he attended the recent SCHA meeting and cited a discussion about a Frisco housing project's rising HOA dues and deed-restricted units.
- F. Breckenridge Heritage Alliance (Mr. Brewer)  
Mr. Brewer stated the BHA meeting covered the Railroad Park, the Harris Street building and the Sawmill. Mr. Brewer further stated the BHA has been asked to contribute to the new ski resort summer initiative as an informational/consulting source.
- G. Water Task Force (Mr. Gallagher)  
No report.
- H. Landfill Task Force (Ms. Wolfe)  
No report.
- I. Public Art Commission (Mr. Gallagher)  
Mr. Gallagher stated the minutes have been sent to Council members. Mr. Gallagher asked for feedback from Council members on Abbey Hall uses to be sent to Jenn Cram. Also, the Breckenridge Cultural Coalition met, and is currently trying to identify a mission statement, website needs and benchmarking for messaging. On the 25th of April, staff will meet with Riverwalk users to identify hardware needs for the Riverwalk Center.

**OTHER MATTERS**

Council members discussed the grant for Flight for Life. Consensus was to approve the grant for \$25,000. Mr. Burke stated he thinks the hospital is one of the greatest assets the Town has. Ms. McAtamney then made the Council committee appointments. Ms. McAtamney stated she wants to further discuss the berm improvements on Wellington, as well as landscaping for both solar gardens.

**SCHEDULED MEETINGS**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:19pm. Submitted by Helen Cospolich, Town Clerk, Municipal Services.

ATTEST:

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John Warner, Mayor

**MEMO**

**TO: Breckenridge Town Council**

**FROM: Laurie Best, Community Development Department**

**RE: Wakefield Annexation**

**DATE: April 11, 2013 (for meeting April 23<sup>th</sup>)**

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Attached are two Ordinances that have been prepared for the annexation of the Town-owned Wakefield property. Both Ordinances are scheduled for first reading. The Wakefield property is 17.486 acres, located on the south side of Boreas Pass Road, just past the intersection of Boreas Pass and Bright Hope. A map is attached which shows the property as well as the current Town boundary (blue). In order to meet the contiguity requirement for annexation, staff is proposing a phased annexation. The first phase is 5.179 acres as described in the first Ordinance and the first annexation plat. The second phase is 12.307 acres as described in the second Ordinance and on the second annexation plat. It is important to consider these Ordinances in this sequence as the first phase creates the contiguity for the second phase.

The Town acquired the property in 2000 from the Forest Service. Most of the site is vacant with the exception of a historic cabin and some mining/sawmill artifacts and remnants. The Town Council has authorized the Breckenridge Heritage Alliance to develop an interpretive site with exhibits depicting the history of this sawmill and the importance of sawmills to the history and development of Breckenridge. The Breckenridge Heritage Alliance is working on design for the interpretive site and hopes to present a proposal to the Town Council/Planning Commission sometime in June. Their goal is to start construction and site improvements shortly thereafter.

Because the property is owned by the Town, staff believes it is in the Town's best interest to annex the property where it will be subject to the Town's rules, regulations, and oversight. Following the annexation, the Town will have ninety days to formally place the property in a Land Use District. Currently, it is anticipated that the Town will place the property in Land Use District 1. A separate Land Use District Ordinance will be prepared and presented to the Planning Commission/Town Council in May and/or June.

Staff supports annexation of the property and recommends approval of the Ordinances as presented. Staff will be available at your meeting on April 23<sup>rd</sup> to answer questions regarding this annexation.



1  
2 ***FOR WORKSESSION/FIRST READING – APRIL 23***

3  
4 COUNCIL BILL NO. 11

5  
6 SERIES 2013

7  
8 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL  
9 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE  
10 (Wakefield Property, Phase I - 5.179 acres)

11  
12 WHEREAS, the Town of Breckenridge is the owner in fee of the hereafter described real  
13 property; and

14  
15 WHEREAS, the hereafter described real property is currently located in an  
16 unincorporated area of Summit County, Colorado; and

17  
18 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by  
19 ordinance municipally-owned real property without notice and hearing upon the determination  
20 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado  
21 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of  
22 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

23  
24 WHEREAS, it is the desire of the Town Council to annex the hereinafter described  
25 Town-owned property to the Town of Breckenridge.

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

29  
30 Section 1. The Town Council finds that the Town of Breckenridge is the owner in fee of  
31 the real property described in Section 3 of this ordinance, and that such property is not solely a  
32 public street or right-of-way.

33  
34 Section 2. The Town Council finds and concludes that the Town-owned real property  
35 described in Section 3 of this ordinance is eligible for annexation to the Town of Breckenridge  
36 under Section 30(1)(c) of Article II of the Colorado Constitution, and Sections 31-12-104(1)(a)  
37 and 31-12-105, C.R.S. Specifically, the Town Council finds, determines and concludes that:

- 38  
39 1. Not less than one-sixth of the perimeter of the area to be annexed is  
40 contiguous with the existing boundaries of the Town of Breckenridge.  
41  
42 2. No annexation proceedings concerning the territory to be annexed have  
43 been commenced by another municipality.  
44

- 1                   3.     The annexation of the subject real property will not result in the  
2                   detachment of area from a school district.  
3  
4                   4.     The annexation of the subject real property will not result in the extension  
5                   of the boundaries of the Town of Breckenridge more than three miles.  
6  
7                   5.     The Town of Breckenridge has a plan in place for the area to be annexed.  
8

9                   Section 3. The following described real property is hereby annexed to and made a part of  
10 the Town of Breckenridge, Colorado, to wit:

11  
12                   A PART OF GOVERNMENT LOT 68, LOCATED IN THE SOUTHWEST  
13                   QUARTER OF SECTION 5, TOWNSHIP 7 SOUTH RANGE 77 WEST OF  
14                   THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO,  
15                   BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

16  
17                   COMMENCING AT CORNER 19 OF THE LIZZIE LODGE M.S. 6349,  
18                   COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86,  
19                   BEING ALSO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 6,  
20                   BROOKS HILL SUBDIVISION AS DEPICTED ON THE PLAT THEREOF  
21                   RECORDED SEPTEMBER 19, 1986 AT RECEPTION NUMBER 324524,  
22                   SUMMIT COUNTY , COLORADO;

23  
24                   THENCE S 38°43'00" W, 112.62 FEET ALONG THE 19-20 LINE OF SAID  
25                   LIZZIE LODGE M.S. 6349 TO THE WESTERNMOST POINT OF THAT  
26                   TRACT OF LAND, A PART OF GOVERNMENT LOT 68, DESCRIBED AS  
27                   PARCEL 6 ON THAT INTERCHANGE DEED RECORDED APRIL 25, 1986  
28                   AT RECEPTION NUMBER 316179 WHICH POINT IS THE POINT OF  
29                   BEGINNING;

30  
31                   THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID  
32                   PARCEL 6 FOR THE FOLLOWING ELEVEN COURSES:

- 33  
34                   1) 90.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING  
35                   A CENTRAL ANGLE OF 18°56'22", A RADIUS OF 272.59 FEET AND A  
36                   CHORD WHICH BEARS S 17°10'16" E, 89.70 FEET;  
37                   2) S 07°42'06" E, 172.81 FEET;  
38                   3) N 82°17'54" E, 10.00 FEET;  
39                   4) S 07°42'06" E, 85.41 FEET;  
40                   5) 99.31 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A  
41                   CENTRAL ANGLE OF 21°53'06", A RADIUS OF 260.00 FEET AND A  
42                   CHORD WHICH BEARS S 18°38'43" E, 98.71 FEET;  
43                   6) N 60°24'47" E, 10.00 FEET;  
44                   7) 83.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A  
45                   CENTRAL ANGLE OF 19°05'54", A RADIUS OF 250.00 FEET AND A

1 CHORD WHICH BEARS S 39°08'11" E, 82.95 FEET;  
2 8) N 41°18'52" E, 20.00 FEET;  
3 9) 115.00 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A  
4 CENTRAL ANGLE OF 28°38'51", A RADIUS OF 230.00 FEET AND A  
5 CHORD WHICH BEARS S 63°00'36" E, 113.81 FEET;  
6 10) S 12°39'57" W, 20.00 FEET;  
7 11) 249.93 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING  
8 A CENTRAL ANGLE OF 57°16'43", A RADIUS OF 250.00 FEET AND A  
9 CHORD WHICH BEARS N 74°01'35" E, 239.65 FEET TO A POINT ON THE  
10 6-5 LINE OF THE LITTLE CALLY LODE M.S. 5654;

11  
12 THENCE S 17°48'36" W, 330.87 FEET ALONG THE 6-5 LINE OF SAID  
13 LITTLE CALLEY LODE M.S. 5654 TO THE INTERSECTION WITH THE 12-  
14 11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654;

15  
16 THENCE S 48°02'00" W, 527.33 FEET ALONG THE 12-11 LINE OF THE  
17 HANNIBAL & ST. JOE LODE M.S. 5654 TO THE INTERSECTION WITH  
18 THE SECTION LINE BETWEEN SECTIONS 5 AND 6, TOWNSHIP 7  
19 SOUTH, RANGE 77 WEST of the 6th PRINCIPAL MERIDIAN;

20  
21 THENCE N 00°50'00" W, 1144.02 FEET ALONG SAID SECTION LINE  
22 BETWEEN SECTIONS 5 AND 6, BEING ALSO THE WESTERN  
23 BOUNDARY OF GOVERNMENT LOT 68, TO THE INTERSECTION WITH  
24 THE 20-19 LINE OF SAID LIZZIE LODE M.S. 6349;

25  
26 THENCE N 38°43'00" E, 9.11 FEET ALONG THE 20-19 LINE OF THE  
27 LIZZIE LODE TO THE POINT OF BEGINNING.

28  
29 CONTAINING 225,586 square feet or 5.179 acres more or less  
30

31 Section 4. Within thirty (30) days after the effective date of this ordinance, the Town  
32 Clerk is authorized and directed to:

- 33  
34 A. File one copy of the annexation map with the original of the annexation  
35 ordinance in the office of the Town Clerk of the Town of Breckenridge,  
36 Colorado; and  
37  
38 B. File for recording three certified copies of the annexation ordinance and  
39 map of the area annexed containing a legal description of such area with  
40 the Summit County Clerk and Recorder.  
41

42 Section 5. This ordinance shall be published and become effective as provided in Section  
43 5.9 of the Breckenridge Town Charter.

44  
45 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
46 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2013. 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 \_\_\_\_\_, 2013, at 7:30 P.M., or as soon thereafter as possible in the  
3 Municipal Building of the Town.

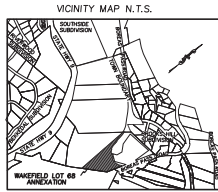
4  
5 TOWN OF BRECKENRIDGE, a Colorado  
6 municipal corporation  
7

8  
9  
10 By \_\_\_\_\_  
11 John G. Warner, Mayor  
12

13 ATTEST:  
14

15  
16  
17 \_\_\_\_\_  
18 Helen Cospolich  
19 Town Clerk  
20

**ANNEXATION MAP**  
**WAKEFIELD PROPERTY, PHASE I**  
**TOWN OF BRECKENRIDGE**  
**A PART OF GOVERNMENT LOT 68**  
**SECTION 5 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.**  
**SUMMIT COUNTY, COLORADO**



**LEGEND FOR LINE TYPE AND HATCH PATTERNS**

	LINE TYPE FOR EXISTING TOWN BOUNDARY NOT USED FOR CALCULATION OF CONTIGUITY
	LINE TYPE FOR EXISTING TOWN BOUNDARY USED FOR CALCULATION OF CONTIGUITY
	HATCH PATTERN FOR PORTION OF BROOKS HILL SUBDIVISION ANNEXED APRIL 1, 1986
	HATCH PATTERN FOR BOREAS PASS ROAD RIGHT OF WAY DEFINED AT RECEPTION NUMBER 27362
	HATCH PATTERN FOR BOREAS PASS ROAD RIGHT OF WAY DEFINED AT RECEPTION NUMBER 27362

**LEGAL DESCRIPTION**

A PART OF GOVERNMENT LOT 68, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 COMMENCING AT CORNER 19 OF THE LIZZE LODE M.S. 6349, COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86, BEING ALSO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 6, BROOKS HILL SUBDIVISION AS DEPICTED ON THE PLAT THEREOF RECORDED SEPTEMBER 19, 1986 AT RECEPTION NUMBER 324524, SUMMIT COUNTY, COLORADO;  
 THENCE S. 39°43'00" W. 115.85 FEET ALONG THE 19-20 LINE OF SAID LIZZE LODE M.S. 6349 TO THE WESTERMOST POINT OF THAT TRACT OF LAND, A PART OF GOVERNMENT LOT 68, DESCRIBED AS PARCEL 6 ON THAT INTERCHANGE DEED RECORDED APRIL 25, 1986 AT RECEPTION NUMBER 316179 WHICH POINT IS THE POINT BEGINNING;  
 THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID PARCEL 6 FOR THE FOLLOWING ELEVEN COURSES:  
 1) 80.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 19°56'22", A RADIUS OF 272.59 FEET AND A CHORD WHICH BEARS S 17°10'16" E, 89.70 FEET;  
 2) S 07°42'06" E, 172.81 FEET;  
 3) N 82°77'54" E, 10.00 FEET;  
 4) S 07°42'06" E, 85.41 FEET;  
 5) 99.31 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 21°53'06", A RADIUS OF 260.00 FEET AND A CHORD WHICH BEARS S 39°01'11" E, 82.95 FEET;  
 6) N 60°24'47" E, 10.00 FEET;  
 7) 83.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 19°05'54", A RADIUS OF 250.00 FEET AND A CHORD WHICH BEARS S 39°01'11" E, 82.95 FEET;  
 8) N 41°18'52" E, 20.00 FEET;  
 9) 115.00 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 28°38'51", A RADIUS OF 230.00 FEET AND A CHORD WHICH BEARS S 63°00'38" E, 113.81 FEET;  
 10) S 12°59'57" W, 20.00 FEET;  
 11) 249.93 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 57°18'43", A RADIUS OF 250.00 FEET AND A CHORD WHICH BEARS N 74°07'55" E, 239.93 FEET TO A POINT ON THE 6-5 LINE OF THE LITTLE CALLEY LODE M.S. 5654;  
 THENCE S 17°48'36" W, 330.87 FEET ALONG THE 6-5 LINE OF SAID LITTLE CALLEY LODE M.S. 5654 TO THE INTERSECTION WITH THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654;  
 THENCE S 48°02'00" W, 527.33 FEET ALONG THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654 TO THE INTERSECTION WITH THE SECTION LINE BETWEEN SECTIONS 5 AND 6, TOWNSHIP 7 SOUTH, RANGE 77 WEST OF THE 6TH PRINCIPAL MERIDIAN;  
 THENCE N 00°50'00" W, 1144.02 FEET ALONG SAID SECTION LINE BETWEEN SECTIONS 5 AND 6, BEING ALSO THE WESTERN BOUNDARY OF GOVERNMENT LOT 68, TO THE INTERSECTION WITH THE 20-19 LINE OF SAID LIZZE LODE M.S. 6349;  
 THENCE N 38°43'00" E, 9.11 FEET ALONG THE 20-19 LINE OF THE LIZZE LODE TO THE POINT OF BEGINNING.  
 CONTAINING 225,586 square feet of 5.179 acres more or less.

**WAKEFIELD PROPERTY, PHASE I**  
 A PART OF GOVERNMENT LOT 68  
 SECTION 5 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.  
 612.28'-EXISTING CONTIGUITY

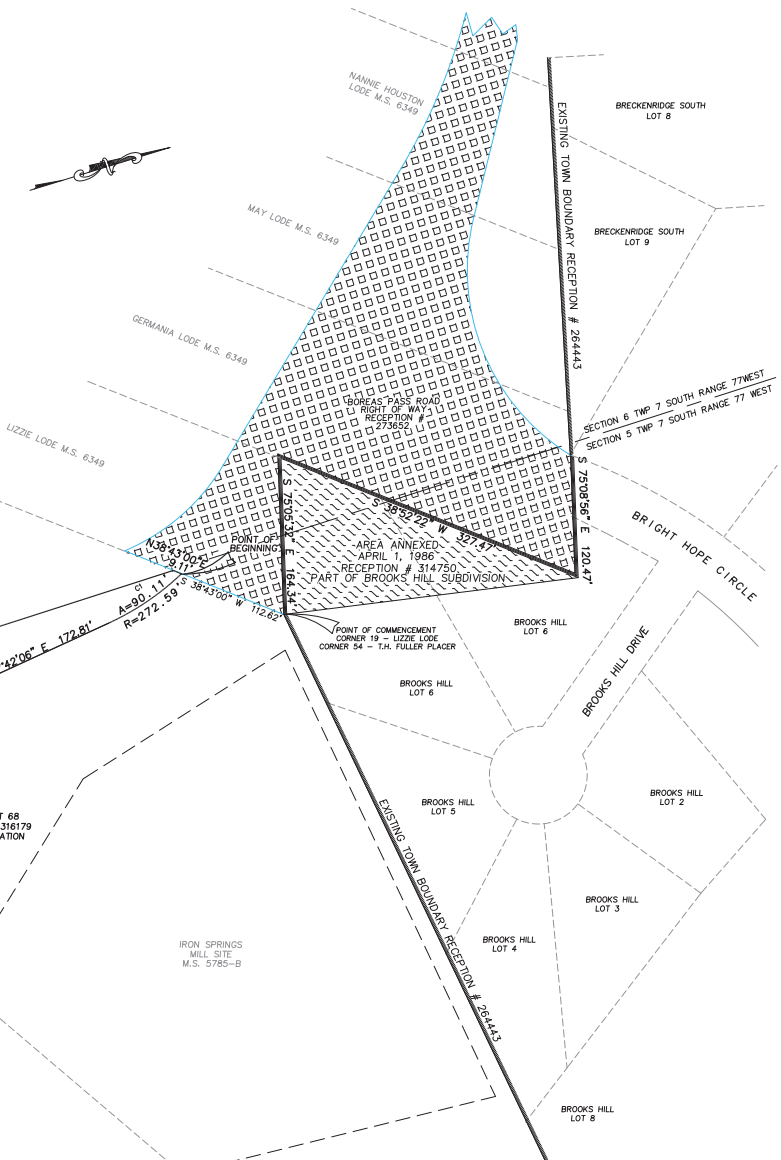
3,673.7'-MAXIMUM LENGTH OF WAKEFIELD PROPERTY, PHASE I ANNEXATION PERIMETER  
 2,967.2' = LENGTH OF WAKEFIELD PROPERTY, PHASE I ANNEXATION PERIMETER  
 AREA OF ANNEXATION  
 225,586 Square Feet  
 5.179 Acres

**BOUNDARY CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	272.59	80.11	89.70	S 17°10'16" E	19°56'22"
C2	260.00	99.31	82.95	S 39°01'11" E	21°53'06"
C3	250.00	83.33	82.95	S 39°01'11" E	19°05'54"
C4	230.00	115.00	113.81	S 63°00'38" E	28°38'51"
C5	250.00	249.93	239.93	N 74°07'55" E	57°18'43"



NOTICE: UNDER COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS FROM THE DATE YOU FIRST DISCOVER SUCH DEFECT; IN NO EVENT, MAY ANY ACTION BE BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION ATTACHED HEREON.



**ROB ANDREWS LAND SURVEYING**  
 P. O. BOX 1381, BRECKENRIDGE, CO 80424 (970) 453-1880

**ANNEXATION MAP**

PROJECT: 123040	DATE: 8-13
DRAWN BY: REA	SCALE: 1" = 60'
FIELD BOOK:	SHEET: 1 OF 1

A PART OF GOVERNMENT LOT 68  
 SECTION 5 TWP 7S R 77W 6th P.M.  
 TOWN OF BRECKENRIDGE  
 SUMMIT COUNTY, COLORADO

**MEMO**

**TO: Breckenridge Town Council**  
**FROM: Laurie Best, Community Development Department**  
**RE: Wakefield Annexation**  
**DATE: April 11, 2013 (for meeting April 23<sup>th</sup>)**

---

Attached are two Ordinances that have been prepared for the annexation of the Town-owned Wakefield property. Both Ordinances are scheduled for first reading. The Wakefield property is 17.486 acres, located on the south side of Boreas Pass Road, just past the intersection of Boreas Pass and Bright Hope. A map is attached which shows the property as well as the current Town boundary (blue). In order to meet the contiguity requirement for annexation, staff is proposing a phased annexation. The first phase is 5.179 acres as described in the first Ordinance and the first annexation plat. The second phase is 12.307 acres as described in the second Ordinance and on the second annexation plat. It is important to consider these Ordinances in this sequence as the first phase creates the contiguity for the second phase.

The Town acquired the property in 2000 from the Forest Service. Most of the site is vacant with the exception of a historic cabin and some mining/sawmill artifacts and remnants. The Town Council has authorized the Breckenridge Heritage Alliance to develop an interpretive site with exhibits depicting the history of this sawmill and the importance of sawmills to the history and development of Breckenridge. The Breckenridge Heritage Alliance is working on design for the interpretive site and hopes to present a proposal to the Town Council/Planning Commission sometime in June. Their goal is to start construction and site improvements shortly thereafter.

Because the property is owned by the Town, staff believes it is in the Town's best interest to annex the property where it will be subject to the Town's rules, regulations, and oversight. Following the annexation, the Town will have ninety days to formally place the property in a Land Use District. Currently, it is anticipated that the Town will place the property in Land Use District 1. A separate Land Use District Ordinance will be prepared and presented to the Planning Commission/Town Council in May and/or June.

Staff supports annexation of the property and recommends approval of the Ordinances as presented. Staff will be available at your meeting on April 23<sup>rd</sup> to answer questions regarding this annexation.

1  
2 ***FOR WORKSESSION/FIRST READING – APRIL 23***

3  
4 COUNCIL BILL NO. 12

5  
6 SERIES 2013

7  
8 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL  
9 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE  
10 (Wakefield Property, Phase II - 12.307 acres)

11  
12 WHEREAS, the Town of Breckenridge is the owner in fee of the hereafter described real  
13 property; and

14  
15 WHEREAS, the hereafter described real property is currently located in an  
16 unincorporated area of Summit County, Colorado; and

17  
18 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by  
19 ordinance municipally-owned real property without notice and hearing upon the determination  
20 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado  
21 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of  
22 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

23  
24 WHEREAS, it is the desire of the Town Council to annex the hereinafter described  
25 Town-owned property to the Town of Breckenridge.

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

29  
30 Section 1. The Town Council finds that the Town of Breckenridge is the owner in fee of  
31 the real property described in Section 3 of this ordinance, and that such property is not solely a  
32 public street or right-of-way.

33  
34 Section 2. The Town Council finds and concludes that the Town-owned real property  
35 described in Section 3 of this ordinance is eligible for annexation to the Town of Breckenridge  
36 under Section 30(1)(c) of Article II of the Colorado Constitution, and Sections 31-12-104(1)(a)  
37 and 31-12-105, C.R.S. Specifically, the Town Council finds, determines and concludes that:

- 38  
39 1. Not less than one-sixth of the perimeter of the area to be annexed is  
40 contiguous with the existing boundaries of the Town of Breckenridge.  
41  
42 2. No annexation proceedings concerning the territory to be annexed have  
43 been commenced by another municipality.  
44

- 1                   3.     The annexation of the subject real property will not result in the  
2                   detachment of area from a school district.  
3  
4                   4.     The annexation of the subject real property will not result in the extension  
5                   of the boundaries of the Town of Breckenridge more than three miles.  
6  
7                   5.     The Town of Breckenridge has a plan in place for the area to be annexed.  
8

9                   Section 3. The following described real property is hereby annexed to and made a part of  
10 the Town of Breckenridge, Colorado, to wit:

11  
12                   GOVERNMENT LOT 32, LOCATED IN THE SOUTHEAST QUARTER OF  
13                   SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH  
14                   PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE  
15                   PARTICULARLY DESCRIBED AS FOLLOWS:

16  
17                   BEGINNING AT THE INTERSECTION OF THE EAST SECTION LINE OF  
18                   SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE 6th P.M.AND  
19                   THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 FROM WHICH POINT  
20                   CORNER 19 OF THE LIZZIE LODGE M.S. 6349, COMMON WITH CORNER  
21                   54 OF THE T.H. FULLER PLACER M.S. 86,  
22                   BEARS N 38°43'00" E, 121.73 FEET;

23  
24                   THENCE S 00°50'00" E, 1144.02 FEET ALONG THE EAST SECTION LINE  
25                   OF SECTION 6 TO THE INTERSECTION WITH THE 12-11 LINE OF THE  
26                   HANNIBAL & ST. JOE LODGE M.S. 5654;

27  
28                   THENCE S 48°02'00" W, 340.56 FEET ALONG THE 12-11 LINE OF THE  
29                   HANNIBAL & ST. JOE LODGE M.S. 5654 TO CORNER 11 OF THE  
30                   HANNIBAL & ST. JOE LODGE M.S. 5654, COMMON WITH CORNER 24 OF  
31                   THE NELLIE PLACER LOT 2 M.S. 7108;

32  
33                   THENCE N 44°25'12" W, 829.88 FEET ALONG THE 24-23 LINE OF THE  
34                   NELLIE PLACER LOT 2 M.S. 7108 TO CORNER 23 OF THE NELLIE  
35                   PLACER LOT 2 M.S. 7108, COMMON WITH CORNER 15 OF THE  
36                   GERMANIA LODGE M.S. 6349 AND ALSO COMMON WITH CORNER 17 OF  
37                   THE LIZZIE LODGE M.S. 6349;

38  
39                   THENCE S 75°48'00" E, 165.54 FEET ALONG THE 17-20 LINE OF THE  
40                   LIZZIE LODGE M.S. 6349 TO CORNER 20 OF THE LIZZIE LODGE M.S. 6349;

41  
42                   THENCE N 38°43'00" E, 1,050.32 FEET ALONG THE 20-19 LINE OF THE  
43                   LIZZIE LODGE M.S. 6349 TO THE POINT OF BEGINNING.

44  
45                   CONTAINING 536,090 square feet or 12.307 acres more or less  
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Section 4. Within thirty (30) days after the effective date of this ordinance, the Town Clerk is authorized and directed to:

- A. File one copy of the annexation map with the original of the annexation ordinance in the office of the Town Clerk of the Town of Breckenridge, Colorado; and
- B. File for recording three certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the Summit County Clerk and Recorder.

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2013. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of \_\_\_\_\_, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

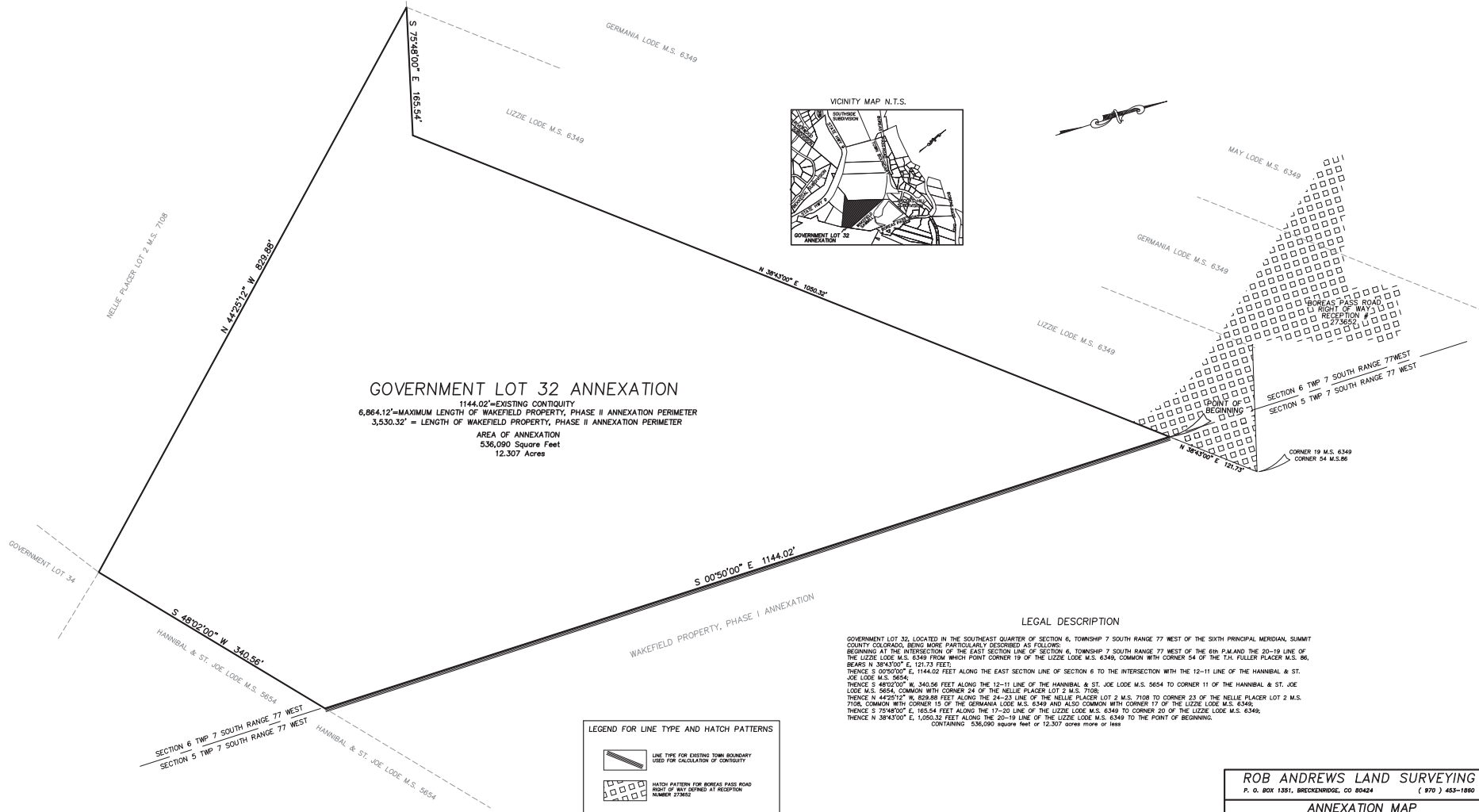
TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By \_\_\_\_\_  
John G. Warner, Mayor

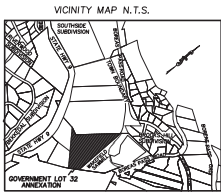
ATTEST:

\_\_\_\_\_  
Helen Cospolich  
Town Clerk

**ANNEXATION MAP  
WAKEFIELD PROPERTY, PHASE II  
TOWN OF BRECKENRIDGE  
GOVERNMENT LOT 32  
SECTION 6 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.  
SUMMIT COUNTY, COLORADO**

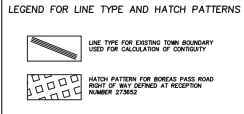


**GOVERNMENT LOT 32 ANNEXATION**  
 1144.02'—EXISTING CONTIGUITY  
 6,864.12'—MAXIMUM LENGTH OF WAKEFIELD PROPERTY, PHASE II ANNEXATION PERIMETER  
 3,530.32' = LENGTH OF WAKEFIELD PROPERTY, PHASE II ANNEXATION PERIMETER  
 AREA OF ANNEXATION  
 536,090 Square Feet  
 12.307 Acres



**LEGAL DESCRIPTION**

GOVERNMENT LOT 32, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE INTERSECTION OF THE EAST SECTION LINE OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE 6th P.M. AND THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 FROM WHICH POINT CORNER 19 OF THE LIZZIE LODGE M.S. 6349, COMMON WITH CORNER 54 OF THE T.J. FULLER PLACER M.S. 86, BEARS N 38°43'00" E, 121.73 FEET;  
 THENCE S 00°50'00" E, 1144.02 FEET ALONG THE EAST SECTION LINE OF SECTION 6 TO THE INTERSECTION WITH THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODGE M.S. 5654;  
 THENCE S 48°10'00" W, 340.06 FEET ALONG THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODGE M.S. 5654 TO CORNER 11 OF THE HANNIBAL & ST. JOE LODGE M.S. 5654, COMMON WITH CORNER 24 OF THE NELLIE PLACER LOT 2 M.S. 7108;  
 THENCE N 44°25'12" W, 829.88 FEET ALONG THE 24-23 LINE OF THE NELLIE PLACER LOT 2 M.S. 7108 TO CORNER 23 OF THE NELLIE PLACER LOT 2 M.S. 7108, COMMON WITH CORNER 15 OF THE GERMANIA LODGE M.S. 6349 AND ALSO COMMON WITH CORNER 17 OF THE LIZZIE LODGE M.S. 6349;  
 THENCE S 75°48'00" E, 163.54 FEET ALONG THE 17-20 LINE OF THE LIZZIE LODGE M.S. 6349 TO CORNER 20 OF THE LIZZIE LODGE M.S. 6349;  
 THENCE N 38°43'00" E, 1,050.32 FEET ALONG THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 TO THE POINT OF BEGINNING,  
 CONTAINING 536,090 square feet or 12.307 acres more or less



NOTICE: UNDER COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION ATTACHED HERON.

<b>ROB ANDREWS LAND SURVEYING</b> P. O. BOX 1351, BRECKENRIDGE, CO 80424 ( 970 ) 453-1880		
<b>ANNEXATION MAP</b>		
PROJECT: 123040	GOVERNMENT LOT 32 SECTION 6 TWP-7S R 77W 6th P.M. TOWN OF BRECKENRIDGE SUMMIT COUNTY, COLORADO	DRAWN BY: REA
FIELD BOOK: ---		DATE: 6-8-13
		SCALE: 1" = 60'
		SHEET: 7 of 1



## MEMORANDUM

**To:** Mayor & Town Council  
**From:** Tim Gagen, Town Manager  
**Date:** April 17, 2013  
**Subject:** *BOEC Lease for Old Sanitation District Building*

---

### BACKGROUND

The Town owns the old Sanitation District building on Wellington Road and for a number of years has leased the building and property to the BOEC for its administrative offices. The BOEC has done some long range planning and would like to perform some renovations to the building with a possible expansion. They have approached the Town about redoing the lease to extend and add an option to purchase the building and property. The Council has previously discussed these concepts and given directions to Staff to renegotiate the lease to substantially extend the term of the lease while including a purchase option if that scenario works to the benefit of the BOEC for future funding opportunities. The purchase option is now included in the lease agreement for \$500,000. The new lease uses the framework of the existing lease with the addition of the longer term and the purchase option. By utilizing the original framework of the lease, the same conditions for the lease and now the purchase option are maintained; in particular that the benefits of the lease are specific to the BOEC and its non-profit operation.

The BOEC Board has reviewed the new lease and is agreeable to its terms.

Staff believes we have captured the direction of Council and if the Council agrees, the lease is ready for first reading and staff recommends its approval.

1                   ***FOR WORKSESSION/FIRST READING – APRIL 23***

2  
3                                   COUNCIL BILL NO. 13

4  
5   Series 2013

6  
7           AN ORDINANCE APPROVING A LEASE WITH OPTION TO PURCHASE WITH THE  
8           BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NON-PROFIT  
9                                   CORPORATION  
10                                   (524 Wellington Road)

11  
12           WHEREAS, the Town of Breckenridge owns the real property at 524 Wellington Road in  
13 Breckenridge, Colorado; and

14  
15           WHEREAS, the Town Council has agreed to enter into a long-term lease for the  
16 property at 524 Wellington Road with the Breckenridge Outdoor Education Center, a Colorado  
17 non-profit corporation (“**BOEC**”); and

18  
19           WHEREAS, the Town Council is also willing to grant the BOEC an option to purchase  
20 the property at 524 Wellington Road upon certain terms and conditions; and

21  
22           WHEREAS, a proposed “Lease With Option to Purchase” between the Town and the  
23 BOEC has been negotiated by the parties and reviewed by the Town Council; and

24  
25           WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

26  
27           The council may lease, for such time as council shall determine, any real or  
28 personal property to or from any person, firm, corporation, public and private,  
29 governmental or otherwise.

30  
31 and;

32  
33           WHEREAS, the term of the proposed Lease With Option to Purchase with the BOEC  
34 exceeds one year in length; and

35  
36           WHEREAS, Section 1-11-4 of the Breckenridge Town Code requires that any real estate  
37 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

38  
39 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
40 BRECKENRIDGE, COLORADO:

41  
42           Section 1. The Lease With Option to Purchase between the Town and the BOEC, a copy  
43 of which is marked **Exhibit “A”**, attached hereto and incorporated herein by reference, is  
44 approved, and the Town Manager is authorized, empowered, and directed to execute such  
45 agreement for and on behalf of the Town of Breckenridge.

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Section 2. If the BOEC properly exercises the option to purchase the Town-owned real property that is the subject of the approved Lease With Option to Purchase, this ordinance is the Town Council’s approval and authorization to sell and convey such property to the BOEC as required by Section 15.3 of the Breckenridge Town Charter.

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2013. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of \_\_\_\_\_, 2013, 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: \_\_\_\_\_  
John G. Warner, Mayor

ATTEST:  
  
\_\_\_\_\_  
Town Clerk

1 ***DRAFT April 17, 2013 DRAFT***

2  
3  
4 **LEASE WITH OPTION TO PURCHASE**

5  
6 **BETWEEN**

7  
8 **TOWN OF BRECKENRIDGE,**  
9 a Colorado municipal corporation  
10 (**“the Landlord”**)

11  
12 and

13  
14 **BRECKENRIDGE OUTDOOR EDUCATION CENTER,**  
15 a Colorado non-profit corporation  
16 (**“the Tenant”**)

1 **LEASE WITH OPTION TO PURCHASE**

2  
3 THIS LEASE (“Lease”) is dated \_\_\_\_\_, 2013, and is between the  
4 TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“the **Landlord**”) and  
5 BRECKENRIDGE OUTDOOR EDUCATION CENTER, a Colorado non-profit corporation  
6 (“the **Tenant**”). The Landlord and the Tenant are sometimes individually referred to in this  
7 Lease as a “**Party**”, and are collectively referred to in this Lease as the “**Parties**.”

8  
9 **ARTICLE 1 - BASIC LEASE PROVISIONS**

10 1.1 **Leased Premises.** In consideration of the Tenant’s payment of rent and the  
11 keeping of the promises, covenants, and conditions required of the Tenant by this Lease, the  
12 Landlord leases to the Tenant, and the Tenant leases from the Landlord, for the term and upon  
13 the conditions of this Lease, the real property described on the attached Exhibit “A” (“**Leased**  
14 **Premises**”). The Leased Premises includes a building that is referred to in this Lease as the  
15 “**Building**.”

16 1.1 **Use Of Leased Premises.** The Tenant will use the Leased Premises only for:

- 17 (i) the operation of its administrative and program offices;  
18 (ii) storage and maintenance of the Tenant’s equipment and vehicles;  
19 (iii) “outfitting” associated with the Tenant’s programs; and  
20 (iv) ancillary administrative functions, such as staff meetings and training, Board of  
21 Director meetings, instructional classes, social functions, and other administrative activities  
22 directly related to the carrying out of the Tenant’s non-profit mission statement.

23 Any overnight lodging by the Tenant at the Leased Premises will be done only with the  
24 prior written approval of the Landlord.

25 The Tenant will not use the Leased Premises for any other purpose without the  
26 Landlord’s prior written consent.

27 1.2 **Term.** Subject to earlier termination as hereafter provided, the term of this  
28 Lease (“**Term**”) will be for a period of 50 years, commencing \_\_\_\_\_, 2013 and  
29 terminating \_\_\_\_\_, 2063. Nothing in this Lease permits the Tenant to use or occupy  
30 the Leased Premises after the expiration of the Term or any earlier termination of this Lease. If  
31 the Tenant continues to occupy the Leased Premises after such expiration or termination, such  
32 occupancy will (unless the Parties otherwise agree in writing) be an extension of this Lease on a  
33 month-to-month basis only, and such occupancy will be subject to all of the terms and conditions  
34 of this Lease.

35 1.3 **Surrender of Leased Premises.**

1 (a) Upon the expiration or earlier termination of this Lease the Tenant will surrender  
2 the Leased Premises to the Landlord in good condition, ordinary wear and tear excepted. Not  
3 later than the last day of the Term, the Tenant will remove its personal property and fixtures  
4 (including, but not limited to, trade fixtures) from the Leased Premises. The cost of such removal  
5 will be borne by the Tenant, and the Tenant will repair all injury or damage done to the Leased  
6 Premises in connection with the installation or removal of the Tenant's personal property and  
7 trade fixtures. All of the Tenant's fixtures (including, but not limited to trade fixtures) that are so  
8 attached to the Leased Premises that they cannot be removed without material injury to the  
9 Leased Premises will, at the Landlord's option, become the property of the Landlord upon  
10 installation and remain with the Leased Premises upon surrender.

11 (b) The Landlord may retain or dispose of any personal property, fixtures (including,  
12 but not limited to, trade fixtures), alterations, or improvements left remaining by the Tenant at or  
13 upon the Leased Premises following the expiration or earlier termination of this Lease, and the  
14 Landlord is not accountable to the Tenant for any damages for the loss or destruction thereof, or  
15 for any part of the proceeds of sale, if any, realized by the Landlord. The Tenant waives all  
16 claims against the Landlord for any damages suffered by the Tenant resulting from the  
17 Landlord's retention or disposition of such personal property, fixtures (including, but not limited  
18 to, trade fixtures), alterations or improvements. The Tenant is liable to the Landlord for the  
19 Landlord's costs for storing, removing and disposing of any such personal property, fixtures  
20 (including trade fixtures) or alterations.

21 1.4 **Obligation To Meet and Confer.** Throughout the Term the Parties will meet and  
22 confer at least annually for the purpose of determining whether changed circumstances require  
23 the amendment to this Lease. The Parties will act reasonably and in good faith to determine if  
24 changed circumstances require the amendment to this Lease and, if so, will execute appropriate  
25 documentation amending this Lease.

26 1.5 **Governmental Powers of the Landlord.** The Tenant acknowledges that  
27 throughout the Term the Landlord has, and will continue to have, those governmental rights,  
28 powers, and authority provided by applicable law, including, but not limited to, the *Breckenridge*  
29 *Town Charter* and the ordinances of the Town of Breckenridge, all as amended from time to  
30 time. The Tenant further acknowledges that the provisions of this Lease do not limit or restrict  
31 such rights, powers, and authority of the Landlord with respect to the Leased Premises when the  
32 Landlord is acting in its governmental capacity as a home-rule municipality under Colorado law

33 1.6 **Density.** If requested by the Tenant either: (i) during the Term of this Lease, or  
34 (ii) at any time after Closing (if Tenant exercise the option to purchase the Leased Premises  
35 provided in Article 14 of this Lease), the Landlord will authorize the transfer to the Leased  
36 Premises of a maximum of 3,000 square feet of the unused density from the property known as  
37 the "Breckenridge Nordic Center Site" located on Ski Hill Road in Breckenridge, Colorado (the  
38 "**Density**"). The Landlord is not obligated to authorize such transfer unless the Tenant requests  
39 the transfer of such Density before any subsequent transfer of the Leased Premises by the  
40 Tenant. The Tenant may not request that the Landlord transfer the Density to the Leased  
41 Premises at any time when the Tenant is in default under this Lease or under the Promissory



1 Note or Deed of Trust described in Section 14.8 and Section 14.0. If the Tenant does not request  
2 transfer of the Density, or if the Parties agree that all of the Density need not be transferred to the  
3 Leased Premises, there will be no adjustment to the Purchase Price (or the Promissory Note). So  
4 long as the Tenant owns the Leased Premises, the Density can only be used on the Leased  
5 Premises in connection with the Tenant's non-profit operations, and may not be transferred from  
6 the Leased Premises, or used for a purpose unrelated to the Tenant's non-profit operations,  
7 without the Landlord's prior written permission, which permission may be granted, withheld or  
8 conditionally approved in the Landlord's sole and absolute discretion. The provisions of this  
9 Section 1.6 shall be subject to the provisions of Section 14.19 of this Lease, and shall be  
10 incorporated into the deed to the Leased Premises as provided in Section 14.19.

11 **ARTICLE 2 - RENT**

12 2.1 **Rent.** The total rent to be paid by the Tenant for the full Term is \$10.00, the  
13 receipt and sufficiency of which is acknowledged by the Landlord.

14 2.2 **“Additional Rent” Defined.** Any amount due to the Landlord from the Tenant  
15 under this Lease that is not specifically identified as “rent” is additional rent.

16 2.3 **Interest On Past Due Amounts.** The Tenant will pay interest to the Landlord on  
17 any sum due to the Landlord under this Lease that is 30 days or more past due at the rate of 12%  
18 per annum from the date due until the date such payment is fully paid.

19 2.4 **Place And Manner Of Payments.** All payments due to the Landlord under this  
20 Lease will be made to:

21 Town of Breckenridge  
22 Clerk & Finance Division  
23 Attn: Accounts Receivable  
24 P. O. Box 168  
25 Breckenridge, CO 80424  
26

27 or at such other place as the Town Manager of the Town of Breckenridge (**“Town Manager”**)  
28 may hereafter designate by written notice provided to the Tenant in accordance with Section 16.2  
29 of this Lease. All sums will be made in legal tender of the United States. Any check given to the  
30 Landlord will be received subject to collection, and the Tenant agrees to pay any charges, fees or  
31 costs incurred by the Landlord for the collection, including reasonable attorney's fees.  
32

33 2.5 **Landlord's Lien and Security Interest.** The Landlord has a first security  
34 interest and a lien for all rent and other sums of money becoming due hereunder from the Tenant  
35 upon all goods, wares, equipment, fixtures, furniture, inventory and other personal property of  
36 the Tenant situated in or located upon the Leased Premises, and such property may not be  
37 removed from the Leased Premises without the express written consent of the Landlord until all  
38 arrearages in rent and other sums of money then due to the Landlord hereunder have first been  
39 paid. Upon the occurrence of any event of default by the Tenant, the Landlord may foreclose the

1 security interest and lien in the manner provided by law. The Landlord may file a financing  
2 statement (and necessary extensions, renewals or replacements thereof throughout the Term) in a  
3 form legally sufficient to perfect its security interest and lien granted pursuant to this Section. the  
4 Tenant will execute such documents as may be required during the Term to maintain the validity  
5 and priority of the security interest and lien provided for in this Section.

### 6 **ARTICLE 3 - LANDLORD’S DISCLAIMERS AND EXCULPATORY PROVISIONS**

7 3.1 **“As Is” Condition of Leased Premises.** The Tenant acknowledges that it is  
8 aware of the condition of the Leased Premises pursuant to the prior Lease between the Parties  
9 described in Section 16.9. Accordingly, the Leased Premises is leased **“AS IS,” “WHERE IS”**  
10 and **“WITH ALL FAULTS”**, and the Landlord does not warrant or make any representations,  
11 express or implied, relating to the **MERCHANTABILITY**, quantity, quality, condition,  
12 suitability or **FITNESS FOR ANY PURPOSE WHATSOEVER** of the Leased Premises or any  
13 portion thereof. Except as expressly provided in this Lease, the Landlord has no liability  
14 whatsoever to undertake any repairs, alterations, removal, remedial actions, or other work of any  
15 kind with respect to any portion of the Leased Premises, or any portion thereof.

16 3.2 **Landlord’s Non-liability.** As a material part of the consideration to be received  
17 by the Landlord under this Lease, the Tenant assumes all risk of damage to property or injury to  
18 persons in or upon the Leased Premises from any cause other than the Landlord’s gross  
19 negligence or intentional act, and the Tenant waives all claims in respect thereof against the  
20 Landlord.

21 3.3 **Limitation of Remedies.** The Landlord is not liable for any indirect, special, or  
22 consequential damages, including, but not limited to, loss of anticipated profits, revenue or  
23 savings, business interruption, or any similar claim arising from the Landlord’s breach of this  
24 Lease, even if the Landlord has been advised of the possibility of such damages. This limitation  
25 applies notwithstanding the failure of an essential purpose of any limited remedy.

### 26 **ARTICLE 4 - TENANT’S AFFIRMATIVE OBLIGATIONS**

27 4.1 **Tenant Liable For Costs to Prepare Leased Premises For Use By the Tenant.**  
28 The Tenant is solely responsible for all work required to be done, and costs incurred in  
29 connection with, the preparation of the Leased Premises for the Tenant’s use.

#### 30 4.2 **Taxes.**

31 (a) As used in this Section, the term **“Taxes”** means all personal property and real  
32 property taxes levied, assessed or imposed by any taxing authority arising out of the Tenant’s  
33 occupancy and use of the Leased Premises pursuant to this Lease.

34 (b) Pursuant to Section 39-3-105, C.R.S., all real or personal property owned by the  
35 Landlord is exempt from taxation. However, the parties acknowledge that the Tenant’s

1 occupancy and use of the Leased Premises pursuant to this Lease may be deemed to be a  
2 “taxable possessory interest” pursuant to Section 39-1-103(17)(a), C.R.S.

3 (c) The Tenant will pay all Taxes lawfully assessed arising from its occupancy and  
4 use of the Leased Premises pursuant to this Lease, and will indemnify and defend the Landlord  
5 from any such Taxes. The Tenant will pay all Taxes in a timely manner. Upon the Landlord’s  
6 written request the Tenant will provide to the Landlord a photostatic copy of the receipt(s) or  
7 cancelled check(s) showing payment of the Taxes. the Tenant may pay any Taxes in installments  
8 if permitted by law.

9 (d) If the Tenant is liable for the payment of any Taxes arising from the Tenant’s  
10 occupancy and use of the Leased Premises pursuant to this Lease, the Tenant may, at its sole  
11 expense, contest such Taxes by the commencement and prosecution, in good faith and with due  
12 diligence, of appropriate legal proceedings. The Tenant will make timely payment of such Taxes  
13 if the Tenant loses the contest. The Tenant will advise the Landlord prior to instituting any such  
14 contest and will as a condition of exercising such right provide the Landlord such reasonable  
15 assurance as it may request that such contest will be in compliance with the provisions of this  
16 Section. The Landlord, at the Tenant’s sole cost and expense, will reasonably cooperate with the  
17 Tenant in any such contest; may join in the contest; and will execute and deliver such documents  
18 and instruments as may be necessary or appropriate for prosecuting an effective contest.

19 4.3 **Compliance With Laws.** The Tenant, at its sole cost and expense, will comply  
20 with all laws, ordinances, orders, and regulations of all governmental authorities with respect to  
21 the use of the Leased Premises, as amended from time to time throughout the Term. A judgment  
22 of any court or the admission of the Tenant in any action or proceeding against the Tenant,  
23 whether the Landlord is a Party thereto or not, that the Tenant has violated any law, ordinance,  
24 requirement or order in the use of the Leased Premises will be conclusive of the fact as between  
25 the Landlord and the Tenant.

26 4.4 **Non-Discrimination.** The Tenant:

27 (i) will not discriminate against any employee or applicant for employment to work  
28 at the Leased Premises because of race, color, creed, sex, sexual orientation, religion, national  
29 origin, or disability;

30 (ii) will insure that applicants who are to work at the Leased Premises are employed  
31 and that employees are treated during employment without regard to their race, color, creed, sex,  
32 sexual orientation, religion, national origin, or disability;

33 (iii) will in all solicitations or advertisements for employees to be engaged in the  
34 performance of work at the Leased Premises state that all qualified applicants will receive  
35 consideration for employment without regard to race, color, creed, sex, sexual orientation,  
36 religion, national original or disability; and

1 (iv) will comply with all applicable federal, state, and local laws, rules and  
2 regulations. Without limiting the generality of the foregoing, the Tenant will comply with the  
3 applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, et seq. (Public  
4 Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory  
5 agency.

6 The indemnification and termination provisions of this Lease apply to the Tenant's  
7 failure to comply with all applicable laws or regulations.

8 4.5 **Tenant To Pay Certain Charges.** In addition to the payment of Taxes as  
9 required by Section 4.2, the Tenant covenants and agrees to pay, or cause to be paid, before any  
10 fine, penalty, interest or cost may be added thereto, all governmental charges that are levied,  
11 assessed, imposed, or that could become a lien upon the Leased Premises.

## 12 **ARTICLE 5 - TENANT'S NEGATIVE OBLIGATIONS**

### 13 **5.1 Improvement.**

14 (a) As used in this Article 5, "**Improvement**" means any physical improvement  
15 made, or proposed to be made, to either the Property or the Building.

16 (b) No Improvement may be made to the Leased Premises by the Tenant except  
17 under the following conditions:

18 (i) No Improvement may be undertaken until the Tenant has obtained approval of  
19 plans and specifications for such Improvement from the Landlord, acting in its capacity as owner  
20 of the Leased Premises (and not in its governmental capacity). In connection therewith, the  
21 Landlord has the right to review and approve a proposed Improvement in its sole and absolute  
22 discretion.

23 (ii) The Tenant must also obtain a "Development Permit" from the Landlord, acting  
24 in the Landlord's governmental capacity.

25 (iii) An Improvement must be constructed under the supervision of an architect or  
26 engineer licensed in the State of Colorado, selected and paid by the Tenant.

27 (iv) All work done in connection with the construction of an Improvement must be  
28 done in a good and workmanlike manner and in material conformity with the plans and  
29 specifications that are approved by the Landlord.

30 (v) The construction of an approved Improvement must be prosecuted with  
31 reasonable dispatch, subject to delays caused by Force Majeure Events (See Section 16.12).  
32 before any work begins. the Tenant must procure or cause the contractor for the work to procure  
33 insurance in accordance with Article 7 of this Lease, including worker's compensation insurance  
34 covering all persons employed in connection with the work..

1           5.2    **Landscaping.** No landscaping may be installed by the Tenant at the Leased  
2 Premises without the Landlord’s prior, written consent. Once installed, all landscaping will be  
3 maintained by the Tenant in accordance with the approved landscaping plan for the Leased  
4 Premises.

5           5.3    **Subletting.** The Leased Premises has been leased to the Tenant with the  
6 expectation and hope that during the Term the Tenant will sublet a portion of the Building to  
7 other non-profit entities acceptable to the Landlord. Throughout the Term, the Tenant will use  
8 its best efforts to identify other non-profit entities whose anticipated space needs and use of the  
9 Building would be compatible with those of the Tenant. The Tenant may propose to the  
10 Landlord:

- 11           (i)    the portion(s) of the Building that will be sublet;
- 12           (ii)   the identity of the subtenants; and
- 13           (iii)  the terms and conditions under which the Leased Premises or the Building will be  
14 sublet.

15 However, the Tenant will not finally sublet any part of the Leased Premises or the Building  
16 without, in each case, first obtaining the prior written consent of the Landlord.

17           5.4    **Assignment.** The Tenant may not assign or transfer any of its rights under this  
18 Lease without the prior written consent of the Landlord. If the Tenant attempts to make any  
19 assignment or subletting without the requisite consent of the Landlord, or attempts to grant a  
20 license to use the Leased Premises, such assignment, subletting, or license will be void and, at  
21 the option of the Landlord, will terminate this Lease. Any consent by the Landlord to any  
22 assignment of this Lease or any consent by the Landlord to any sublease or license of the Leased  
23 Premises will not be a waiver by the Landlord of the provisions of this Section as to subsequent  
24 transactions of the same or similar nature. In the event of any permitted assignment, sublease, or  
25 license, the Landlord may, but is not required to, release the Tenant from its obligations  
26 hereunder for the remainder of the Term. If the Landlord consents to an assignment, sublease, or  
27 license the Tenant may be required, as a condition of granting consent, to pay the Landlord’s  
28 reasonable costs incurred in considering the proposed assignment, sublease, or license including,  
29 but not limited to, legal fees and credit checks.

30           5.5    **Assignment By Operation of Law.** Neither this Lease nor any interest in this  
31 Lease is assignable or transferable by operation of law. If:

- 32           (i)    any proceeding under the Bankruptcy Code, or any amendment thereto, is  
33 commenced by or against the Tenant;
- 34           (ii)  the Tenant is adjudged insolvent;
- 35           (iii)  the Tenant makes an assignment for the benefit of creditors;

1 (iv) a post-judgment writ of attachment or execution is levied on the leasehold estate  
2 created by this Lease and not released or satisfied within 30 days thereafter; or

3 (v) a receiver is appointed for the Tenant with authority to take possession or control  
4 of the Leased Premises or the business conducted therein by the Tenant,

5 then this Lease, at the option of the Landlord, will immediately terminate and will not be treated  
6 as an asset of the Tenant.

7 5.6 **Waste or Nuisance.** The Tenant will not commit or permit to be committed on  
8 the Leased Premises any waste, any public or private nuisance, or any other act or thing  
9 prohibited by law.

10 5.7 **Mechanic's Liens.**

11 (a) In connection with the construction of any Improvements, the Tenant will cause  
12 the payment of all proper and valid invoices and charges of all contractors, subcontractors,  
13 suppliers, materialmen and similar parties who furnish services or materials in connection with  
14 the construction process. In the event any person ever records a mechanic's lien to enforce any  
15 claim for services or materials alleged to have been provided in connection with the Leased  
16 Premises, the Tenant will cause the same to be released of record within 60 days after the  
17 recordation thereof, and the Tenant will be liable to satisfy and cause a discharge of any such  
18 mechanic's lien claim. Notwithstanding the foregoing, the Tenant may contest any such  
19 mechanic's lien claim, provided that the Tenant conducts such contest in a timely manner and  
20 with due diligence, and that the Tenant provides the Landlord with such security in connection  
21 therewith as the Landlord may reasonably require. In connection with any such contest, the  
22 Landlord may join and participate in any such contest, at the Tenant's expense (with  
23 participation to include, without limitation, the execution and filing of pleadings and the  
24 provision and gathering of testimony and other evidence). In the event the Tenant loses any such  
25 contest, with all further rights of appeal having expired, the Tenant must satisfy the mechanic's  
26 lien claim in full prior to any foreclosure sale or other disposition of the Leased Premises which  
27 is made for the purpose of satisfying the claim.

28 (b) Prior to commencement of construction of any Improvements, the Tenant will  
29 deliver notices to all contractors and subcontractors and post notices in accordance with Section  
30 38-22-105, C.R.S. (as it may be amended or in accordance with similar statutes that may be  
31 substituted therefor in the future), in locations that will be visible by parties performing any  
32 work, which notices will state that the Landlord is not responsible for the payment of such work  
33 and setting forth such other information as may be reasonably required pursuant to such statutory  
34 provisions.

35 **ARTICLE 6 - UTILITIES, TRASH REMOVAL AND MAINTENANCE**

36 6.1 **Utilities.** The Tenant will pay or cause to be paid, before any notice of  
37 delinquency, at its sole cost and expense, all charges for water, gas, heat, electricity, power,

1 telephone, internet, or any other communications services, sewer service charges, and any other  
2 utilities charged or attributable to the Leased Premises, and all other charges for services or  
3 utilities of any kind or nature used in, upon, or about the Leased Premises by the Tenant,  
4 including the cost of installing or moving meters for such utility charges. Notwithstanding the  
5 foregoing, the Tenant may contest any such charges so long as the Tenant diligently prosecutes  
6 the same pursuant to appropriate legal proceedings. If any such charge leads to a mechanic's or  
7 other lien claim against the Leased Premises, such contest will also be conducted in conformity  
8 with the standards hereof for contesting mechanic's lien claims. The Tenant will contract in its  
9 sole name for and promptly pay for such utility charges.

10           6.2     **Trash Removal.** The Landlord will arrange for a trash dumpster to be provided  
11 for the use of the Tenant and any subtenants at the Leased Premises or, at the Tenant's option,  
12 the Tenant and all subtenants may use "roll away" trash containers so long as such containers are  
13 stored inside and are not used or maintained in such a manner as to cause a nuisance or a health  
14 threat. The Tenant will pay the cost of the periodic trash removal.

15           6.3     **All Maintenance Is Tenant's Responsibility.** The Tenant will at all times during  
16 the Term keep, operate, and maintain all portion of he Building and Leased Premises in good  
17 order, condition and repair. Without limiting the generality of the preceding sentence, it is the  
18 Tenants sole responsibility to provide any required maintenance, upkeep, repair, or replacement  
19 of the following portions of the Building and the Leased Premises:

20           (i)     the structural portions of the Building, including, without limitation, the roofs and  
21 the exterior walls;

22           (ii)    all non-structural portions of the Building including, without limitation, the  
23 entrances, windows, partitions, doors, lighting, and plumbing fixtures, and heating and  
24 ventilation systems;

25           (iii)   the grounds of the Leased Premises;

26           (iv)   all landscaping, the paving, if any, and other hardscape surfaces; and

27           (v)   all fixtures, equipment and appurtenances relating to the Leased Premises and/or  
28 the Building.

29 This Section 6.3 is to be interpreted so as to absolve the Landlord from any obligation to provide  
30 any required maintenance, upkeep, repair, or replacement whatsoever of the following portions  
31 of the Building and the Leased Premises.

32  
33           6.4     **Snow Removal; Access.** The Tenant will provide all snow plowing and snow  
34 removal necessary to keep the access driveway from Wellington Road to the Building free of  
35 snow and ice.

1           6.5     **Painting.** The Tenant is responsible for any desired or required painting of the  
2 Building. Painting is an “Improvement”, and the procedures and requirements of Section 5.1 will  
3 apply to the painting of the Building; provided, however, that the provisions of subsection  
4 Section 5.1(b)(iii)(requiring all Improvement to be constructed under the supervision of an  
5 architect or engineer) does not apply to the painting of the Building.

6           6.6     **Inspection And Entry.** The Landlord and the Landlord’s authorized  
7 representatives may enter the Leased Premises at all times during reasonable hours to inspect the  
8 Leased Premises. The Tenant further agrees that the Landlord may go upon the Leased Premises  
9 at all times and:

10           (i)     make any necessary repairs to the Leased Premises and perform any work therein  
11 that may be necessary to comply with any laws, ordinances, rules or regulations of any public  
12 authority or that the Landlord may deem necessary to prevent waste or deterioration of the  
13 Leased Premises;

14           (ii)    post any notice provided for by law; or

15           (iii)   otherwise protect any and all rights of the Landlord,

16 all without any liability to the Tenant for damages or any abatement of rent.

17 Nothing in this Section implies or creates any duty on the part of the Landlord to do any work  
18 that under any provision of this Lease the Tenant may be or is required to do, nor will it  
19 constitute a waiver of the Tenant’s default in failing to do such work. No reasonable exercise by  
20 the Landlord of any rights herein reserved will entitle the Tenant to any damage or compensation  
21 of any kind from the Landlord for any injury, loss, damage, or inconvenience occasioned  
22 thereby, or to any abatement of rent.

23   **ARTICLE 7 - INSURANCE**

24           7.1     **Tenant’s Liability Insurance.** Throughout the Term the Tenant will, at its  
25 expense, continuously maintain public liability insurance covering the Tenant’s operations on the  
26 Leased Premises with minimum combined single limits of not less than \$1,000,000. The  
27 Tenant’s liability insurance policy will be endorsed to include the Landlord as an additional  
28 insured.

29           7.2     **Worker’s Compensation Insurance.** Throughout the Term the Tenant will, at its  
30 expense, continuously maintain worker’s compensation insurance as required by Colorado law  
31 insuring the payment of compensation to all its employees engaged in the performance of work  
32 at the Leased Premises.

33           7.3     **Additional Insurance Provisions.** Every insurance policy required by this  
34 Article 7 will be primary insurance, and any insurance carried by the Landlord, its officers, or its  
35 employees, or carried by or provided through any insurance pool of which the Landlord is a



1 member, will be excess and not contributory insurance to that provided by the Tenant. The  
 2 Tenant is solely responsible for any deductible losses under its required insurance policies.

3           7.4     **Insurance Criteria.** Insurance policies required by this Lease will:

4           (i)     be issued by insurance companies licensed to do business in the State of Colorado  
 5 with general policyholder's ratings of at least A and a financial rating of at least XI in the most  
 6 current *Best's Insurance Reports* available at the time such insurance is to be procured; and

7           (ii)    provide that the insurance cannot be cancelled or materially changed in the scope  
 8 or amount of coverage unless 15 days' advance notice is given to the Landlord.

9           7.5     **Evidence of Insurance.** Prior to the commencement of this Lease, and on each  
 10 subsequent renewal or replacement of the required insurance policies, the Tenant must provide  
 11 to the Landlord a certificate of insurance evidencing compliance with the requirements of this  
 12 Section. All required insurance policies will be renewed or replaced and maintained by the  
 13 Tenant throughout the Term to assure continuous coverage. If the Tenant fails to give the  
 14 required insurance certificate within 10 days after notice or demand for it, such action will  
 15 constitute a default under this Lease, and the Landlord may then proceed as provided in Article  
 16 10 of this Lease, and/or the Landlord may obtain and pay for that insurance and receive  
 17 reimbursement from the Tenant, together with interest thereon at the rate of 12% per annum.

18           7.6     **Landlord's Building Insurance.** Throughout the Term the Landlord will, at its  
 19 expense, keep the Building insured against damage and destruction by fire, earthquake,  
 20 vandalism, and other perils in the amount of the full replacement value of the Building, as the  
 21 value may exist from time to time. The Tenant will reimburse the Landlord, as Additional  
 22 Rent, for any deductible loss paid by the Landlord arising from any loss to the Building caused  
 23 by the negligence or intentional act of the Tenant, or its agents, employees, contractors,  
 24 subcontractors or invitees, subtenants.

25                               **ARTICLE 8 - INDEMNIFICATION**

26           8.1     **Indemnification By Tenant.** The Tenant will indemnify and defend the  
 27 Landlord, its officers, employees, insurers, and self-insurance pool from all liability, claims, and  
 28 demands, on account of injury, loss, or damage, including, without limitation, claims arising  
 29 from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any  
 30 other loss of any kind whatsoever, arising out of or in any manner connected with this Lease or  
 31 the Tenant's use or possession of the Leased Premises pursuant to this Lease, except to the extent  
 32 that such liability, claim, or demand arises through the gross negligence or intentional wrongful  
 33 act of the Landlord, its officers, employees, or agents, or the Landlord's breach of this Lease. If  
 34 indemnification is required under this Section, the Tenant will investigate, handle, respond to,  
 35 and to provide defense for and defend against, any such liability, claims, or demands at its  
 36 expense, and bear all other costs and expenses related thereto, including court costs and attorney  
 37 fees.

1 8.2 **Survival.** The obligations of this Article 8 will survive the expiration or  
2 termination of this Lease, and will be fully enforceable by the Landlord thereafter.

3 **ARTICLE 9 - EMINENT DOMAIN**

4 9.1 **Eminent Domain.**

5 (a) The terms “**eminent domain**,” “**condemnation**”, and “**taken**” and related terms  
6 as used in this Section include any taking for public or quasi-public use and private purchases in  
7 lieu of condemnation by any authority authorized by applicable law to exercise the power of  
8 eminent domain.

9 (b) If the entire Leased Premises are taken by eminent domain, this Lease will  
10 automatically end on the earlier of:

11 (i) the date title vests; or

12 (ii) the date the Tenant is dispossessed by the condemning authority.

13 (c) If the taking of a part of the Leased Premises materially interferes with the  
14 Tenant’s ability to continue its business operations in substantially the same manner then the  
15 Tenant may terminate this Lease on the earlier of:

16 (i) the date when title vests;

17 (ii) the date the Tenant is dispossessed by the condemning authority; or

18 (iii) 60 days following notice to the Tenant of the date when vesting or dispossession  
19 is to occur.

20 (d) Any compensation or damages paid by a condemning authority will be divided  
21 between the Landlord and the Tenant as follows:

22 (i) the Tenant is entitled to that portion of the compensation or damages that  
23 represents the amount of the Tenant’s moving expenses, business dislocation damages, the  
24 Tenant’s personal property and fixtures, and the unamortized costs of leasehold improvements  
25 paid for by the Tenant; and

26 (ii) the balance of such compensation or damages belongs to the Landlord.

27 **ARTICLE 10 - DEFAULT**

28 10.1 **Default By Tenant.** The occurrence of any one or more of the following events  
29 will constitute a default and breach of the Lease by the Tenant:

30 (a) The vacating or abandonment of the Leased Premises by the Tenant.

1 (b) The failure by the Tenant to make any payment of rent or any other payment  
2 required to be made by the Tenant hereunder, as and when due, when such failure continues for a  
3 period of 10 days after service of written notice thereof by the Landlord to the Tenant.

4 (c) The failure by the Tenant to observe or perform any of the other covenants,  
5 conditions, or provisions of this Lease to be observed or performed by the Tenant, or to obey  
6 rules promulgated by the Landlord, within 10 days after service of written notice thereof by the  
7 Landlord to the Tenant. In the event of a non-monetary default that is not capable of being  
8 corrected within 10 days, the Tenant will not be default if it commences correcting the default  
9 within 10 days of service of a demand for compliance notice and thereafter corrects the default  
10 with due diligence.

11 (d) The making by the Tenant of any general assignment or general arrangement for  
12 the benefit of creditors; the filing by or against the Tenant of a petition to have the Tenant  
13 adjudged bankrupt, or a petition or reorganization or arrangement under any law relating to  
14 bankruptcy; the appointment of a trustee or a receiver to take possession of substantially all of  
15 the Tenant's assets located at the Leased Premises or of the Tenant's interest in this Lease; or the  
16 attachment, execution or other judicial seizure of substantially all of the Tenant's interest in this  
17 Lease.

18 10.2 **Landlord's Remedies Upon Default.** If the Tenant is in default under this  
19 Lease, the Landlord has all of the remedies provided for in such circumstances by Colorado law.

20 10.3 **Default By Landlord.** The Landlord will be in default under this Lease if the  
21 Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within 10  
22 days following service of written notice thereof by the Tenant. In the event of a non-monetary  
23 default that is not capable of being corrected within 10 days, the Landlord will not be default if  
24 the Landlord commences correcting the default within 10 days of receipt of notification thereof  
25 and thereafter corrects the default with due diligence.

26 10.4 **Tenant's Remedies Upon Default.** If the Landlord is in default under this Lease,  
27 the Tenant has all of the remedies provided for in such circumstances by Colorado law.

## 28 **ARTICLE 11 - NONDISTURBANCE**

29 11.1 **Quiet Enjoyment.** Subject to the terms and conditions of this Lease, the  
30 Landlord covenants that so long as there is no default in any of the covenants, conditions, or  
31 provisions of this Lease to be performed, observed, or kept by the Tenant, the Tenant will  
32 peaceably and quietly hold and enjoy the Leased Premises for the entire Term.

## 33 **ARTICLE 12 - LANDLORD'S RULES**

34 12.1 **Rules.** The Tenant will faithfully observe and comply with any rules and  
35 regulations promulgated by the Landlord with respect to the Leased Premises. The Landlord's  
36 rules and regulations must be reasonable, and may not unilaterally change or significantly alter

1 the material terms and conditions of this Lease. The rules and regulations, and any amendments  
2 thereto, will be binding upon the Tenant upon delivery to the Tenant.

3 **ARTICLE 13 - HAZARDOUS MATERIALS**

4 13.1 **Hazardous Materials - Defined.** As used in this Section, the term “**Hazardous**  
5 **Materials**” means any chemical, material, substance or waste:

6 (i) exposure to which is prohibited, limited, or regulated by any federal, state,  
7 county, regional or local authority, or other governmental authority of any nature; or

8 (ii) that, even if not so regulated, may or could pose a hazard to the health or safety of  
9 the occupants of the Leased Premises including, without limitation, any petroleum, crude oil (any  
10 fraction thereof), natural gas, natural gas liquids, and those substances defined as “hazardous  
11 substances”, “hazardous materials”, “hazardous wastes” or other similar designations in the  
12 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended,  
13 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section  
14 1801 et seq., and any other governmental statutes, laws, ordinances, rules, regulations, and  
15 precautions.

16 13.2 **Hazardous Materials - Prohibited.** The Tenant will full comply with all statutes,  
17 laws, ordinances, rules, regulations, and precautions now or hereafter mandated or advised by  
18 any federal, state, local, or other governmental agency with respect to the use, generation,  
19 storage, or disposal of Hazardous Materials. The Tenant will not cause, or allow anyone else to  
20 cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about the  
21 Leased Premises without the prior written consent of the Landlord, which consent may be  
22 revoked at any time. The Tenant’s indemnification of the Landlord pursuant to this Lease  
23 extends to all liability, including all foreseeable and unforeseeable consequential damages,  
24 directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous  
25 Materials at the Leased Premises by the Tenant, or any person claiming under the Tenant,  
26 including, without limitation, the cost of any required or necessary repair, cleanup, or  
27 detoxification and the preparation of any closure or other required plans, whether such action is  
28 required or necessary prior to or following the termination of this Lease, to the full extent that  
29 such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of  
30 Hazardous Materials by the Tenant or any person claiming under the Tenant; provided, however,  
31 the written consent by the Landlord to the use, generation, storage, or disposal of Hazardous  
32 Materials will excuse the Tenant from the Tenant’s obligation of indemnification. In the event  
33 the Tenant is in breach of the covenants herein, after notice to the Tenant and the expiration of  
34 the earlier of:

35 (i) the cure period provided in Section 10.1(c);

36 (ii) the cure period permitted under applicable law, regulation, or order,

1 then the Landlord may, in its sole discretion, declare a default under this Lease and/or cause the  
2 Leased Premises to be freed from the Hazardous Material and the cost thereof will be deemed  
3 additional rent hereunder and will immediately be due and payable from the Tenant. The  
4 obligations of the Tenant under this Section 13.1 will survive the expiration or termination of this  
5 Lease.

## 6 **ARTICLE 14 - TENANT'S OPTION TO PURCHASE**

7 **14.1 Seller and Buyer Defined.** As used in this Article 14 the Landlord is the  
8 “**Seller**” and the Tenant is the “**Buyer**.”

9 **14.2 Grant of Option To Purchase.** The Seller grants to the Buyer the exclusive,  
10 irrevocable right and option to purchase the Leased Premises, together with: (a) all minerals  
11 and mineral rights, if any, that are appurtenant to the Leased Premises; and (b) all rights-of-  
12 way and easements, if any, that are appurtenant to the Leased Premises (the “**Option**”). There  
13 are no water or water rights, ditch or ditch rights, well permits, or water storage rights  
14 appurtenant to the Leased Premises, and no water and water rights, ditch and ditch rights, well  
15 permits, or storage rights will be conveyed by the Seller to the Buyer in the event the Buyer  
16 exercises the Option. The Option is subject to the terms, conditions, and requirements of this  
17 Article 14.

18 **14.3 Term and Exercise of Option.** The Buyer must exercise the Option by giving  
19 written notice to the Seller not later than 5 years from the date of this Lease; provided,  
20 however, that the Buyer may not exercise the Option if, at the time of attempted exercise of the  
21 Option, the Buyer is in default under this Lease. To exercise the Option, the Buyer must deliver  
22 written notice to the Seller in accordance with Section 16.2 the Buyer may give notice of the  
23 exercise of the Option only once. By mutual agreement, the Parties may extend the deadline for  
24 the Buyer to exercise the Option.

25 **14.4 If Timely Notice of Exercise of The Option Is Given.** Upon the timely giving  
26 of notice of the exercise of the Option, the remaining provisions of this Article 14 will govern  
27 the closing of the sale and purchase of the Leased Premises. Such sale and purchase is hereafter  
28 referred to as the “**Closing**.”

29 **14.5 If Timely Notice of The Exercise of The Option Is Not Given.** Time is of the  
30 essence of this Article 14. Accordingly, it is agreed that if the Buyer fails, for any reason, to  
31 give timely notice of the exercise of the Option prior to the date specified in Section 14.3 the  
32 Option will terminate and each Party will be released from any further obligations under this  
33 Article 14. The termination of the Option will not affect the remainder of this Lease.

34 **14.6 Purchase and Sale of the Leased Premises.** On the Closing Date (as later  
35 defined in this Article 14) the Buyer will purchase the Leased Premises from the Seller, and the  
36 Seller will sell and convey the Leased Premises to the Buyer, all in accordance with and  
37 subject to the terms and conditions contained in this Article 14.

1           14.7 **Purchase Price.** The purchase price to be paid by the Buyer to the Seller for the  
2 Leased Premises (the “**Purchase Price**”) will be \$500,000.00.

3           14.8 **Payment of Purchase Price.** The Purchase Price will be paid to the Seller by  
4 the Buyer at Closing as follows:

5           (a) \$450,000.00 in the form of the execution of and delivery of the Buyer’s  
6 Promissory Note to the Seller (the “**Promissory Note**”). The Promissory Note will be secured by  
7 a Deed of Trust (the “**Deed of Trust**”) encumbering the Leased Premises.

8           (b) The balance of the Purchase Price will be paid in good funds as defined by  
9 Colorado law.

10           14.9 **The Note and Deed of Trust.**

11           (a) The Promissory Note will bear interest at the rate of 3.5% per annum if the Option  
12 is exercised within 5 years from the date of this Lease. If the Option is, by mutual agreement as  
13 described in Section 14.3, exercised more than 5 years from the date of this Lease, the Parties at  
14 such time must negotiate a mutually acceptable interest rate for the Promissory Note.

15           (b) The Promissory Note will be payable by the Buyer to the Seller as follows:

16           (i) annual interest-only payments will be paid to the Seller, without demand, on the  
17 first, second, third, fourth, and fifth anniversaries of the date of the Promissory Note; then

18           (ii) the entire unpaid principal balance of the Promissory Note will be amortized on  
19 the basis of a thirty year loan. Commencing 6 years after the anniversary of date of the  
20 Promissory Note, and continuing annually thereafter on the same calendar date, the Buyer will  
21 make equal amortized payments to the Seller (each payment including principal and interest);  
22 and

23           (iii) the entire unpaid balance of the Promissory Note, both principal and interest, will  
24 be due and payable without demand in **ONE BALLOON PAYMENT** 12 years after the date of  
25 the Promissory Note. The Seller is under no obligation to refinance or extend the balloon  
26 payment.

27           (c) The default interest rate on the Promissory Note will be 12% per annum.

28           (d) The Promissory Note may be prepaid in whole or part at any time without  
29 penalty. Any partial prepayment of principal will be credited against the next maturing  
30 installment or installments due under the Promissory Note.

31           (e) The Deed of Trust will be a first and prior lien on the Leased Premises, subject  
32 only to:

33           (i) the lien of the general property taxes for the year of Closing; and

1 (ii) the Permitted Exceptions (as later defined in this Article 14).

2 The Seller is not obligated to subordinate the Deed of Trust to any lien or encumbrance.

3 (f) The Buyer will not be in default under the Promissory Note and Deed of Trust  
4 until 30 days after written notice of default has been given to the Buyer specifically setting forth  
5 the claimed default, and such default remains uncured at the expiration of such 30 day period.

6 (g) The Deed of Trust will contain a “due on sale clause” pursuant to which the entire  
7 unpaid balance of the Promissory Note will immediately become due and payable if the Leased  
8 Premises, or any portion thereof, is sold or transferred by the Buyer without the Promissory Note  
9 having been paid in full.

10 14.10 **Closing Date.** The sale of the Leased Premises to the Buyer will be closed at the  
11 offices of Land Title Guarantee Company – Breckenridge office (“**Title Company**”), 200 North  
12 Ridge Street, Breckenridge, Colorado, on or before the expiration of 60 days after the timely  
13 exercise of the Option by the Buyer (the “**Closing Date**”). The Parties will mutually agree on the  
14 Closing Date and time of Closing, but if the Parties are unable to agree, the Closing Date and  
15 time of Closing will be established by the Title Company. The Closing Date may be extended by  
16 mutual agreement of the Parties.

17 14.11 **Closing Costs.** At Closing, the Buyer will pay the cost of recording the deed  
18 conveying the Leased Premises to it. The Seller will pay the cost of the title insurance premium,  
19 and tax certificate. Each Party will pay one-half of the reasonable cost of closing services  
20 charged by the Title Company. Otherwise, each Party will pay the usual and customary closing  
21 costs.

22 14.12 **No Tax Apportionment.** The Leased Premises have been tax-exempt while  
23 owned by the Seller. Accordingly, no apportionment of real property taxes will be made at  
24 Closing. The Buyer will pay at Closing any taxes lawfully levied against its use of the Leased  
25 Premises based upon this Lease (if the Lease is determined by the Summit County Assessor to be  
26 a taxable possessory interest under state law.)

27 14.13 **Title Insurance.**

28 (a) Within 30 days from the date of the Buyer’s timely notice of the exercise of the  
29 Option the Seller will obtain and deliver to the Buyer, at the Seller’s expense, a certificate of  
30 taxes due on the Leased Premises and a current title insurance commitment (“**Commitment**”)  
31 issued by the Title Company. The Commitment will include legible copies of all instruments  
32 referred to in the Commitment. The Commitment will not provide for the deletion of all standard  
33 printed exceptions of Schedule B-2 thereof.

34 (b) All items on the Commitment will be permitted title exceptions (“**Permitted**  
35 **Exceptions**”) unless the Buyer notifies the Seller within 20 days of receipt of the Commitment  
36 of any particular item(s) to which the Buyer objects. If the Buyer gives the Seller timely notice of

1 a title objection then the Seller will have 15 days within which to remove such exceptions, or to  
2 notify the Buyer that it is unable or unwilling to remove such exceptions, in which case the  
3 Buyer may elect to terminate the Option, or accept such exceptions and proceed to close the  
4 transaction.

5 (c) After Closing, the Seller will obtain and deliver to the Buyer, at the Seller's  
6 expense, a title insurance policy for the Leased Premises in the amount of the Purchase Price  
7 showing fee simple absolute title being vested in the Buyer, subject only to the Permitted  
8 Exceptions.

9 14.14 **Survey.** Prior to Closing Buyer shall obtain a monumented boundary survey of  
10 the Leased Premises from a registered land surveyor in Colorado acceptable to both Seller and  
11 Buyer. The survey shall be a document of title and shall be subject to the provisions of Section  
12 14.12 of this Contract. At Closing, the Buyer and Seller shall each pay one-half (1/2) of the actual  
13 cost of the survey. If, for any reason, Closing does not occur then Seller shall pay the entire cost  
14 of the survey and shall be entitled to retain as its sole property the survey plat and any other  
15 documents prepared by the surveyor in connection with the preparation of the survey.

16 14.15 **Conveyance of the Leased Premises.** On the Closing Date, the Seller will  
17 convey to the Buyer marketable fee simple absolute title to the Leased Premises, subject only to  
18 the Permitted Exceptions. Such conveyance will be by special warranty deed.

19 14.16 **Comcast Lease.**

20 (a) The Parties acknowledge that as of the date of this Lease a portion of the Leased  
21 Premises (consisting of approximately 0.51 acres, more or less, and described and depicted on  
22 the attached **Exhibit "B"** )(the "**Head-End Property**") is subject to that Lease between the  
23 Seller and Universal Cable Communications Inc. d/b/a Classic Cable (now "Comcast") dated  
24 September 7, 1999 (the "**Existing Comcast Lease**"). The term of the Existing Comcast Lease  
25 will expire during the Term, and it is anticipated by the Parties that a new lease agreement for the  
26 Head-End Property will be negotiated as part of the Seller's renewal of the Comcast cable  
27 television franchise (the "**New Comcast Lease**"). Regardless of whether the Buyer has exercised  
28 the Option and acquired the Leased Premises before the New Comcast Lease is negotiated, the  
29 Buyer acknowledges that it is important to the Seller that the Seller has both the right to  
30 negotiate and control the terms under which the Head-End Property is leased to Comcast.

31 Accordingly, in order to clarify the Parties' rights and responsibilities under both the  
32 Existing Comcast Lease and the potential New Comcast Lease, the Parties agree as follows:

33 (i) **Rent Collected Under Existing Comcast Lease.** The following provisions apply  
34 to rent collected under the Existing Comcast Lease:

35 (A) Rent collected under the Existing Comcast Lease prior to the conveyance of the  
36 Leased Premises to the Buyer will be the sole property of the Seller.



1 (B) Rent collected under the Existing Comcast Lease after the conveyance of the  
2 Leased Premises to the Buyer will be the sole property of the Buyer; provided, however, Buyer  
3 will use the rent collected from the Existing Comcast Lease for the programming of its activities.  
4 If the amount of the monthly rent payable under the Existing Lease is increased without a New  
5 Comcast Lease being executed, the first \$1,500.00 of monthly rent shall be the sole property of  
6 the Buyer and any remaining amount of monthly rent shall be the sole property of the Seller.

7 (ii) **Terms and Conditions of New Comcast Lease.** The following provisions apply to  
8 the terms and conditions of the New Comcast Lease:

9 (A) If the New Comcast Lease is negotiated while the Seller owns the Leased  
10 Premises, the Seller will consult with the Buyer before entering into the New Comcast Lease;  
11 however, the Seller will have the sole right and authority to negotiate the terms and conditions of  
12 the New Comcast Lease, including, but not limited to, the amount of rent to be paid by Comcast  
13 under the New Comcast Lease. Notwithstanding the preceding sentence, however, the Seller will  
14 use its best efforts to attempt to negotiate a monthly rent under the New Comcast Lease that will  
15 not be less than the monthly rent payable under the Existing Comcast Lease.

16 (B) If the New Comcast Lease is negotiated after the Buyer acquires the Leased  
17 Premises pursuant to this Article 14, the Buyer will not enter into the New Comcast Lease  
18 without the prior, written consent of the Seller. The requirements of the preceding sentence are  
19 specifically enforceable. It is the intent of this subsection that notwithstanding the conveyance of  
20 the Leased Premises to the Buyer pursuant to this Contact, the Seller will have the sole right and  
21 authority to negotiate the substantive terms and conditions of the New Comcast Lease, including,  
22 but not limited to, the amount of rent to be paid by Comcast under the New Comcast Lease.  
23 Notwithstanding the preceding sentence, however, the Parties will use their best efforts to  
24 attempt to negotiate a monthly rent under the New Comcast Lease that will not be less than the  
25 monthly rent payable under the Existing Comcast Lease.

26 (iii) **Rent Collected Under New Comcast Lease.** The following provisions apply to  
27 rent collected under the New Comcast Lease:

28 (A) During the time that the Seller owns the Leased Premises, all of the rent collected  
29 under the New Comcast Lease will be the property of the Seller.

30 (B) If during the term of the New Comcast Lease Buyer acquires title to the Property  
31 pursuant to this Article 14, any monthly rent collected during the term of the New Comcast  
32 Lease, not to exceed the sum of \$1,500.00 each month, will be the property of the Buyer. The  
33 remainder of the monthly rent (if any) will be the property of the Seller. Buyer will remit to  
34 Seller any amount of monthly rent collected under the New Comcast Lease that is in excess of  
35 \$1,500.00.

36 (C) After the conveyance of the Leased Premises to the Buyer, all of the rent collected  
37 under the New Comcast Lease will be the property of the Buyer; provided, however, Buyer will  
38 use the rent collected from the New Comcast Lease for the programming of its activities.

1 If the New Comcast Lease is not successfully negotiated, the provisions of this Subsection (iii)  
2 will be null, void, and of no effect.

3  
4 (iv) **Acceptance of Title Subject to Lease.** The Buyer will accept title to the Leased  
5 Premises subject to the Existing Comcast Lease, or the New Comcast Lease, whichever is  
6 applicable.

7 (b) **Resubdivision and Exclusion.** If Buyer gives timely notice of the exercise of the  
8 Option, Seller, at its sole option and election, may resubdivide the Property prior to Closing so  
9 that the Head-End Property is a separate legal parcel. Seller will pay all costs associated with  
10 such resubdivision. If the Property is resubdivided as provided in this Subsection (f): (i) the  
11 Head-End Property will be excluded from the Option; (ii) the Head-End Property will not be  
12 conveyed to Buyer pursuant to this Contact; and (iii) there will be no adjustment to the Purchase  
13 Price. Provided, however, that if the Head-End Property is resubdivided and excluded from the  
14 Option any monthly rent collected by Seller during the term of the New Comcast Lease, not to  
15 exceed the sum of \$1,500.00 each month, will be the property of the Buyer and when collected  
16 will be paid by Seller to Buyer. The remainder of the monthly rent (if any) will be the property  
17 of the Seller.

18 14.17 **Seller's General Disclaimer.** The Buyer acknowledges that the Leased  
19 Premises will be conveyed and transferred at Closing **"AS IS", "WHERE IS", and "WITH**  
20 **ALL FAULTS"**, and that the Seller does not warrant or make any representations, express or  
21 implied, relating to the **MERCHANTABILITY**, quality, condition, suitability, or **FITNESS**  
22 **FOR ANY PURPOSE WHATSOEVER** of the Leased Premises. The Seller will have no  
23 liability to undertake any repairs, alterations, removal, remedial actions, or other work of any  
24 kind with respect to any portion of the Leased Premises. The Buyer also acknowledges and  
25 agrees that by virtue of its possession of the Leased Premises pursuant to this Lease (as well as  
26 the prior Lease described in Section 16.9), the Buyer is able to make the Buyer's own  
27 determination concerning the merchantability, quality, condition, and suitability, or fitness for  
28 any purpose of the Leased Premises.

29 14.18 **Environmental Condition of the Leased Premises.**

30 (a) **Seller's Environmental Disclaimer.** In connection with the sale of the Leased  
31 Premises the Seller will make no warranty or representation concerning the environmental  
32 condition of the Leased Premises (including, without limitation, land, surface water, ground  
33 water, air, and any improvements). Without limiting the generality of the preceding sentence, the  
34 Seller will specifically disclaim any and all warranties or representations with respect to the  
35 location or presence on the Leased Premises of:

36 (i) any "hazardous water", "underground storage tanks", "petroleum", "regulated  
37 substance", or "used oil" as defined by the Resource Conservation and Recovery Act of 1976 (42  
38 U.S.C. §§6901, et seq.), as amended, or by any regulations promulgated thereunder;

39 (ii) any "hazardous substance" as defined by the Comprehensive Environmental

1 Response, Compensation and Liability Act of 1980 (42 U.S.C. §§9601, et seq.), as amended, or  
2 by any regulations promulgated thereunder (including, but not limited to, asbestos and radon);

3 (iii) any “petroleum” and “fuel products”, as defined by Section 25-15-101 et seq.,  
4 C.R.S., as amended, or by any regulations promulgated thereunder;

5 (iv) any “hazardous waste” as defined by the Colorado Hazardous Waste Act, Section  
6 25-15-101, et seq., C.R.S., or by any regulations promulgated thereunder;

7 (v) any substance the presence of which on, in or under the Leased Premises is  
8 prohibited or regulated by any law similar to those set forth above; and

9 (vi) any other substance that by law, regulation or ordinance requires special handling  
10 in its collection, storage, treatment or disposal.

11 (b) **Buyer’s Waiver of Environmental Claims Against the Seller.** At Closing the  
12 Buyer will execute and deliver to the Seller a written waiver of any claims that the Buyer may  
13 have or in the future acquire against the Seller with respect to the known or unknown  
14 environmental condition of the Leased Premises, including, without limitation, claims arising  
15 under federal and state statutory law, and claims under the common law, including, without  
16 limitation, claims for fraud or misrepresentation with respect to the environmental condition of  
17 the Leased Premises. The form of such wavier will be subject to the reasonable approval of the  
18 Seller’s counsel. The execution and delivery of such documentation will be a condition precedent  
19 to the Seller’s obligations to convey the Leased Premises to the Buyer.

20 14.19 **Special Restrictive Covenants To Be Contained In Deed For Leased**  
21 **Premises.** The Seller’s deed conveying the Leased Premises to the Buyer will contain the  
22 special restrictive covenants contained in this Section. Each restrictive covenant will run with the  
23 land, and will be specifically enforceable by the Seller. The form of the restrictive covenant will  
24 be subject to the reasonable approval of counsel for both the Seller and the Buyer. The special  
25 restrictive covenants to be contained in the deed are as follows:

26 (i) throughout its ownership of the Leased Premises the Buyer will continue to use its  
27 best efforts to identify other non-profit entities whose anticipated space needs and the use of the  
28 Leased Premises would be compatible with the Buyer’s use of the Leased Premises, and to  
29 considering leasing portions of the Leased Premises to such entities.

30 (ii) at the Seller’s option and election, the Seller may continue to occupy and use its  
31 existing “Computer Technology Facilities” located on the Leased Premises as shown on **Exhibit**  
32 **“B”** pursuant to a written lease to be executed by the Buyer and the Seller that provides that the  
33 Seller may continue to use the Computer Technology Facilities without payment of rent or other  
34 cost.

35 (iii) for a period of 10 years after Closing, if the Buyer moves its principal office to a  
36 location outside the corporate limits of the Town of Breckenridge, Colorado the Buyer will,

1 within 30 days after such relocation, offer to sell the Leased Premises to the Seller in accordance  
2 with Article 15 of this Lease. The price at which the Leased Premises will be offered to the  
3 Seller will be equal to:

4 (A) the Purchase Price paid by the Seller to the Buyer, plus;

5 (B) an amount calculated by multiplying the Purchase Price times the increase (if any)  
6 in the Consumer Price Index for All Urban Consumers (CPI-U) for All Items for the Denver-  
7 Boulder, Colorado area produced by the Bureau of Labor Statistics, or any successor index, from  
8 the date of Closing until the date of the offer, plus

9 (C) the actual cost of physical improvements made to the Leased Premises during  
10 such time period.

11 14.20 **Termination of Existing Lease.** At Closing, the Parties will execute a  
12 document in recordable form sufficient to terminate the existing Lease for the Leased Premises.

### 13 **ARTICLE 15 - RIGHT OF FIRST OFFER**

14 15.1 **Seller and the Buyer Defined.** As used in this Article 15 the Landlord is the  
15 “**Seller**” and the Tenant is the “**Buyer**.”

16 15.2 **Applicability; Reference in Deed.** This Article will apply only if the Buyer has  
17 acquired the Leased Premises pursuant to Article 14. The provisions of this Article 15 will be  
18 included in the Seller’s deed conveying the Leased Premises to the Buyer.

19 15.3 **Leased Premises – Defined.** As used in this Article 15, the “**Leased**  
20 **Premises**” includes all or any portion of the Leased Premises.

21 15.4 **Right of First Offer.** The Buyer will not sell the Leased Premises without first  
22 offering the Leased Premises to the Seller provided in this Article 15. This Article 15 creates a  
23 specifically enforceable right of first offer to repurchase the Leased Premises in favor of the  
24 Seller.

25 15.5 **Procedure to Comply With Right of First Offer.** The right of first offer  
26 created by this Article 15 will be honored by the Buyer and exercised by the Seller in the  
27 following manner:

28 (i) If the Buyer desires to sell the Leased Premises, the Buyer will first send a written  
29 offer (“**Offer**”) to the Seller by certified mail, return receipt requested, addressed to P.O. Box  
30 168, Breckenridge, Colorado 80424, or at any other mailing address for the Seller then shown on  
31 the Town of Breckenridge website (<http://www.townofbreckenridge.com>). Alternatively, the  
32 Offer may be personally delivered to the Town Manager. The Offer will have been properly  
33 served on the Seller in accordance with this Article 15 when it is delivered to the Town Manager,  
34 or upon the Seller’s receipt of the Offer if the Offer is served by mail, whichever is applicable.

1 (ii) An Offer must describe the portion of the Leased Premises proposed to be sold,  
2 and state a specified price and all principal terms and conditions of the proposed sale. The Offer  
3 must also set forth the Buyer's then-current mailing address to which any notice of acceptance of  
4 the Offer may be delivered.

5 (iii) If the Seller desires to accept the Offer, the Seller must notify the Buyer in writing  
6 of such acceptance within 30 days of the date of service of the Offer upon the Seller. Notice of  
7 the Seller's acceptance of the Offer must either be personally delivered to the Buyer, or sent by  
8 certified mail, return receipt requested, to the Buyer at the mailing address set forth in the Offer.  
9 A notice of acceptance is valid and effective when personally delivered to the Buyer, or when  
10 mailed to the Buyer at the mailing address set forth in the Offer, whichever is applicable.

11 (iv) If the Seller fails give timely written notice of acceptance of the Offer within the  
12 30 day period, the Buyer may, within 180 days after the expiration of the 30 day period  
13 described above, sell the Leased Premises upon terms and conditions that are substantially  
14 similar to those in the Offer, but not for a price that is less than 100% of the sale price described  
15 in the Offer. Such sale may be made free and clear of the right of first offer provided for in this  
16 Article 15; provided, however, that the contract between the Seller and the purchaser must  
17 include language mutually agreeable to both the Buyer herein and the Seller limiting the use of  
18 the Leased Premises to uses that are compatible with the adjoining neighborhood's primary  
19 residential character. In this regard, the Parties agree to work together in good faith so as to serve  
20 the Seller's valid planning interests without impairing the Buyer's ability to realize financial gain  
21 commensurate with the then-prevailing market conditions. If the Leased Premises are not sold  
22 within such 180-day period, any subsequent sale of the Leased Premises is subject to the  
23 requirement that a new Offer be given to the Seller in accordance with this Article 15.

24 (v) If the Seller accepts the Offer, then the Buyer and the Seller will negotiate in good  
25 faith and attempt to reach a commercially reasonable contract for the purchase and sale of the  
26 Leased Premises. If the Seller and the Buyer sign a contract for the purchase and sale of the  
27 Leased Premises, the rights and responsibilities of the Parties will be as set forth in the contract.  
28 If the Seller and the Buyer have not signed a bona fide contract for the sale and purchase of the  
29 Leased Premises within 30 days after the giving of timely notice of acceptance of the Offer by  
30 the Seller, the Buyer may sell the Leased Premises to any Party upon terms and conditions that  
31 are substantially similar to those in the Offer, but not for a price that is less than 100% of the  
32 Offer. Such sale may be made free and clear of the right of first offer provided for in this Article  
33 15.

34 (vi) The provisions of this Article 15 are specifically enforceable by the Seller.

## 35 **ARTICLE 16 - MISCELLANEOUS**

36 16.1 **Attorneys Fees/Costs.** If any action is brought in a court of law by either Party  
37 to this Lease concerning the enforcement, interpretation, or construction of this Lease, the  
38 prevailing Party, either at trial or upon appeal, will be entitled to reasonable attorney's fees, as

1 well as costs, including expert witness' fees, incurred in the prosecution or defense of such  
2 action.

3           16.2 **Notices.** All notices required or permitted under this Lease must be given by  
4 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial  
5 carrier delivery, or by telecopies directed as follows:

6           If intended for the Landlord to:

7  
8           Town of Breckenridge  
9           P.O. Box 168  
10           150 Ski Hill Road  
11           Breckenridge, Colorado 80424  
12           Attn: Town Manager  
13           Telecopier number: (970)547-3104  
14           Telephone number: (970)453-2251  
15

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

17  
18           Timothy H. Berry, Esq.  
19           Timothy H. Berry, P.C.  
20           131 West 5th Street  
21           P. O. Box 2  
22           Leadville, Colorado 80461  
23           Telecopier number: (719)486-3039  
24           Telephone number: (719)486-1889  
25

26           If intended for the Tenant, to:

27  
28           Breckenridge Outdoor Education Center  
29           P.O. Box 697  
30           Breckenridge, CO 80424  
31           Telecopier number: (970)453-4676  
32           Telephone number: (970)453-6422  
33

34 Any notice delivered by mail in accordance with this Section will be effective on the second  
35 business day after the same is deposited in any post office or postal box regularly maintained by  
36 the United States postal service. Any notice delivered by telecopier in accordance with this  
37 Section will be effective upon receipt if concurrently with sending by telecopier receipt is  
38 confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt  
39 requested, on the same day to that intended recipient. Any notice delivered by hand or  
40 commercial carrier will be effective upon actual receipt. Either Party, by notice given as above,  
41 may change the address to which future notices may be sent.  
42

1           16.3   **Incorporation of Exhibits.** The attached Exhibit “A” and Exhibit “B” are  
2 incorporated into this Lease by reference.

3           16.4   **Warning Concerning Special Taxing Districts.** SPECIAL TAXING DISTRICTS  
4 MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES  
5 PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS.  
6 LEASED PREMISES OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED  
7 MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT  
8 WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO  
9 DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. THE BUYER  
10 SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL  
11 OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT  
12 SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL  
13 LEVIES.

14           16.5   **Additional Instruments.** The Parties will deliver or caused to be delivered  
15 upon request such additional documents and instruments as may be required to accomplish the  
16 intent of this Lease.

17           16.6   **Waiver.** The failure of either Party to exercise any of its rights under this  
18 Agreement shall not be a waiver of those rights. A Party waives only those rights specified in  
19 writing and signed by the party waiving such rights.

20           16.7   **Time of the Essence.** Time is of the essence under this Lease for the  
21 performance and observance of all obligations of the Landlord and the Tenant hereunder, and  
22 all provisions of this Lease are to be strictly construed.

23           16.8   **Severability.** If any provision of this Lease are held invalid or unenforceable,  
24 the remainder of this Lease will not be affected thereby, it being the intent of the Parties that  
25 the provisions of this Lease will be enforceable to the fullest extent permitted by law. There  
26 will be substituted for any invalid or unenforceable provision a valid and enforceable provision  
27 as similar as possible to the invalid provision.

28           16.9   **Integration.** This Lease constitutes the entire agreement between the Parties  
29 with regard to the Leased Premises, and any extrinsic covenants, agreements, representations,  
30 warranties, conditions, or terms are superseded hereby and are no force or effect. Without  
31 limiting the generality of the preceding sentence, within 30 days of the date of this Lease the  
32 Parties agree to execute and record with the Summit County Clerk and Recorder appropriate  
33 documentation terminating: (a) the Lease for the Leased Premises dated July 10, 2001 and  
34 recorded November 9, 2001 at Reception No. 667684 of the records of the Clerk and Recorder  
35 of Summit County, Colorado (as amended by that Amendment to Lease dated August 28,  
36 2001 and recorded November 9, 2001 at Reception No. 667685 of the records of the Clerk and  
37 Recorder of Summit County, Colorado); and (b) the Option Agreement pertaining to the  
38 Leased Premises recorded March 25, 2011 at Reception No. 962971 of the records of the Clerk  
39 and Recorder of Summit County, Colorado.

1           16.10 **Brokerage Commission.** The Landlord and the Tenant mutually warrant and  
2 represent to one another that neither of them has incurred any liability arising by, through, or  
3 under that Party for the payment of any brokerage fee or commission in connection with the  
4 transaction contemplated herein. If either of the Parties breaches the foregoing warranty and  
5 representation, it will be liable to the other Party for any damage, liability, loss, claim or  
6 expense, including attorneys' fees, suffered by the other Party as a result of such breach. The  
7 liable Party will pay to the other Party such sums as are due and owing pursuant to the  
8 foregoing within 30 days after demand by the other Party.

9           16.11 **Authority.** The person signing this Lease for the Landlord represents and  
10 warrants to the Tenant that the Landlord has all inherent legal power and authority requisite to  
11 entering into this Lease; has taken all action necessary to authorize the execution of this Lease  
12 and to perform and satisfy the transactions and obligations contained herein; and has duly  
13 authorized the signatory to execute and deliver this Lease on behalf of the Landlord. The  
14 person signing this Lease for the Tenant represents and warrants to the Landlord that the  
15 Tenant has all inherent legal power and authority requisite to entering into this Lease; has taken  
16 all actions necessary to authorize the execution and delivery of this Lease and to perform and  
17 satisfy the transactions and obligations contained herein; and has duly authorized the signatory  
18 to execute and deliver this Lease on behalf of the Tenant.

19           16.12 **Force Majeure Events.** Except to the extent otherwise expressly provided by  
20 this Lease, if either the Landlord or the Tenant is delayed in the performance of any act  
21 required under this Lease by reason of strikes, boycotts, labor dispute, embargoes, shortages of  
22 materials, acts of God, acts of the public enemy, acts of superior governmental authority,  
23 weather conditions, floods, riots, rebellion, terrorism, sabotage, or any other circumstance for  
24 which such Party is not responsible or that is not in its power to control, the time for the  
25 performance of any such act will be extended for a period equivalent to the period of such  
26 delay. Notwithstanding any indications to the contrary contained in the foregoing, Force  
27 Majeure Events do not include: (a) any financial incapacities or burdens suffered by either  
28 Party; (b) the effect of laws and regulations or the application and enforcement of the same by  
29 any governmental entity, or (c) a failure of timely performance by an agent or contractor of  
30 either Party. The application of Force Majeure Events is subject to the express limitations  
31 thereon contained in the other provisions of this Lease.

32           16.13 **Recording.** A fully signed copy of this Lease **MAY** be recorded in the real  
33 property records of the Clerk and Recorder of Summit County, Colorado.

34           16.14 **"Day" Defined.** Unless otherwise indicated, the term "day" means a calendar day  
35 (and not a business day).

36           16.15 **"Will" or "Will Not" Defined.** "Will" or "will not" indicates a mandatory  
37 obligation to act or to refrain from acting as specifically indicated in the context of the sentence  
38 in which such word is used.



1           16.16 **Amendment.** This Lease may not be modified except by a written Lease signed  
2 by both the Landlord and the Tenant. Oral modifications of this Lease are not permitted.

3           16.17 **Captions.** The headings of the sections and paragraphs contained in this Lease are  
4 for convenience only and do not define, limit, or construe the contents of the articles, sections  
5 and paragraphs.

6           16.18 **Advances By the Landlord For the Tenant.** If the Tenant fails to do anything  
7 required to be done by it under the terms of this Lease (other than a failure to make the payments  
8 to the Landlord herein required) the Landlord may, at its sole option, but without any obligation  
9 to do so, do or perform such act or thing on behalf of the Tenant, and in doing so the Landlord  
10 will not be deemed to be a volunteer; provided, however, that before exercising its rights under  
11 this Section the Landlord must give notice to the Tenant as provided in Section 16.2, and afford  
12 the Tenant not less than 5 days from the giving of such notice within which to do or perform the  
13 act required by the Tenant. Upon notification to the Tenant of the costs incurred by the Landlord  
14 the Tenant will promptly pay to the Landlord the full amount of costs and/or expenses incurred  
15 by the Landlord pursuant to this Section, together with interest thereon at the rate of 12% per  
16 annum.

17           16.19 **Governmental Immunity.** In entering into this Lease the Landlord is relying on,  
18 and does not waive or intend to waive by any provision of this Lease, the monetary limitations  
19 (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities,  
20 and protections provided by the Act, as from time to time amended, or any other limitation, right,  
21 immunity or protection otherwise available to the Landlord, its officers, or its employees.

22           16.20 **No Adverse Construction Based On Authorship.** Each of the parties stipulate  
23 and agree that it had the opportunity to participate in the drafting of this Lease. This Lease is not  
24 to be construed against either Party by virtue of such Party having drafted this Lease.

25           16.21 **Landlord's Consent.** Except as otherwise expressly provided to the contrary in  
26 this Lease, wherever in this Lease it is provided that some act requires the Landlord's prior  
27 consent, such consent will not be unreasonably withheld by the Landlord.

28           16.22 **Third Parties.** There are no third Party beneficiaries of this Lease.

29           16.23 **Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of  
30 Colorado will govern the interpretation, validity, performance, and enforcement of this Lease.  
31 Any litigation brought to interpret or enforce this Lease will be commenced in Summit County,  
32 Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE,  
33 INTERPRET, OR CONSTRUE THIS AGREEMENT.**

34           16.24 **No Partnership.** The Landlord is not a partner, associate, or joint venturer of the  
35 Tenant in the conduct of the Tenant's business at the Leased Premises. The Tenant is an  
36 independent contractor without the right or authority to impose tort or contractual liability upon  
37 the Landlord.



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ATTEST:

\_\_\_\_\_  
It's Secretary

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Timothy J. Gagen, Town Manager, and \_\_\_\_\_, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_.

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

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STATE OF COLORADO )  
 ) ss.  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, as President and \_\_\_\_\_, as Secretary, of Breckenridge Outdoor Education Center, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_.

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

Exhibit "A"

**LEGAL DESCRIPTION OF LICENSED PREMISES**

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**[TO BE INSERTED]**

Exhibit "A"

Exhibit "B"

**HEAD-END PROPERTY**

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**[TO BE INSERTED]**

Exhibit "B"



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## MEMORANDUM

**TO:** Town Council

**FROM:** Chris Neubecker, Current Planning Manager

**DATE:** April 15, 2013 (For Meeting April 23, 2013)

**SUBJECT:** Amendment to Development Code Concerning Moving Historic Structures

---

Attached for first reading is an ordinance concerning moving historic structures. On April 9, 2013 staff presented this policy change to the Town Council, and the Council directed staff to move forward with the proposed policy. The policy change responds to concerns raised by Town Council and Planning Commission about the current policy for assigning negative points to projects where historic structures are proposed to move, which in some cases may discourage new development and some historic preservation projects.

The proposed ordinance is intended to create more flexibility for moving structures by small amounts. The policy also discourages large moves through increased negative points, as well as negative points for changing the orientation of a building. Flexibility is provided to the Planning Commission to waive negative points in cases where the structure can be preserved by moving the structure and in cases where structures currently encroach over property lines. Finally, the policy breaks apart both the positive and negative points for primary and secondary structures, making the potential point allocation more evident to applicants.

The key changes to the policy include:

- No negative points for moving secondary structures less than five feet (5')
- Increased negative points for moving primary structures more than five feet (5')
- Negative points assigned separately for moving structures. This should help applicants more clearly understand when negative points will be assigned.
- Prohibit moving historic structures to another lot, unless a variance is granted.
- Negative points for changing the orientation of a structure (rotating the structure)
- Consideration of public safety and improved "save ability" of the structure when assigning points
- New language to clarify that points will be assigned by the Planning Commission based on the significance of the structure, visibility and size, to provide additional flexibility.
- Above Ground Density policy is moved to Policy 24, to keep all Historic District policies together.

Staff and the Town Attorney will be available to answer questions and receive your feedback during the meeting on Tuesday.

1 ***FOR WORKSESSION/FIRST READING – APRIL 23***

2  
3 Additions To The Current Breckenridge Town Code Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6 COUNCIL BILL NO. 14

7  
8 Series 2013

9  
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE  
11 TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE,”  
12 CONCERNING MOVING HISTORIC STRUCTURES

13  
14 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
15 COLORADO:

16  
17 Section 1. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of  
18 the following two definitions:

**PRIMARY STRUCTURES:**

**The main buildings or structures on a lot which gives the site its unique character, and were historically the most important buildings on the site. In most cases, the primary structures shall be the largest structures on the property, and generally were located near the front portion of the lot, closer to the street. Primary structures are generally more ornate with more architectural detail. Examples of primary structures include the main residence, or main commercial building, as opposed to sheds, outhouses, and barns which are secondary structures in most instances.**

**SECONDARY STRUCTURES:**

**Buildings whose uses were historically ancillary to the primary use of the site. These include storage buildings such as sheds, outhouses and barns, which were typically smaller than the primary structure and usually located at the rear of the lot. These buildings were usually simpler in**

MOVING HISTORIC STRUCTURES ORDINANCE



**design than primary structures, were often not painted and were clad in lower quality materials.**

1  
2       Section 2. Subsection (B) of Section 9-1-19-5A of the Breckenridge Town Code, entitled  
3 “Policy 5 (Absolute) Architectural Compatibility” is repealed.

4       Section 3. Section 9-1-195R of the Breckenridge Town Code, entitled “Policy 5  
5 (Relative) Architectural Compatibility”, is amended to read in its entirety as follows:

6           9-1-19-5R: POLICY 5 (RELATIVE) ARCHITECTURAL COMPATIBILITY:  
7

8       The town hereby finds that excessive similarity, dissimilarity, or poor quality  
9 design of any building adversely affects the desirability of the immediate area and  
10 the community as a whole, and by so doing impairs the benefits of existing  
11 property owners, the stability and value of real property, produces degeneration of  
12 property with attendant deterioration of conditions affecting health, safety, and  
13 general welfare of the community, and destroys a proper relationship between the  
14 taxable value of real property and the cost of municipal services provided  
15 therefor. Features of design include, but are not limited to, size, shape, scale,  
16 proportions, solid to void ratios, texture, pattern and color of materials, and  
17 architectural elements and details.  
18

19       3 x (-2/+2)   A. General Architectural And Aesthetic Compatibility: All proposed  
20 new developments, alterations, or additions are strongly encouraged to be  
21 architecturally compatible with the general design criteria specified in the land  
22 use guidelines. It is strongly encouraged that cut and fill slopes be kept to a  
23 minimum, and that the site, when viewed from adjacent properties, be integrated  
24 into its natural surroundings as much as possible. In addition, excessive similarity  
25 or dissimilarity to other structures existing, or for which a permit has been issued,  
26 or to any other structure included in the same permit application, facing upon the  
27 same or intersecting streets within the same or adjacent land use districts is  
28 discouraged. This **sub**section **A** only applies to areas outside of the historic  
29 district.  
30

31       Exterior building materials and colors should not unduly contrast with the site’s  
32 background. The use of natural materials, such as logs, timbers, wood siding and  
33 stone, are strongly encouraged because they weather well and reflect the area’s  
34 indigenous architecture. Brick is an acceptable building material on smaller  
35 building elements, provided an earth tone color is selected. Stucco is an  
36 acceptable building material so long as an earth tone color is selected, but its use  
37 is discouraged and negative points shall be assessed if the application exceeds  
38 twenty five percent (25%) on any elevation as measured from the bottom of the

1 fascia board to finished grade. Such measurement shall include column elements,  
2 windows and chimneys, but shall not include decks and railing elements. Fiber  
3 cement siding may be used without the assignment of negative points only if there  
4 are natural materials on each elevation of the structure (such as accents or a  
5 natural stone base) and the fiber cement siding is compatible with the general  
6 design criteria listed in the land use guidelines. Roof materials should be  
7 nonreflective and blend into the site's backdrop as much as possible.  
8 Inappropriate exterior building materials include, but are not limited to,  
9 untextured exposed concrete, untextured or unfinished unit masonry, highly  
10 reflective glass, reflective metal roof, and unpainted aluminum window frames.  
11 This subsection A applies only to areas outside of the historic conservation  
12 district, but does not apply to the Cucumber Gulch overlay protection district (see  
13 section 9-1-19-5A, "Policy 5 (Absolute) Architectural Compatibility", subsection  
14 D, of this chapter).

15  
16 ~~5 x (5/0) B. Conservation District: Within the conservation district, which~~  
17 ~~area contains the historic district and the transition character areas, compatibility~~  
18 ~~of a proposed project with the surrounding area and the district as a whole is of~~  
19 ~~the highest priority. Within this district, the preservation and rehabilitation of any~~  
20 ~~historic structure or any "town designated landmark" or "federally designated~~  
21 ~~landmark" on the site (as defined in chapter 11 of this title) is the primary goal.~~  
22 ~~Any action which is in conflict with this primary goal or the "handbook of design~~  
23 ~~standards" is strongly discouraged, while the preservation of the town's historic~~  
24 ~~fiber and compliance with the historic district design standards is strongly~~  
25 ~~encouraged. Applications concerning development adjacent to Main Street are the~~  
26 ~~most critical under this policy.~~

27  
28 **B. Historic and Conservation Districts: For all projects within the Historic or**  
29 **Conservation Districts, see Policy 24 (Absolute) The Social Community and**  
30 **Policy 24 (Relative) The Social Community.**

31  
32 C. Historic District:

33  
34 ~~(1) Within the Main Street residential/commercial, south end residential, and~~  
35 ~~South Main Street character areas, a maximum of nine (9) units per acre of~~  
36 ~~aboveground density is recommended. In connection with projects that exceed the~~  
37 ~~recommended nine (9) units per acre and meet all of the design criteria outlined in~~  
38 ~~the character area design standards, points shall be assessed based on the~~  
39 ~~following table:~~

40  
41 Aboveground Density (UPA) \_\_\_\_\_ Point Deductions  
42

1	9.01 – 9.50	3
2	9.51 – 10.00	6
3	10.01 – 10.50	9
4	10.51 – 11.00	12
5	11.01 – 11.50	15
6	11.51 – 12.00	18
7	12.01 or more	See section 9-1-19-A,
8		“Policy 5 (Absolute)–
9		Architectural
10		Compatibility”, of
11		this chapter

(2) In connection with permit applications for projects within those character areas of the historic district specified below which involve “preserving”, “restoring”, or “rehabilitating” a “landmark structure”, “contributing building”, or “contributing building with qualifications” (as those terms are defined in the “Handbook Of Design Standards For The Historic And Conservation Districts”), or “historic structure” or “landmark” as defined in this code, and in connection with permit applications for projects within the North Main residential, north end residential, and the east side residential character areas that exceed the recommended nine (9) units per acre of aboveground density, points shall be assessed based on the following table:

	<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
24	9.01 – 9.50	3
25	9.51 – 10.00	6
26	10.01 – 10.50	See section 9-1-19–
27		5A, Policy 5
28		(Absolute)
29		Architectural
30		Compatibility”, of
31		this chapter

**C. Above Ground Density in Historic District: (See Policy 24 Absolute) The Social Community, B. Historic District.**

Section 4. Section 9-1-19-24A, “Policy 24 (Absolute) The Social Community”, of the Breckenridge Town Code is amended to read in its entirety as follows:

9-1-19-24A: POLICY 24 (ABSOLUTE) THE SOCIAL COMMUNITY:

A. Meeting And Conference Rooms: All condominium/hotels, hotels, lodges, and inns shall provide meeting areas or recreation and leisure amenities, at a ratio of

1 one square foot of meeting or recreation and leisure amenity area for every thirty  
2 five (35) square feet of gross dwelling area.

3  
4 **B. Historic and Conservation District: Within the conservation district, which**  
5 **area contains the historic district (see special areas map<sup>1</sup>) substantial**  
6 **compliance with both the design standards contained in the "Handbook Of**  
7 **Design Standards" and all specific individual standards for the transition or**  
8 **character area within which the project is located is required to promote the**  
9 **educational, cultural, economic and general welfare of the community through**  
10 **the protection, enhancement and use of the district structures, sites and objects**  
11 **significant to its history, architectural and cultural values.**

12  
13 **(1) Within the historic or conservation district, no historic structure shall be altered,**  
14 **moved, or demolished without first obtaining a class A or class B development**  
15 **permit from the town. Accompanying such approval to alter, move or demolish**  
16 **any historic structure shall be an application for a class A or class B**  
17 **development permit as required by code to authorize any proposed new**  
18 **development which shall take the place of a moved or demolished historic**  
19 **structure. The issuance of building permits for altering, moving, or demolishing**  
20 **a historic structure and the construction of a replacement structure shall be**  
21 **issued concurrently and shall not be issued separately. Moving a historic**  
22 **structure from its historic lot or parcel to another lot or parcel is prohibited.**

23  
24 **(2) In addition to the procedural requirements of this chapter, an application for**  
25 **alteration, demolition, or moving of an historic structure shall be accompanied**  
26 **by a cultural survey prepared by a qualified person when required by the town.**

27  
28 **(3) Within the Main Street Residential/Commercial, South End Residential, and**  
29 **South Main Street character areas, a maximum of nine (9) units per acre of**  
30 **aboveground density is recommended. In connection with projects that exceed**  
31 **the recommended nine (9) units per acre and meet all of the design criteria**  
32 **outlined in the character area design standards, points shall be assessed based**  
33 **on the following table:**

34  
35

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
<u>9.01-9.50</u>	<u>-3</u>
<u>9.51-10.00</u>	<u>-6</u>
<u>10.01-10.50</u>	<u>-9</u>
<u>10.51-11.00</u>	<u>-12</u>
<u>11.01-11.50</u>	<u>-15</u>
<u>11.51-12.00</u>	<u>-18</u>

36  
37  
38  
39  
40  
41

<sup>1</sup> See section 9-1-20 of this chapter.

12.01 or more See policy 5 (absolute) of this chapter

**(4) In connection with permit applications for projects within those character areas of the historic district specified below which involve "preserving", "restoring", or "rehabilitating" a "landmark structure", "contributing building", or "contributing building with qualifications" (as those terms are defined in the "Handbook of Design Standards for the Historic and Conservation Districts"), or "historic structure" or "landmark" as defined in this code, and in connection with permit applications for projects within the North Main Residential, North End Residential, and the East Side Residential character areas that exceed the recommended nine (9) units per acre of aboveground density, points shall be assessed based on the following table:**

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
<u>9.01-9.50</u>	<u>-3</u>
<u>9.51-10.00</u>	<u>-6</u>
<u>10.01 or more</u>	<u>See Policy 5 (absolute) of this chapter</u>

Section 5. Subsection E of Section 9-1-19-24R, "Policy 24 (Relative) The Social Community", of the Breckenridge Town Code is amended to read in its entirety as follows:

~~3 x (0/+5)~~ **3 x (-5/+5)** E. ~~Historic Preservation And Restoration~~**Conservation District:**

**Within the conservation district, which contains the historic district, compatibility of a proposed project with the surrounding area and the district as a whole is of the highest priority. Within this district, the preservation and rehabilitation of any historic structure or any town designated landmark or federally designated landmark on the site (as defined in chapter 11 of this title) is the primary goal. Any action which is in conflict with this primary goal or the "Handbook Of Design Standards" is strongly discouraged, while the preservation of the town's historic fiber and compliance with the historic district design standards is strongly encouraged. Applications concerning development adjacent to Main Street are the most critical under this policy.**

The preservation and restoration of historic structures, town designated landmark, federally designated landmark, landmark sites, or cultural landscape districts within the town is a priority. Additional on-site preservation and restoration efforts beyond the requirements of the historic district guidelines for historic structures and sites as defined in chapter 11 of this title are strongly encouraged.

1  
2 Positive points shall be awarded according to the following point schedule for on  
3 site historic preservation, or restoration efforts, in direct relation to the scope of  
4 the project, subject to approval by the planning commission. **Positive points**  
5 **below are applied to a development permit as a whole and shall not be**  
6 **awarded separately if multiple structures are proposed for preservation or**  
7 **restoration under the same development permit. Positive points may be**  
8 **awarded to both primary structures and secondary structures.**  
9

10 **A final point allocation shall be made by the planning commission based on**  
11 **the historic significance of the structure, its visibility and size.** The  
12 construction of a structure or addition, or the failure to remove noncontributing  
13 features of a historic structure may result in the allocation of fewer positive  
14 points:  
15

16 **Primary Structures:**

17  
18 +3 **+1** On site historic preservation/restoration effort of minimal public  
19 benefit.

20  
21 Examples<sup>2</sup>: Restoration of historic window and door openings,  
22 preservation of historic roof materials, siding, windows, doors and  
23 architectural details.

24  
25 +6 **+3** On site historic preservation/restoration effort of average public  
26 benefit.

27  
28 Examples: ~~Preservation of, or the installation of a new foundation,~~  
29 ~~structural stabilization, complete restoration of secondary~~  
30 ~~structures.~~ **Restoration of historic window and door openings,**  
31 **preservation of historic roof materials, siding, windows, doors and**  
32 **architectural details, plus structural stabilization and installation of a**  
33 **new foundation.**  
34

35 +9 **+6** On site historic preservation/restoration effort of above average  
36 public benefit.  
37

---

<sup>2</sup> Examples set forth in this policy are for purpose of illustration only, and are not binding upon the planning commission. The ultimate allocation of points shall be made by the planning commission pursuant to section 9-1-17-3 of this chapter.

1 Examples: Restoration/preservation efforts for windows, doors,  
2 roofs, siding, foundation, architectural details, substantial  
3 permanent electrical, plumbing, and/or mechanical system  
4 upgrades, **plus** structural stabilization **and installation of a full**  
5 **foundation**, ~~or restoration of secondary structures~~, which fall short of  
6 bringing the historic structure or site back to its appearance at a particular  
7 moment in time within the town's period of significance by reproducing a  
8 pure style.

9  
10 +12 **+9** On site historic preservation/restoration effort with a significant  
11 public benefit.

12  
13 Example: Restoration/preservation efforts which bring a historic  
14 structure or site back to its appearance at a particular moment in  
15 time within the town's period of significance by reproducing a pure  
16 style and respecting the historic context of the site that fall  
17 short of a pristine restoration. **Projects in this category will remove non-**  
18 **contributing features of the exterior of the structure, and will not**  
19 **include any above ground additions.**

20  
21 +15 **+12** On site historic preservation/restoration effort with a very  
22 significant public benefit.

23  
24 Example: Restoration/preservation efforts to a historic structure or  
25 site which bring the historic structure or site back to its appearance  
26 at a particular moment in time within the town's period of  
27 significance by reproducing a pure style and respecting the historic  
28 context of the site with no new structures or additions and the  
29 removal of all noncontributing features of a historic structure or  
30 site. Such restoration/preservation efforts will be considered  
31 pristine.

32  
33 **Secondary Structures:**

34  
35 **+1 On-site historic preservation/restoration of minimal public**  
36 **benefit.**

37  
38 **Examples: Structural stabilization of walls, roof trusses and**  
39 **repairing damaged or missing roofing.**

40  
41 **+2 On-site historic preservation of average public benefit.**  
42

1 Examples: Structural stabilization of walls, roof trusses and  
2 repairing roofs, plus full restoration of damaged or missing  
3 siding, doors, windows, and trim.

4  
5 +3 On-site historic preservation of above average public benefit.  
6

7 Examples: Complete restoration of the structure, including  
8 structural stabilization of walls, roof trusses and repairing  
9 roof, full restoration of damaged or missing siding, doors,  
10 windows and trim, plus installation of a full foundation.

11 Secondary structures that encroach over a property line or  
12 easement shall be brought fully onto the applicant's property  
13 and outside of any easements or encroachments to qualify for  
14 this point allocation.  
15

16 Section 6. Section 9-1-19-24R, "Policy 24 (Relative) The Social Community", of the  
17 Breckenridge Town Code is amended by the addition of a new subsection F, entitled "Moving  
18 Historic Structures", which shall read in its entirety as follows:

19 F. Moving Historic Structures:  
20

21 A structure derives part of its historic significance from its setting, which includes  
22 the property itself, associated landscaping, view corridors, and other buildings. The  
23 manner in which a building relates to its site, how it is oriented on the property and  
24 its view orientation are all aspects of the building context that enrich our ability to  
25 understand the life ways that the historic district conveys. Removing a building  
26 from its historic setting, relocating a building on its historic site or altering its  
27 orientation diminishes our ability to interpret the history of the district and its  
28 historic structures to the fullest extent possible and therefore should be avoided.  
29 Instead, the preferred method is to preserve historic buildings in their existing  
30 locations.  
31

32 The degree to which historic structures are moved on their site, or moved to another  
33 site, shall be considered in the allocation of negative points. Structures that are  
34 moved off the property to another site shall receive the greatest number of negative  
35 points. These moves alter the ability to interpret the history of a site and the historic  
36 structure. Every effort shall be made to preserve historic structures in their historic  
37 locations. When moving of structures is necessary, they shall be relocated in a  
38 manner which preserves the original context of the site and structure as much as  
39 possible. Structures shall not be moved any more than necessary to achieve  
40 reasonable use of the land.  
41



1 Changes that improve the ability to preserve any historic structure or to improve  
2 public safety shall be considered in the allocation of points under this section. The  
3 following is a guideline for the assignment of points for moving historic structures.  
4 The final allocation of points shall be made by the planning commission pursuant to  
5 Section 9-1-17-3 of this chapter. Negative points below shall be for the development  
6 permit application as a whole, and shall not be awarded separately if multiple  
7 structures are proposed for moving or relocating under the same development  
8 permit. Negative points may be awarded to both primary and secondary structures.  
9

10 No structure shall be moved unless the structure is also fully restored in its new  
11 location with structural stabilization, a full foundation, repairs to siding, windows,  
12 doors and architectural details, and roof repairs to provide water protection.  
13

14 Moving Primary Structures:

15  
16 0 points: Relocating of historic primary structures in order to bring them into  
17 compliance with required codes and/or setbacks and for correcting property  
18 encroachments, but keeping the structure on its original lot, and maintaining the  
19 historic context of the structure and site.  
20

21 -3 points: Relocating of historic primary structures less than five (5) feet from its  
22 current or original location, keeping the structure on its original site, and  
23 maintaining the historic orientation and context of the structure and lot.  
24

25 -10 points: Relocating a historic primary structure between five (5) feet and ten (10)  
26 feet from its current or original location, but keeping the structure on its original lot  
27 and maintaining the historic orientation and context.  
28

29 -15 points: Relocating a historic primary structure more than ten (10) feet from its  
30 current or original location.  
31

32 Secondary Structures:

33  
34 0 points: Relocating of historic secondary structures in order to bring them into  
35 compliance with required codes and/or setbacks and for correcting property  
36 encroachments, but keeping the structure on its original lot, and maintaining the  
37 historic context of the structure and site.  
38

39 -1 point: Relocating a historic secondary structure less than five (5) feet from its  
40 current or original location, keeping the structure on its original lot, and  
41 maintaining the historic orientation and context of the structure and site.  
42

1 -2 points: Relocating a historic secondary structure between (5) feet and ten (10) feet  
2 from its current or original location, but keeping the structure on its original lot and  
3 maintaining the historic orientation and context of the structure and site.

4  
5 -3 points: Relocating a historic secondary structure more than ten (10) feet from its  
6 current or original location, but keeping the structure on its original lot.

7  
8 -15 points: Relocating a historic secondary structure to a site off the original lot.

9  
10 Other Negative Points:

11  
12 Any proposal for changing the historic orientation of a historic structure shall  
13 receive additional negative points based on the degree to which the change in  
14 orientation affects the ability to interpret the use and history of the site or structure.  
15 In general, the following points shall be assigned, unless a different point allocation  
16 is determined by the Planning Commission:

17  
18 -2 points: Changing the historic orientation of a secondary structure

19 -10 points: Changing the historic orientation of a primary structure

20  
21 Structures Not in Historic Location:

22  
23 On occasion, historic structures have been moved to new locations within the town.  
24 The moving of these structures (which were previously moved to new locations after  
25 the Town's historic Period of Significance, after 1942) are not subject to the  
26 allocation of negative points if the final location and configuration of the building is  
27 consistent with the policies and intent of the "Handbook of Design Standards for the  
28 Historic and Conservation Districts", and so long as the building is structurally  
29 stabilized and placed on a permanent foundation at the receiving site. Also, the  
30 receiving site shall be an appropriate context for the structure, as determined by the  
31 structure's original use and site.

32  
33 Structures that were previously moved during the Town's Period of Significance (in  
34 1942 or earlier) have achieved historical significance in their new or current  
35 location. In these cases, moving these structures again is discouraged and negative  
36 points shall be allocated by the Planning Commission in direct relation to the scope  
37 of the change in location and context, pursuant to the provisions of this chapter.

38  
39 Returning Structures to their Historic Location:

40  
41 It is the goal of the Town to encourage the return of historic structures back to their  
42 original, historic locations, in those cases where historic structures were previously

1 moved off their historic location. Positive points shall be assigned according to the  
2 following point schedule:

3  
4 +2 points: Relocation of a historic structure back to its historic location.

5  
6 +5 points: Relocation of a historic structure back to its historic location and  
7 returning the site to its appearance at a particular moment in time within the  
8 Town's Period of Significance.

9  
10 Section 7. Except as specifically amended hereby, the Breckenridge Town Code, and the  
11 various secondary codes adopted by reference therein, shall continue in full force and effect.

12 Section 8. The Town Council hereby finds, determines and declares that this ordinance is  
13 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
14 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
15 thereof.

16 Section 9. The Town Council hereby finds, determines and declares that it has the power  
17 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,  
18 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal  
19 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)  
20 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to  
21 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers  
22 contained in the Breckenridge Town Charter.

23 Section 10. This ordinance shall be published and become effective as provided by  
24 Section 5.9 of the Breckenridge Town Charter.

25 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
26 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2013. A Public Hearing shall be held at the  
27 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
28 \_\_\_\_\_, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
29 Town.

30  
31 TOWN OF BRECKENRIDGE, a Colorado  
32 municipal corporation

33  
34  
35  
36 By \_\_\_\_\_  
37 John G. Warner, Mayor

38  
39 ATTEST:

MOVING HISTORIC STRUCTURES ORDINANCE

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Helen Cospolich  
Town Clerk

500-343\Moving Historic Structures Ordinance\_2 (04-15-13)(First Reading)

MOVING HISTORIC STRUCTURES ORDINANCE

**MEMO**

**TO:** Breckenridge Town Council

**FROM:** Laurie Best-Community Development Department

**RE:** Valley Brook Cemetery National Register Nomination CLG Grant

**DATE:** April 10, 2013 (for April 23<sup>rd</sup>)

---

The Town of Breckenridge has received approval from History Colorado (aka Colorado State Historical Society) for a Certified Local Government Grant (CLG) to cover 100% of the costs associated with preparing and presenting a nomination for Valley Brook Cemetery to the National Register of Historic Places. A resolution authorizing the Town Manager to sign the attached *Grant Agreement* has been drafted and is scheduled for your consideration.

The Breckenridge Heritage Alliance prepared the grant request and will manage the nomination project on behalf of the Town. It is the Alliances' opinion that the Valley Brook Cemetery does meet the criteria for listing on the National Register and this has been confirmed by History Colorado. This grant will provide the funds to cover costs associated with preparing and presenting the official nomination to the Review Board. The Alliance will use a professional consultant who is experienced in similar nominations to collect and organize the background information, to perform the necessary research, to write the nomination, to consult with History Colorado staff, and to attend the Review Board Meeting. The cost of the project is \$7,901.00 which has been approved by History Colorado. It is anticipated that the work would begin in early summer, with a nomination presented in early 2014, and final project report/closeout by June 2014.

The National Register of Historic Places is the official list of the nation's historic places. It represents the most historically and architecturally significant buildings, sites, and structures. Listing offers no automatic protection for the historic site and does not create new restrictions limiting the Town's use, management, oversight, or operation of the site. But, listing is an honor because it validates the significance and integrity of the historic cemetery. The National Park Service maintains a data base with information on all of the listed sites which is an excellent way to reach people who are interested in communities with rich history. The Breckenridge Historic District was listed in 1980 and that designation is still important to marketing Breckenridge and for drawing visitors to the community. There are only a handful of Colorado cemeteries listed, including Riverside and Crown Hill in Denver. By listing Valley Brook it is included in a special class of the most prestigious cemeteries. In addition to the recognition and the validation, listing (of some type) is often a requirement for grants related to rehabilitation or preservation work. While there are no pending grant eligible projects, this status will assist the Town when we seek grants in the future.

Staff supports listing the Valley Brook Cemetery on the National Register and recommends approval of the resolution authorizing the Town Manger to execute the Grant Agreement with History Colorado.

1 A RESOLUTION

2  
3 SERIES 2013

4  
5 A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE STATE OF  
6 COLORADO ACTING BY AND THROUGH THE STATE HISTORICAL SOCIETY  
7 (National Register Nomination For Valley Brook Cemetery)

8  
9 WHEREAS, the Town of Breckenridge has been awarded a grant in the amount of  
10 \$7,912.00 by the State of Colorado acting by and through the State Historical Society to help pay  
11 the cost of preparing a National Register nomination for the Valley Brook Cemetery; and

12  
13 WHEREAS, the State has prepared an agreement setting forth the terms and conditions of  
14 the grant, a copy of which is marked Exhibit "A", attached hereto, and incorporated herein by  
15 reference ("**Grant Agreement**"); and

16  
17 WHEREAS, the Town Council has reviewed the proposed Grant Agreement, and finds  
18 and determines that it would be in the best interests of the Town and its residents for the Town to  
19 enter into the proposed Grant Agreement; and

20  
21 WHEREAS, Rule 6.1(b) of the Council Procedures and Rules of Order provides that a  
22 resolution may be used to approve a contract.

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

26  
27 Section 1. The proposed Grant Agreement with the State of Colorado acting by and  
28 through the State Historical Society, substantially in the form marked Exhibit "A", is approved;  
29 the Town is authorized to expend its match share of the "Work" as described in the subject Grant  
30 Agreement, subject to annual appropriation by the Town Council as required by law; and the  
31 appropriate officer of the Town is authorized, empowered, and directed to execute such Grant  
32 Agreement for and on behalf of the Town of Breckenridge.

33  
34 Section 2. Minor changes to or amendments of the approved agreement may be made by  
35 the Town Manager if the Town Attorney certifies in writing that the proposed changes or  
36 amendments do not substantially affect the consideration to be received or paid by the Town  
37 pursuant to the approved agreement, or the essential elements of the approved agreement.

38  
39 Section 3. This resolution is effective adoption.

40  
41 RESOLUTION APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_,  
42 2013.

TOWN OF BRECKENRIDGE

By \_\_\_\_\_  
John G. Warner, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich  
Town Clerk

APPROVED IN FORM

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

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**STATE OF COLORADO**  
**State Historical Society**  
**Grant Agreement**  
**with**  
**Town of Breckenridge**

State Model Date: 4/2/2009

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**1. PARTIES**

This Grant Agreement (hereinafter called “Grant”) is entered into by and between TOWN OF BRECKENRIDGE (hereinafter called “Grantee”) which has been certified as a



Certified Local Government (hereinafter called "CLG) by the National Park Service, and the STATE OF COLORADO acting by and through the State Historical Society also known as History Colorado (hereinafter called "HC").

## **2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.**

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

## **3. RECITALS**

### **A. Authority, Appropriation, And Approval**

Authority to enter into this Grant exists in under the State Constitution article XVIII, §9(5) (b) (III), and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance there of remains available for encumbering and subsequent payment of this Agreement under Encumbrance Fund Number 100, Appropriation Account 046, and Organization HP 12. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies including the National Park Service that provides funding for this Grant.

### **B. Bid Exemption**

This Grant is exempt from the competitive bid requirements of the State's Procurement Rules. An award of funds to complete the program or project described in **Exhibit A** has been approved by HC.

### **C. Consideration**

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

### **D. Purpose**

HC is providing funds to Grantee for the latter to use for a CLG grant project as described in **Exhibit A** that has been determined by HC to meet the criteria for CLG grant projects in Colorado.

### **E. References**

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

## **4. DEFINITIONS**

The following terms as used herein shall be construed and interpreted as follows:

### **A. Budget**

"Budget" means the budget for the Work described in **Exhibit B**.

### **B. Deliverables**

A "Deliverable" means a producible item or items to be delivered to HC which help ensure completion of the project.

### **C. Evaluation**

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6 and Exhibit A.

**D. Exhibits and other Attachments**

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Scope of Work including Interim Status Report, Interim Financial Report, and Final Project Report); **Exhibit B** (Budget); and **Exhibit C** (List of Submittals).

**E. Goods**

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

**F. Grant**

“Grant” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

**G. Grant Funds**

“Grant Funds” means available funds payable by HC to Grantee pursuant to this Grant.

**H. Party or Parties**

“Party” means HC or Grantee and “Parties” means both HC and Grantee.

**I. Project**

“Project” means the tasks necessary to perform the Grant requirements set forth in **Exhibit A**.

**J. References**

All references here in to sections (whether spelled out or using the § symbol), subsections, or to exhibits or other attachments are to those contained in or part of this Grant unless specifically otherwise denoted.

**K. Review**

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and **Exhibits A, B, and C**.

**L. Services**

“Services” means the required services to be performed by Grantee pursuant to this Grant.

**M. Sub-grantee**

“Sub-grantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

**N. Work**

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibits A, B, and C**, including the performance of the Services and delivery of the Goods.

**O. Work Product**

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

## **5. TERM and EARLY TERMINATION.**

### **A. Initial Term-Work Commencement**

The Parties respective performances under this Grant shall commence on the later of either the Effective Date or March 1, 2013. This Grant shall terminate on September 30, 2014 unless sooner terminated or further extended as specified elsewhere herein.

### **B. Two Month Extension**

HC, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement Grant (and not merely seeking a term extension) at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

### **C. Early Termination**

This Grant is subject to early termination in accordance with the general remedies provisions in §15 and as specifically provided for herein.

## **6. STATEMENT OF WORK**

### **A. Completion**

Grantee shall complete the Work and its other obligations as described herein and in Exhibits A, B, and C on or before **June 30, 2014**. The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

### **B. Goods and Services**

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by HC.

### **C. Employees**

All persons employed by Grantee or Sub-grantees shall be considered Grantee's or Sub-grantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

## **7. PAYMENTS TO GRANTEE**

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

### **A. Maximum Amount**

The maximum amount payable under this Grant to Grantee by HC is **\$7,912.00**, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit C**. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit C**.

### **B. Payment**

#### **i. Advance, Interim and Final Payments**

Any advance payment allowed under this Grant or in **Exhibit C** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to HC in the form and manner set forth in approved by HC.

**ii. Interest**

HC shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by HC. Uncontested amounts not paid by HC within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice HC separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

**iii. Available Funds-Contingency-Termination**

HC is prohibited by law from making fiscal commitments beyond the term of the HC's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, HC's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and HC's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, HC may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

**iv. Erroneous Payments**

At HC's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

**C. Use of Funds**

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit B-1**. Grantee may adjust budgeted expenditure amounts up to 10% within each line item of said Budget without approval of HC. Adjustments in excess of 10% shall be authorized by HC in an amendment to this Grant. HC's total consideration shall not exceed the maximum amount shown herein.

**D. Matching Funds**

Any matching funds provided by Grantee are set forth in **Exhibit B**. Grantee shall have raised the full amount of matching funds prior to the Effective Date and shall report to HC's regarding the status of such funds upon request.

**8. REPORTING - NOTIFICATION**

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by HC's and in accordance with §19, if applicable.

**A. Performance, Progress, Personnel, and Funds**

Grantee shall deliver interim progress reports documenting the progress of the Project to HC during the term of this Agreement using HC interim project status and interim financial reports forms, and Grantee shall also deliver to HC at the end of the project a Final Project Report, all part of **Exhibit A**, pursuant to the schedule set forth in **Exhibit C**.

**B. Litigation Reporting**

Within 30 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify HC of such action and deliver copies of such pleadings to HC's principal representative as identified herein. If HC's principal representative is not then serving, such notice and copies shall be delivered to the President of History Colorado.

**C. Noncompliance**

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

**D. SubGrants**

Copies of any and all subGrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subGrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subGrants be governed by the laws of the State of Colorado.

**9. GRANTEE RECORDS**

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

**A. Maintenance**

Grantee shall make, keep, maintain, and allow inspection and monitoring by HC a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the Record Retention Period) until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

**B. Inspection**

Grantee shall permit HC, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a

period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, HC may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or inequity in lieu of or in conjunction with such corrective measures.

#### **C. Monitoring**

Grantee shall permit HC, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

#### **D. Final Audit Report**

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to HC or its principal representative at the address specified herein.

### **10. CONFIDENTIAL INFORMATION-STATE RECORDS**

As provided by law, Grantee shall comply with the provisions on this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

#### **A. Confidentiality**

As provided by law, Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

#### **B. Notification**

Grantee shall notify its agent, employees, Sub-grantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

#### **C. Use, Security, and Retention**

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential

information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

**D. Disclosure-Liability**

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents.

**11. CONFLICTS OF INTEREST**

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the HC's interests. Absent HC's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to CHS hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

**12. REPRESENTATIONS AND WARRANTIES**

Grantee makes the following specific representations and warranties, each of which was relied on by HC in entering into this Grant.

**A. Standard and Manner of Performance**

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

**B. Legal Authority – Grantee and Grantees Signatory**

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

**C. Licenses, Permits, Etc.**

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable

certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

### **13. INSURANCE**

Grantee and its Sub-grantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

#### **A. Grantee**

##### **i. Public Entities**

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Sub-grantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Sub-grantee's liabilities under the GIA.

##### **ii. Non-Public Entities**

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to sub-Grantees that are not "public entities".

#### **B. Sub-Grantees**

Grantee shall require each Grant with Sub-grantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

##### **i. Worker's Compensation**

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Sub-grantee employees acting within the course and scope of their employment.

##### **ii. General Liability**

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent Grantees, products and completed operations, blanket Grantual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Sub-grantee shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Grantee a certificate or other document satisfactory to Grantee showing compliance with this provision.



**iii. Automobile Liability**

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

**iv. Additional Insured**

Grantee and the State shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

**v. Primacy of Coverage**

Coverage required of Grantee and Sub-grantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

**vi. Cancellation**

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and the State by certified mail.

**vii. Subrogation Waiver**

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Sub-grantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

**C. Certificates**

Grantee and all Sub-grantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Sub-grantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any sub-grant, Grantee and each Sub-grantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

**14. BREACH**

**A. Defined**

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

**B. Notice and Cure Period**

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15.

Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

## **15. REMEDIES**

If Grantee is in breach under any provision of this Grant, HC shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

### **A. Termination for Cause and/or Breach**

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, HC may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, HC, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

#### **i. Obligations and Rights**

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and sub-Grants with third parties. However, Grantee shall complete and deliver to HC all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of HC, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or sub-Grants. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which HC has an interest. All materials owned by HC in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of HC, shall be delivered by Grantee to HC and shall become HC's property.

#### **ii. Payments**

HC shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by HC, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

#### **iii. Damages and Withholding**

Notwithstanding any other remedial action by HC, Grantee also shall remain liable to HC for any damages sustained by HC by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating HC's damages, until such time as the exact amount of

damages due to HC from Grantee is determined. HC may withhold any amount that may be due to Grantee as HC deems necessary to protect HC, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse HC for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by HC in procuring from third parties replacement Work, Services or substitute Goods as cover.

**B. Early Termination in the Public Interest**

HC is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, HC, in its sole discretion, may terminate this Grant in whole or in part. Exercise by HC of this right shall not constitute a breach of HC's obligations hereunder. This subsection shall not apply to a termination of this Grant by HC for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

**i. Method and Content**

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

**ii. Obligations and Rights**

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

**iii. Payments**

If this Grant is terminated by HC pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, HC may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

**C. Remedies Not Involving Termination**

HC, its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

**i. Suspend Performance**

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with HC's directive and HC shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

**ii. Withhold Payment**

Withhold payment to Grantee until corrections in until corrections in Grantee's performance are satisfactorily made and completed.

**iii. Deny Payment**

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to HC; provided, that any denial of payment shall be reasonably related to the value to HC of the obligations not performed.

**iv. Removal**

Demand removal of any of Grantee's employees, agents, or Sub-grantees whom HC deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in HC's best interest.

**v. Intellectual Property**

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at HC's option (a) obtain for HC or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

**16. NOTICES and REPRESENTATIVES**

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**A. HC:**

Dan W. Corson
History Colorado
1200 Broadway
Denver, CO 80203
(303) 866-2673
<a href="mailto:dan.corson@state.co.us">dan.corson@state.co.us</a>

**B. Grantee:**

Laurie Best
Town of Breckenridge
PO Box 168
Breckenridge , CO 80424
970/547-3112
<a href="mailto:laurieb@townofbreckenridge.com">laurieb@townofbreckenridge.com</a>

## **17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE**

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the exclusive property of HC and, all Work Product shall be delivered to HC by Grantee upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State.

## **18. GOVERNMENTAL IMMUNITY**

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

## **19. STATEWIDE GRANT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by HC, and showing of good cause, may debar

Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

## **20. GENERAL PROVISIONS**

### **A. Assignment and SubGrants**

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or sub-granted without the prior, written consent of HC. Any attempt at assignment, transfer, or sub-granting without such consent shall be void. All assignments, sub-grants, or sub-grantees approved by Grantee or HC are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of sub-granting arrangements and performance.

### **B. Binding Effect**

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

### **C. Captions**

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

### **D. Counterparts**

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

### **E. Entire Understanding**

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

### **F. Indemnification-General**

As provided by law, Grantee shall indemnify, save, and hold harmless the State of Colorado, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Sub-grantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

### **G. Jurisdiction and Venue**

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

### **H. Modification**

#### **i. By the Parties**

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by both parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

**ii. By Operation of Law**

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

**I. Order of Precedence**

The provisions of this Grant shall govern the relationship of the State and Grantee. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,
- ii. The provisions of the main body of this Grant,
- iii. **Exhibit A**, Scope of Work
- iv. **Exhibit B**, Budget
- v. **Exhibit C**, List of Submittals

**J. Severability**

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

**K. Survival of Certain Grant Terms**

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance; compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by HC if Grantee fails to perform or comply as required.

**L. Taxes**

HC is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City and County of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

**M. Third Party Beneficiaries**

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

**N. Waiver**

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

**21. FEDERAL ACKNOWLEDGEMENTS**

Grantee agrees to the acknowledgement of the National Park Service funding support when describing or promoting the Project for any materials, publications, program literature, audio-visual products or related materials produced as a result of the Grant funds, appropriate acknowledgement and required Equal Employment Opportunity statement should be given as follows:

“The activity that is the subject of this material has been financed in part with Federal finds from the National Historic Preservation Act, administered by the National Park Service, U.S. Department of the Interior for History Colorado. However, the contents and opinions do not necessarily reflect the views or policies of the U.S. Department of the Interior or History Colorado, nor does the mention of trade names or commercial products constitute an endorsement or recommendation by the Department of the Interior or History Colorado.”

“This program receives Federal funds from the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally-assisted programs on the basis of race, color, national origin, age or handicap. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Director, Equal Opportunity Program, U.S. Department of the Interior, National Park Service, 1849 C Street, N.W., Washington, D.C. 20240.”

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**



## **22. COLORADO SPECIAL PROVISIONS**

The Special Provisions apply to all Grants except where noted in italics.

### **A. 1. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).**

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

### **B. 2. FUND AVAILABILITY. CRS §24-30-202(5.5).**

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

### **C. 3. GOVERNMENTAL IMMUNITY.**

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

### **D. 4. INDEPENDENT CONTRACTOR**

Grantee shall perform its duties hereunder as an independent Grantee and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any Grant, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

### **E. 5. COMPLIANCE WITH LAW.**

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

### **F. 6. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

**G. 7. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

**H. 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. 9. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**J. 10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.**

*[Not Applicable to intergovernmental agreements]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**K. 11. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101.**

*[Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services]* Grantee certifies, warrants, and agrees that it does not knowingly employ or Grant with an illegal alien who shall perform work under this Grant and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant or enter into a Grant with a Sub-grantee that fails to certify to Grantee that the Sub-grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Sub-grantee and the Granting State agency within three days if Grantee has actual knowledge that

a Sub-grantee is employing or Granting with an illegal alien for work under this Grant, (c) shall terminate the subGrant if a Sub-grantee does not stop employing or Granting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the Granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the Granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

**L. 12. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101.**

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

**23. SIGNATURE PAGE**

Grant Routing # 1072

**THE PARTIES HERETO HAVE EXECUTED THIS GRANT**

**\* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;"><b>GRANTEE</b> Town of Breckenridge By: INSERT-Name of Authorized Individual Title: INSERT-Official Title of Authorized Individual</p> <hr/> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b> <b>John W. Hickenlooper, GOVERNOR</b> History Colorado, Edward C. Nichols, President, or his Designee</p> <hr/> <p>Date: _____</p>
	<p style="text-align: center;"><b>LEGAL REVIEW</b> John W. Suthers, Attorney General</p> <p>By: _____ Signature - Assistant Attorney General</p> <p>Date: _____</p>

**ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

**CRS §24-30-202 requires the State Controller to approve all State Grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.**

<p style="text-align: center;"><b>STATE CONTROLLER</b> David J. McDermott, CPA</p> <p>By: _____</p> <p style="text-align: center;"><b>History Colorado Chief Financial Officer</b> Date: _____</p>
--

24. EXHIBIT A

SCOPE OF WORK

Including Standards and Specifications

National Register Nomination for Valley Brook Cemetery      CO-13-011  
Project Title      Project Number

1. **PROJECT PURPOSE:** To prepare a National Register nomination for the Valley Brook Cemetery.
  
2. **SPECIFICATION OF WORK:** A professional consultant will complete a draft and final National Register nomination per OAHHP standards and requirements. At least one public meeting will be held. Town staff will manage project.
  
3. **REQUIRED STANDARDS:** Secretary of the Interior's Professional Qualification Standards for the consultant. Applicable National Register bulletins.
  
4. **PRODUCTS:** The following products will be delivered to HC as set forth in EXHIBIT C
  - a) Draft nomination
  - b) Final nomination
  - c) Documentation of public meeting
  - d) 1<sup>st</sup> set of interim status and financial reports
  - e) 2<sup>nd</sup> set of interim status and financial reports
  - f) Final Project Report

*All survey projects must include the following required standards and required products.*

A. **REQUIRED STANDARDS FOR SURVEY PROJECTS:** The following standards are required for all survey projects:

1. Grantee agrees that all survey work shall be completed to the standards provided by the History Colorado (HC) and detailed in the Colorado Survey Manual. Survey forms shall be provided by HC.
2. Black and white photographs submitted shall be properly labeled in accordance with the Colorado Survey Manual.
3. Survey work shall also meet the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation published September 29, 1983 in the Federal Register.  
Work not meeting the Secretary's Standards in the judgment of HC staff shall not be reimbursed.
4. Selection of Consultants: HC shall have the opportunity to participate in the selection of any consultants hired to conduct any portion of the above scope of work. A consultant shall meet professional qualifications described in 36 CFR 61, "Procedures for Approved State and Local Government Historic Preservation Programs, April 13, 1984," or otherwise approved by HC. Grantee shall submit to HC evidence of compliance with Federal competitive procurement requirements for professional services and subcontracts prior to reimbursement of costs. Grantee shall have final decision rights as to selection of the professional consultant hereunder. Prior to the start of the project, the designated CLG representative shall discuss the scope of work and reporting requirements with HC staff.

Grantee's agreement with the consultant shall contain the following provision:

"No member, officer, or employee of the CLG grant recipient, including advisory board, review board, or commission board members shall have any interest in the agreement or the process thereof, except that such persons may provide technical consultative, or oversight assistance in a voluntary capacity (i.e., unpaid, and the time not charged to the required matching share for the HPF grant."

B. **REQUIRED PRODUCTS FOR SURVEY PROJECTS:** The following are required products for all survey projects:

1. Grantee shall prepare a draft and final survey report that follows the format outlined in the Colorado Survey Manual. Included in the final survey report shall be a map which clearly delineates the project

boundaries. The map shall also identify individual properties or districts that appear to meet the National Register criteria. The survey report shall also include a listing of all the properties surveyed with their state identification numbers and an evaluation of their significance.

2. Grantee shall submit a USGS 7.5' quad map plus a city plat or planning map outlining the boundaries of the survey area with a key that identifies the boundaries of eligible districts, contributing and non-contributing properties and individually eligible properties. Each resource recorded during the project should be clearly identified on the map by appropriate site number.
3. Grantee shall conduct a minimum of one public meeting to describe the results of the project. Minutes of the meeting shall be submitted to the HC.
4. Grantee shall submit all Inventory forms completed for the survey. These shall be typed with photographs placed in appropriate archival sleeves and attached to the forms.

## INTERIM STATUS REPORT

CLG Name \_\_\_\_\_

Project Title \_\_\_\_\_

Project Number \_\_\_\_\_

**Please check one:**

- \_\_\_\_\_ Interim report # 1 (\_\_\_\_\_ to \_\_\_\_\_)  
 \_\_\_\_\_ Interim report # 2 (\_\_\_\_\_ to \_\_\_\_\_)  
 \_\_\_\_\_ Interim report # 3 (\_\_\_\_\_ to \_\_\_\_\_)  
 \_\_\_\_\_ Interim report # 4 (\_\_\_\_\_ to \_\_\_\_\_)

**Please check one:**

- \_\_\_\_\_ Original projection  
 \_\_\_\_\_ Amendment

**Print or type legibly. Complete each section (if not applicable, answer NA).**

**Column A:** List all project products/deliverables (refer to Attachment B, Exhibit 1 "Project Scope of Work, Standards and Specifications" of your contract).

**Column B:** Indicate the original projection or anticipated completion date for that particular product per the contract agreement.

**Column C:** Indicate with a yes/no whether or not that particular product is being submitted this quarter or what numerical amount of the product is being submitted.

**Column D:** Indicate the cumulative actual or percentage (%) completed at this time.

A. Products/Deliverables	B. Original Projection/Completion Date	C. Submitted this period? Yes or No	D. Cumulative actual or % completed at this time.
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Prepared by: Signature/Print name/Title \_\_\_\_\_ Date \_\_\_\_\_

Approved: History Colorado \_\_\_\_\_ Date \_\_\_\_\_



## INTERIM FINANCIAL REPORT

CLG Name \_\_\_\_\_  
 Title/Project Number \_\_\_\_\_

Project \_\_\_\_\_

(1st, 2nd, 3rd, or 4th) Financial Report covering period of \_\_\_\_\_ to \_\_\_\_\_

**NOTE: DOCUMENTATION FOR ALL EXPENSES MUST BE ATTACHED (receipts, canceled check copies, sub-contract copies, invoices, etc.).**

PAYEE/DONOR NAME	PROJECT HOURS	HOURLY RATE	GRANT COSTS	MATCH (if any)	TOTAL	PR /D.
<b>Personnel:</b>						
Subtotal						
<b>Contractual Services:</b>						
Subtotal						
<b>Travel:</b>						
Subtotal						
<b>Materials/Supplies/Other Expenses:</b>						
<b>TOTALS:</b>						
<b>A. 1ST INTERIM REPORT TOTALS</b>						
<b>B. 2ND INTERIM REPORT TOTALS</b>						
<b>C. 3RD INTERIM REPORT TOTALS</b>						
<b>D. 4TH INTERIM REPORT TOTALS</b>						
<b>E. TOTAL PROJECT COSTS</b>						

I certify that all information contained in this report and its accompanying documentation are true and correct; and that all professional services contracts and grant-assisted purchases of equipment and supplies were procured in accordance with the required competitive procurement procedures.

Grant Recipient (Signature/Print name,  
 Title) \_\_\_\_\_  
 Date \_\_\_\_\_

History Colorado Approval \_\_\_\_\_

Date \_\_\_\_\_

**FINAL PROJECT REPORT**

CLG Name \_\_\_\_\_

Project Title \_\_\_\_\_

Project Number \_\_\_\_\_

Total Project Cost \_\_\_\_\_

Amendments with  
Approved Dates \_\_\_\_\_  
\_\_\_\_\_

Major Work Items Planned: \_\_\_\_\_  
\_\_\_\_\_

Actual: \_\_\_\_\_  
\_\_\_\_\_

Budget Items	Planned	Amended	Actual
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL	_____	_____	_____

Additional Information \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Publication Name \_\_\_\_\_  
Date \_\_\_\_\_ Four copies plus PDF enclosed

CLG Representative Signature/Print Name \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

Approved: History Colorado \_\_\_\_\_ Date \_\_\_\_\_

## 25. EXHIBIT B

### BUDGET

National Register Nomination for Valley Brook Cemetery

Project Title

CO-13-011

Project Number

#### CATEGORIES

##### 1. Personnel

- A) Town Clerk's office staff support  
*Collection of files, maps and other background information for consultant; public meeting organization and local marketing*  
28 hours @ \$25/hour = \$700

##### 2. Contractual

- A) Research  
*primary, archival and secondary research, start-up meeting, public meeting*  
60 hours @ \$60/hour - \$3,600
- B) Writing  
*National Register nomination*  
50 hours @ \$60/hour - \$3,000
- C) Consultation with History Colorado staff  
*CLG and National Register Historian, attending Colorado Review Board Meeting*  
8 hours @ \$60/hour - \$480

##### 3. Travel

Two round trips Denver to Breckenridge  
*164 miles @ .51 per mile = \$83.64*

##### 4. Materials, supplies and other expenses (identify)

Photography and printing  
*.75 per photograph x 25 shots x 2 sets - \$37.50*

#### **TOTAL**

**\$7,901**

Grantee shall not be reimbursed for any cost incurred outside of the contract terms.

\*Includes award amount and local matching share.

26. EXHIBIT C

LIST OF SUBMITTALS

Project Performance and Payment Schedule

Project Title: National Register Nomination for Valley Brook Cemetery

Project Number: CO-13-011

PRODUCT	DATE DUE	HC RESPONSE	PAYMENT DUE
Draft nomination	12/2//13	Review and comment	
1 <sup>st</sup> set of interim status & financial reports	12/2/13	Review and approve	\$3,000
Documentation of public meeting	1/31/14	Review and approve	
Nomination (2 <sup>nd</sup> draft) & all supporting item, submission to OAHP per current nomination checklist	1/31/14	Review and approve	
2 <sup>nd</sup> set of interim status & financial reports	1/31/14	Review and approve	\$3,000
Final revisions based upon Review Board & staff suggestions	6/1/14	Review and approve	
Final Project Report	6/30/14	Review and approve	\$1,912

**MEMORANDUM**

**To:** Town Council

**From:** Peter Grosshuesch, Director of Community Development

**Date:** April 17, 2013

**Re:** Planning Commission Decisions of the April 16, 2013, Meeting.

---

**DECISIONS FROM THE PLANNING COMMISSION AGENDA OF April 16, 2013:**

**CLASS C APPLICATIONS:**

- 1) Elk Point Residence (MGT) PC#2013025; 120 Glenwood Circle  
Construct a new, single family residence with 4 bedrooms, 7 bathrooms, 6,077 sq. ft. of density and 7,277 sq. ft. of mass for a F.A.R. of 1:22.50. Approved.
- 2) Rocados (MGT) PC#2013026; 452 Hamilton Court  
Construct a new, single family residence with 4 bedrooms, 4.5 bathrooms, 4,238 sq. ft. of density and 5,038 sq. ft. of mass for a F.A.R. of 1:8.73. Approved.
- 3) Columbia Lode Building 3 SFR (MM) PC#2013028; 37 Luisa Drive  
Construct a new, single family residence on a footprint lot with 3 bedrooms, 2.5 bathrooms, 2,310 sq. ft. of density and 2,595 sq. ft. of mass.
- 4) Highlands Filing 10, Lot 27 SFT (MM) PC#2013027; 56 Golden Age Drive  
Construct a new, single family residence with 5 bedrooms, 5 bathrooms, 4,285 sq. ft. of density and 5,146 sq. ft. of mass for a F.A.R. of 1:12.51. Approved.

**CLASS B APPLICATIONS:**

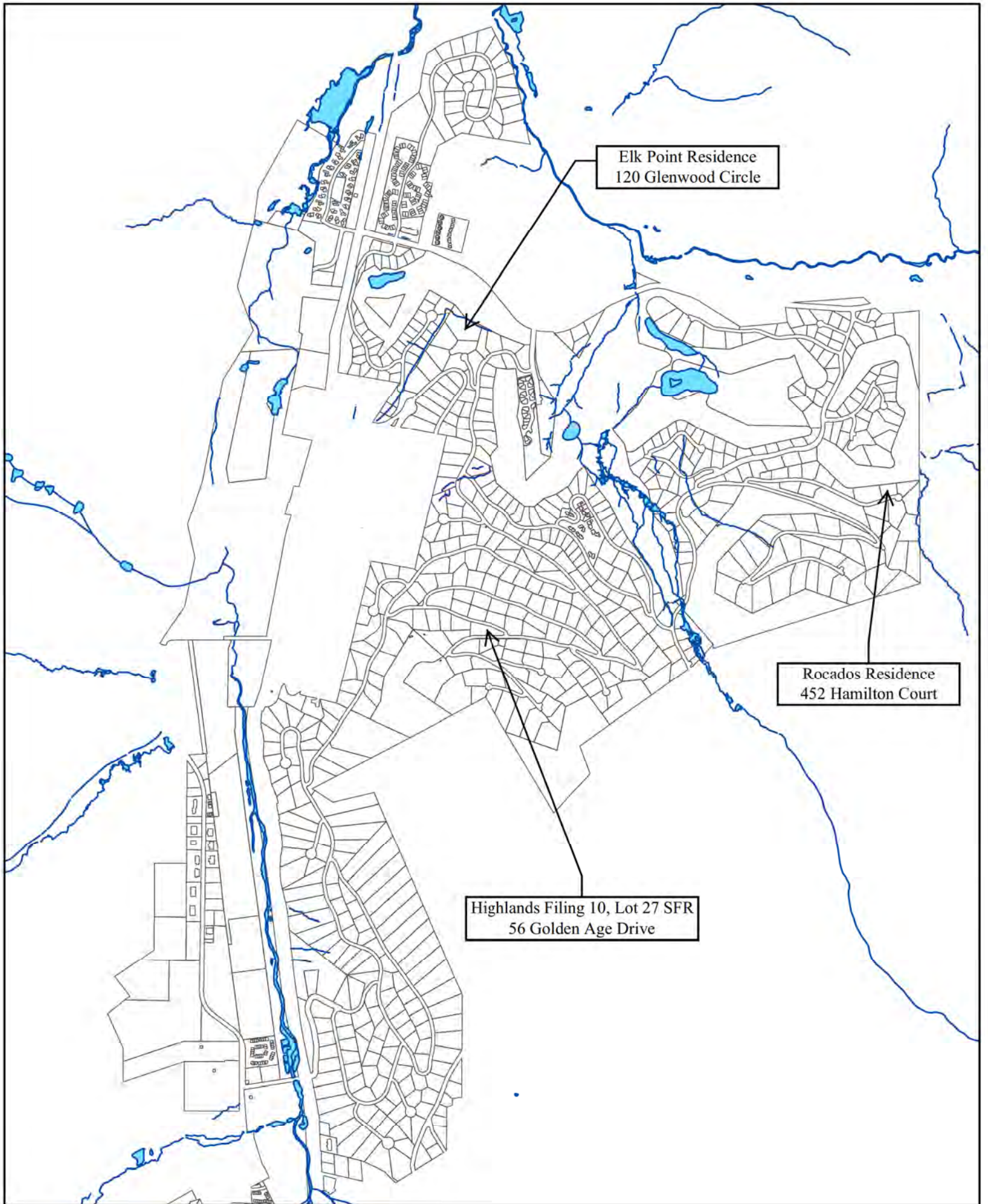
- 1) Barry Residence (MGT) PC#2013016; 226 South Ridge Street  
Construct a new, single family residence with 4 bedrooms, 3.5 bathrooms, 3,098 sq. ft. of density, 2,148 sq. ft. of mass, including a 656 sq. ft. garage. Approved.
- 2) Resubdivision of Lot 3, Abbetts Addition (MM) PC#2013019; 114 North Ridge Street  
Subdivide the existing Lot 3 of Abbetts Addition into two lots, Lot 3A and Lot 3B. Approved.

**CLASS A APPLICATIONS:**

None.

**PUBLIC IMPROVEMENT PROJECT HEARINGS:**

- 1) Breckenridge Arts District (JC); 127 South Ridge Street  
Build out of the Breckenridge Arts District campus, including the restoration of five historic structures, construction of two new structures and the associated walkways, plazas and landscaping that create a pedestrian friendly campus dedicated to hands on arts experiences and cultural events. Approved. The Planning Commission also made a Recommendation that the Town Council approve the Breckenridge Arts District.



Elk Point Residence  
120 Glenwood Circle

Rocados Residence  
452 Hamilton Court

Highlands Filing 10, Lot 27 SFR  
56 Golden Age Drive

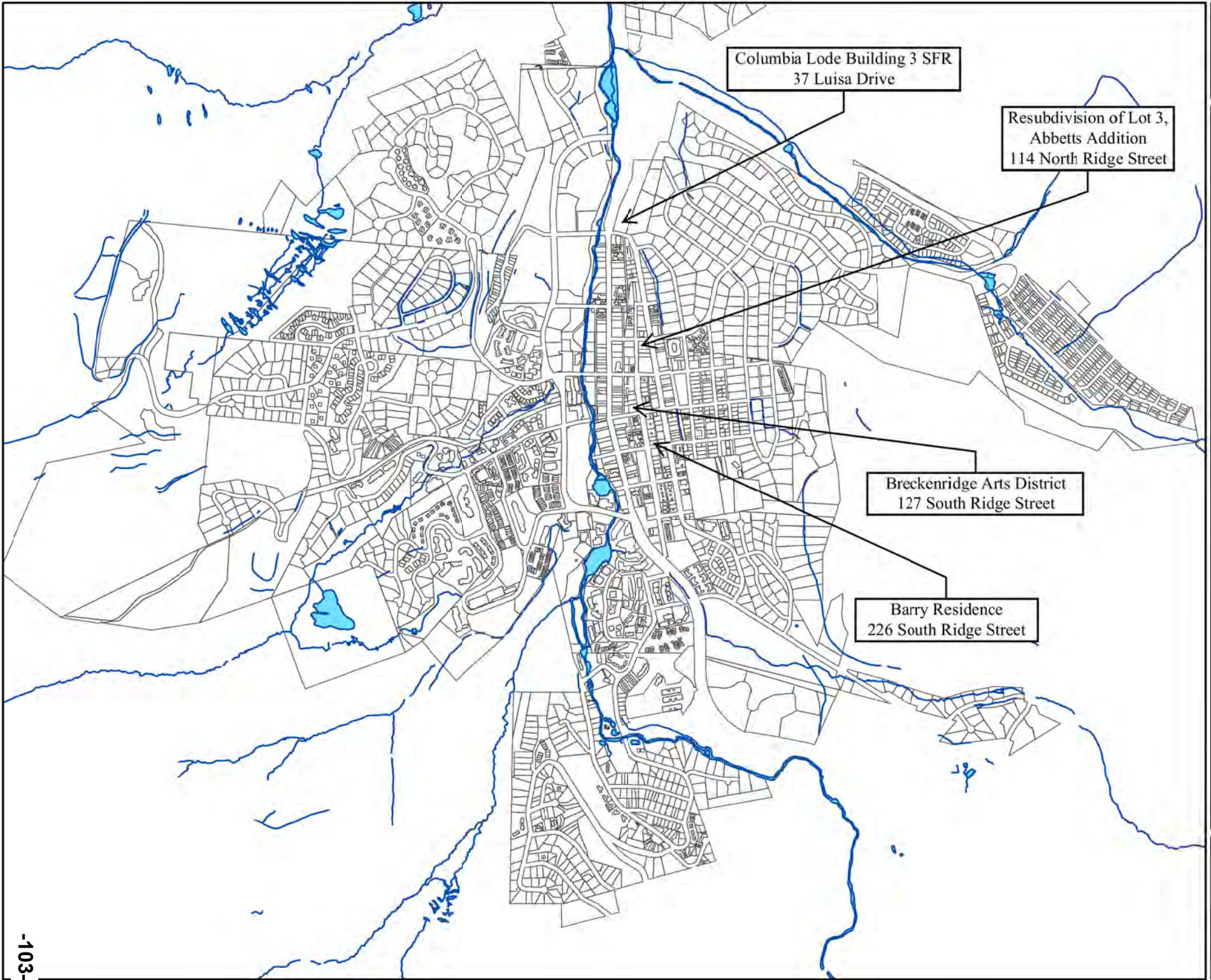


Town of Breckenridge and Summit County governments  
assume no responsibility for the accuracy of the data, and  
use of the product for any purpose is at user's sole risk.

### Breckenridge North

printed 4/12/2011





printed 4/12/2011

# Breckenridge South

Town of Breckenridge and Summit County governments assume no responsibility for the accuracy of the data, and use of the product for any purpose is at user's sole risk.



## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Kate Christopher            Trip Butler                    Gretchen Dudney  
Jim Lamb                    Dave Pringle  
Mr. Schroder, Mr. Mamula and Ms. McAtamney, Town Council Liaison, were absent.

### APPROVAL OF AGENDA

Mr. Neubecker announced there would be no Town Council Report. With no other changes, the April 16, 2013 Planning Commission meeting agenda was approved unanimously (5-0).

### APPROVAL OF MINUTES

With no changes, the April 2, 2013 Planning Commission meeting minutes were approved unanimously (5-0).

### CONSENT CALENDAR:

1. Elk Point Residence (MGT) PC#2013025; 120 Glenwood Circle
2. Rocados (MGT) PC#2013026; 452 Hamilton Court
3. Columbia Lode Building 3 SFR (MM) PC#2013028; 37 Luisa Drive

Ms. Christopher: On Page 46 of the packet, I thought that the buildings were going to be built in order, starting at the north end of the site, near building 10 & 9; on this they have proposed building number 3. (Mr. Marc Hogan, Architect: I don't think that there was ever a requirement for them to be built in order.)

4. Highlands Filing 10, Lot 27 SFR (MM) PC#2013027; 56 Golden Age Drive

With no requests for call up, the Consent Calendar was approved as presented.

### PUBLIC IMPROVEMENT PROJECT HEARINGS:

1. Breckenridge Arts District (JC); 127 South Ridge Street

Ms. Cram presented a proposal to build out the Breckenridge Arts District campus including the restoration of five historic structures, construction of two new structures and the associated walkways, plazas and landscaping that create a pedestrian friendly campus dedicated to hands on arts experiences and cultural events. Ms. Cram explained the site plan and reviewed the uses of each building.

At this Town Project review Staff is recommending a net score of nine positive (+9) points:

- Policy 5/R B. (-5 points) for relocating a secondary historic structure on site.
- Policy 5/R B. (-5 points) for the proposed monitor on the Ceramic Studio.
- Policy 22R (+2 points) for the proposed landscape plan.
- Policy 24/R C. (+8 points) for fulfilling social goals by providing art facilities that promote the arts in Town.
- Policy 24/R E. (+9 points) for an on-site historic preservation/restoration effort of above average public benefit.

The proposal passes with a net score of positive nine (+9) points.

Staff believes that the build out of the Breckenridge Arts District is an excellent public benefit for the community and will be a destination for the arts. Staff requested the Planning Commission endorse the proposed point analysis and presented Findings and Conditions. As a Town Project, Staff also asked that the Planning Commission make a formal recommendation to the Town Council for the record that they support the proposed build out with the associated site plan and architecture.



Ms. Liz Hallas, Anderson Hallas Architects, Architect for the Project, and Mr. Andy Amke, Project Manager for the Project, were present.

Ms. Hallas reviewed the new construction first: The Metalsmithing studio is between the Robert Whyte House and the Breckenridge Theatre. It is a 640 square foot building inspired by the character of the Tin Shop with a simple gable roof and painted lap siding on the front and rough sawn vertical siding on the sides and rear. The Ceramics studio elevations were also reviewed. This is more of a secondary type structure with corrugated metal and vertical board and batten siding and asphalt roof. There is a monitor on the roof. The windows in the monitor will probably be operable, or at least every other one might be. The east elevation where the flues are located will be where the kilns are located.

The Robert Whyte Building was reviewed and a historical photo of the site was provided. Existing conditions and proposed rehabilitation were elaborated upon, including repair of historic siding, restoration of windows, the replacement of thinner corrugated roofing panels, spray insulation, replacement of front and rear doors, and a new foundation around the historic stone basement.

We are moving forward with replacing the false front on the Mikolitis Barn based on expert testimony. Evidence supports a false front on it, as there is no overhang on this fascia which is contrary to the north facing facade. We are still looking for photographic evidence to accurately recreate the false front. We have some ideas as to how we are going to do this based on Fuqua next door. It needs a new foundation and we will be dismantling and reconstructing it; we will be introducing new load bearing trusses as well. We are going to salvage as much siding as we can. The front door is about 6'1" so we are looking at putting those doors in a fixed position on the side and building a new store front door similar to Fuqua.

The Burro Barn has been a challenge for us; it is located right in the middle of the site. The historical photo told us that the roof plane was slightly lower over the storage and mechanical room than the rest of the building. We will be putting a weather proof membrane and then increasing to current energy code with a lot of restoration on the remaining parts of the building.

The Little Red Shed is next to the Community Sculpture Garden; the intent is to relocate it there, leave it very much in its rustic state and it will get a new roof, window restoration and treatments to address the doors.

Ms. Dudney opened the hearing to public comment. There was no public comment, and the hearing was closed.

*Commissioner Questions / Comments:*

Mr. Butler: Any concern on use of native grass? Will it look the same as the grass along the median on highway? (Ms. Cram: No, this area will look much different. Using appropriate seed with some wild flowers in areas that are intended to be more natural. Also, as part of this community, we already have people who come and plant flowers; I anticipate that this is an area that will continue to be loved.)

Ms. Dudney: Is there a commercial kitchen in the Metalsmithing Studio? (Ms. Hallas: There is no commercial kitchen in this project; there is a kitchen in the Abby Hall Building.) Do you feel like the sod will stay sod? (Ms. Cram: We will have dog stations; I met with the Parks Division to see tactically what we would need and what it would take to maintain this area.)

Mr. Pringle: The first element in the materials plan, will the bistro lighting be strung around the campus? (Ms. Cram: No, just in one location over the plaza between the Ceramic Studio and the Metalsmithing Studio.) There isn't a chance that it will start to grow? (Ms. Cram: No; it is cost prohibitive and as far as the character we are trying to create it is specific to that plaza.) The source of the light, the bare bulb that hangs out there; we used to be so careful, and now

- it seems like they are springing up everywhere around town.
- Ms. Dudney: You mean because of night sky?
- Mr. Pringle: The intensity of the lighting downtown. I understand the bistro lighting and things like that but...
- Ms. Christopher: I feel that the location that you've put it in reads like a back yard to me. You might see it from certain places but not everywhere. To me, it isn't all over the entire block. (Ms. Cram: That is what we were trying to create; we are hoping to rent that space and generate some revenue. It will not be on all night, all the time.)
- Mr. Pringle: So it won't be every night? (Ms. Cram: Probably not.)
- Mr. Lamb: It is safe to say that the intensity of the light won't be that great.
- Mr. Butler: The lights are going to be on the east elevation? Is 9 feet about normal? I was visualizing those lights being a little bit higher in general. I'm not suggesting to change the building, it's just different. I like the lights.
- Ms. Christopher: How much distance between the buildings? (Ms. Hallas: 30'. Attached to the east eave of Ceramic Studio and west eave of Metalsmithing.)
- Mr. Pringle: With regard to the monitor, we have a policy that you can raise the height 10 feet above code. Did you measure to top of monitor? (Ms. Cram: No we did not measure it, as it is stepped back and does not provide additional density. If we had measured from the monitor down, we would still be below the height requirement. We are within the recommended height for this structure. The negative points were assigned to discourage other monitors in town.) I like the idea that you're not busting through the maximum height of the ridge. The other question is you're leasing space in this to CMC? (Ms. Cram: The Town has a requirement to provide CMC some space until 2019; in order to fulfill that commitment, we are sharing the Ceramic Studio with them.)
- Ms. Christopher: Mikolitis Barn: It looks like the doors will take up the entire façade? (Ms. Cram: Historic barn doors fixed with new storefront doors inside.) On the Burro Barn: Would these restrooms be open to the public? (Ms. Cram: Yes.)
- Ms. Cram: We are proposing the net score as positive nine (+9) points. Are there any questions?
- Ms. Dudney: I guess this doesn't have to comply with the latest ordinance on moving historic structures? (Ms. Cram: Correct.) If it had been, would each building receive negative points? (Ms. Cram: I'm not sure, but we are only moving one secondary building and received negative five points (-5) under the existing code.) But don't we give positive points for each structure that gets renovated? (Mr. Neubecker: Under the new system they would get positive six points (+6) for the primary and positive three points (+3) for the secondary structures.) Since we have a number of historic structures, there would probably be more positive points? (Ms. Cram: If we were coming to you for approval individually, we would probably get positive points for all four structures, but because we are looking at this as one project, we could only get a maximum of positive nine points (+9).) (Mr. Neubecker: My intent in writing the new policy relates to more residential type situations not a campus. Normal situation with one house and a shed, you would assign points to each under the new policy.) (Ms. Cram: We followed the same point analysis that we followed for a similar project that had several historic structures.) (Mr. Neubecker: This definitely falls under the old ordinance.)
- Mr. Lamb: But it would pass either way.
- Mr. Pringle: I don't think that the new ordinance really contemplated a block of buildings. (Mr. Neubecker: There is some flexibility built into the new policy so that the Planning Commission has discretion to determine the points.)

*Final Comments:*

- Mr. Lamb: I think everything looks good; there could be some minor little tweaks when you get into the historic structures, but I like it.
- Ms. Dudney: I think it's terrific.

Mr. Butler: I agree; it's a great project.

Ms. Christopher: Good job everyone, very thorough.

Mr. Pringle: I am excited and a bit overwhelmed that we are going to be able to do it all at once.

Ms. Christopher made a motion to approve the point analysis for the Breckenridge Arts District Project at 127 South Ridge Street. Mr. Butler seconded, and the motion was carried unanimously (5-0).

Ms. Christopher made a motion to approve the Findings and Conditions for the Breckenridge Arts District Project at 127 South Ridge Street. Mr. Butler seconded, and the motion was carried unanimously (5-0).

Ms. Christopher made a motion to recommend that the Town Council approve the Breckenridge Arts District Town Project at 127 South Ridge Street with the site plan and architecture as proposed. Mr. Butler seconded, and the motion was carried unanimously (5-0).

### **FINAL HEARINGS:**

1. Barry Residence (MGT) PC#2013016; 226 South Ridge Street

Mr. Neubecker presented a proposal on behalf of Mr. Thomson to construct a 3,098 sq. ft. single family residence with an attached 656 square foot garage. The residence is proposed to have: 4 bedrooms, 3 ½ bathrooms, one second story deck off of the master bedroom, and a covered porch. A material and color sample board was presented.

The Planning Commission considered this proposal at the March 19, 2013 meeting as a preliminary hearing. The applicant has now returned for a final hearing. There was some concern expressed regarding the window pattern on the garage. Staff has completed research on outbuildings and barns in the historic district, which showed that small square windows were often found on these types of structures. The Applicant has decided to make no changes from the previous hearing. The Planning Department recommends the Planning Commission approve the Barry Residence, PC#2013016, located at 226 South Ridge Street, Lots 17-18, Block 10, Abbetts Addition with the presented findings and conditions.

Ms. Dudney opened the hearing to public comment. There was no public comment and the hearing was closed.

### *Commissioner Questions / Comments:*

Mr. Pringle: I thought that the lack of the glass on the barn, and when you take the front elevation of the big house it seems to me that the solid to void ratio is heavily tilted towards a lot of glass. When you take a look at the three panes of glass on the west elevation; typically you would see only one double hung window. We didn't really get into the architecture much and we glossed over it at the last meeting. (Mr. Neubecker: I would ask, "Is it enough glass that it doesn't meet our policy, and would it get negative points?") I think that the code says we are supposed to maintain historic patterns.

Mr. Lamb: I think that it is right on the edge; but the way that I understand the code is that it is made of vertically oriented windows and it is encouraged by the code. I personally don't find it objectionable.

Mr. Pringle: It's triple double-hung windows everywhere you go; on the north module at the front elevation it has a single double hung at the second level and that is a lot more appropriate and historically accurate. (Mr. Neubecker: You're right; on a historic structure you would have less glass.)

Ms. Christopher: For me, that's where the difference lies. It reads like a little bit of a newer building. I know that the solid to void ratio isn't historic but it does read a little bit like 2012. (Mr. Neubecker: The historic standards are slightly different for new construction than for renovation.)

- Mr. Lamb: I don't think that there is anywhere in the code that prohibits three windows versus two.
- Ms. Dudney: Historic Standards dictate size and shape; and says that new construction doesn't have to be an exact replica of historic.
- Mr. Pringle: I understand that a square window is allowed, but it cries out for a different window pattern, in my opinion. We have seen the Arts District, and they would use windows that are more historically accurate.
- Ms. Christopher: On Page 15 of Design Standards, it gives us pictures, if that helps? (Mr. Neubecker: Policy 95 for new construction: "The proportion should be similar to historic buildings in the area; large expanses of windows are inappropriate." Policy 96: "Solid to void ratio should be similar to historic buildings." I would like to see if there is support for negative points or what the concern will be.)
- Ms. Dudney: What would you specifically like to see?
- Mr. Pringle: I'm just making a comment for the record; there is too much glass, the sizes are a little big, and they need to have less. The three on the second floor on the west elevation should be more accurate.
- Mr. Lamb: This is a fairly wide lot and it doesn't look like your standard historic home. Perhaps with only two windows it wouldn't look as good.
- Mr. Butler: I think there might be something to that; I think that is exactly what I would say.
- Ms. Christopher: I would stick with the three windows and step the two windows down so that it makes the whole thing look like less glass. (Mr. Neubecker: The height of adjacent windows being the same is fairly traditional.)
- Ms. Dudney: Design Standards, Page 51: "New construction should be compatible, including the basic scale and materials." This means they 'need not be copied' while expressing current concepts.
- Mr. Pringle: I don't think I'm going to get a lot of support but it needs to be stated. It's a disproportionate amount of glass.
- Ms. Dudney: If it were my house, those three windows would be something that I wouldn't like; my conclusion is that I don't think that I have a leg to stand on in the code. I would like it better if it wasn't like that but I'm not the designer.
- Ms. Christopher: The house is bigger than normal; it might look inappropriate with smaller windows.
- Mr. Butler: I agree with that.
- Mr. Pringle: Would anyone care to rethink the three windows on the one façade?
- Ms. Dudney: I don't have a problem with that.
- Mr. Pringle: We're trying to sell this off as a Harris or High Street barn, and we'll never make it
- Ms. Christopher: There is always a foot or two of space between those windows. (Mr. Neubecker: There is some landscaping along the side of the garage, so that this part of the garage won't be as highly visible.)
- Mr. Pringle: We could assign some negative points and it would still pass. (Mr. Neubecker: You could float a motion out there and see if it would pass; but if it received negative five (-5) points, then it wouldn't pass.)

Mr. Pringle made a motion to change the point analysis to change the points on Policy 5 Architecture to a negative five points (-5), changing the total to a score of negative one points (-1). Mr. Butler seconded. The motion failed (1-4).

Mr. Lamb made a motion to approve the Point Analysis for the Barry Residence, PC# 2013016, 226 S. Ridge Street. Ms. Christopher seconded, and the motion was carried unanimously (5-0).

Mr. Lamb made a motion to approve the Barry Residence, PC#2013016, 226 S. Ridge Street, with the presented findings and conditions. Ms. Christopher seconded, and the motion was carried unanimously (5-0).

**COMBINED HEARINGS:**

1. Resubdivision of Lot 3, Abbetts Addition (MM) PC#2013019; 114 North Ridge Street

Mr. Neubecker (most awesome Planner ever) presented a proposal on behalf of Mr. Mosher to subdivide the existing Lot 3 of Abbetts Addition into two lots, 3A and 3B. This lot was last reviewed for resubdivision in 2006. During that review and after Planning Commission approval, the Town Council called this item off the Consent Calendar for a de novo hearing. During this review, the Council discussed the section of the Subdivision Standards that requires a dedication of open space or a cash fee in lieu of land dedication, for any subdivision. The application was approved by Town Council, conditioned on the payment of a fee (based on the appraised value of the land) in lieu of a land dedication. That application has since expired.

With Staff, Town Attorney and Steve West's (of West Brown Huntley and Hunter) direction Staff has reviewed the specific language in this policy, reviewed past precedent, and most recently, the Town Council's acceptance of a Development Agreement regarding the dedication of open space in the Conservation District. The applicant's property was subdivided in 1882. With the Development Code, the overall density is fixed at 1 SFE = 1,600 square feet in this case, with a multiplier based on a ratio related to the lot size. Staff has found that there are no additional density impacts that create any need for more open space as a result of dividing this land. The density and the impacts remain the same regardless of any divisions of the lot. (The total density of the existing lot is 9,824 square feet, with 4,421 square feet of above ground density. If the lot is subdivided into two lots, the density would be the same, but split two.) The Town Attorney believes the open space requirement has been already satisfied since the process of all historic subdivisions (Abbett, Bartlett and Shock, Yingling and Mickles, etc.), throughout the Town core provided the adjacent rights-of-way and alleys as part of the initial subdivision process. Therefore any re-subdivisions of properties within the Conservation District should not be required to provide any open space. Lastly, on April 9, 2013, the Town Council approved the Council Bill No. 10 (Brown Hotel Development Agreement) that waived any open space dedications for a resubdivision for similar reasons.

A special finding has been added to the Findings and Conditions:

*No open space dedication is required for this application under Section 9-2-4-13 of the Town of Breckenridge Subdivision Standards because: (i) there is no additional density to be created by virtue of the subdivision proposed this application; (ii) applying the required "nexus" and "rough proportionality" legal standards for land use exactions to the application, the Town has not determined that there is a quantifiable impact of the development proposed by the application on the Town's open space and trail system so as to authorize the Town to require an open space dedication for this application; (iii) some public dedications for the property were made when the original subdivision was created in 1882; and (iv) the Town's position with respect to the application of Section 9-2-4-1 to the application is consistent with the vast majority of the Town's historic interpretation of such section within the Conservation District, and to the extent the Town's position in this decision is inconsistent with the Town's historic interpretation of such section within the Conservation District, the Planning Commission finds that such inconsistency is not controlling and should not be followed.*

As an added precaution, Staff has added a Condition of Approval that prior to recording the plat, the final plat shall show access restrictions along Ridge Street, Wellington Road and 35-feet in from the paving edge of Wellington Road along French Street. This will ensure that access will be taken from French Street.

There is a Town bus stop along French Street in front of this lot. Staff has reviewed this application with the Engineering Department and has found that, based on the applicant's draft development plans and the proposed access restrictions, the properties can each meet all of the Engineering criteria for intersection separations and still allow on-street parking and/or the bus stop to remain.

Overall, Staff believes the Applicant has done a good job of splitting this lot into two smaller lots that meet the Town's Subdivision Standards. Staff also believes that there is a benefit to subdividing this large lot, in order to ensure that development on these lots is more compatible with the scale of buildings in the Historic District.

Staff recommends approval of the Resubdivision of Lot 3, Abbetts Addition (PC#2013019) with the presented Findings and Conditions. Staff has advertised this application as a Combined Preliminary and Final Hearing.

Janet Sutterley, Architect: That foundation on the survey was never for a building; it happened in the 1980's but we did find a Sanborn map, and there was a little out building on the northeast corner. The driveway as far from the corner would be good; easy to keep 30 feet from the other driveway. Neighbor to south doesn't have a driveway; they just have a parking lot. The main thing is that no one has a giant single family house in this area and it doesn't belong on this corner.

Ms. Dudney opened the hearing to public comment. There was no public comment and the hearing was closed.

*Commissioner Questions / Comments:*

Mr. Lamb: Is there any differentiation between open space here and the Highlands or Wellington in the code? (Mr. Neubecker: The code does not; we don't want people to piecemeal through to avoid dedicating the open space. The amount of density has not increased here; so even though we are creating another building site, we aren't increasing density.) But if this was out of the Conservation District, the answer would be a flat no. (Mr. Neubecker: It's very similar to the Brown Hotel, and there is some benefit to obtaining the smaller more narrow lots which appear more in conformance with the Historic District.)

Mr. Pringle: This is by far the right solution.

Mr. Lamb: The last home on this site didn't look historic at all. (Mr. Neubecker: Prior Applicants said that they were okay with the cash contribution initially, but once it jumped up it was too much.)

Mr. Pringle: It went from \$30,000 to \$150,000; it is the only lot in the Conservation District where it had that standard applied to it. (Mr. Neubecker: There are several footprints lots that didn't pay either.)

Mr. Lamb: It is the right thing to do.

Mr. Pringle made a motion to approve the Re-subdivision of Lot 3, Abbetts Addition, PC#2013019, 114 North Ridge Street, with the presented findings and conditions. Ms. Christopher seconded, and the motion was carried unanimously (5-0).

**OTHER MATTERS:**

The Planning Commissioners wished Mr. Neubecker well on his move to Englewood.

**ADJOURNMENT:**

The meeting was adjourned at 8:55 pm.

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Gretchen Dudney, Chair



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## MEMORANDUM

**TO:** Town Council

**FROM:** Chris Neubecker, Current Planning Manager

**DATE:** April 16, 2013 (for meeting of April 23, 2013)

**SUBJECT:** Street Use License: Permit Renewals  
Breckenridge Bike Bus (Curt Cavnar)  
Breckenridge Stables Horse & Carriage (Brad Bays)

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### Breckenridge Bike Bus

Curt Cavnar has submitted an application to renew the permit for his existing Bike Bus operation. The operation, on which up to 16 people ride and pedal to provide power to the “bus”, runs primarily through the Conservation District on Ridge Street and Main Street, with stops also planned at Beaver Run. In addition, the Bike Bus will be used for special events, weddings, private functions, birthday parties, and pub tours, which may on occasion take the Bike Bus off the standard route.

The original permit for the Bike Bus expired on October 11, 2012. The new Street Use License ordinance allows a permit renewal for applications received at least 45 days prior to the permit expiration date (without requiring a public hearing). The ordinance also allows the Town Manager to waive the 45 day time requirement if the applicant demonstrates an adequate reason. No particular reason has been presented, but I believe that the bike bus did not operate over the winter, and the applicant was in no hurry to renew the permit.

The primary loading location of the Bike Bus is the Breckenridge Mountain Lodge, at 600 S. Ridge Street.

### Horse and Carriage

Breckenridge Stables (Brad Bays) has submitted an application to renew the permit for the horse and carriage operation in the historic district. The operation, which includes two draft horses pulling a carriage that can hold up to 9 people, runs primarily through the historic district, but on occasion will leave the historic district for special events, weddings, etc.

The most recent permit for the horse and carriage expired on December 13, 2012. Mr. Bays contacted staff before the previous permit expired expressing an interest to renew the permit. Due to adoption of the new Street Use License ordinance, additional submittal materials were required and the complete application was received on February 15, 2013.

The primary loading location for the horse and carriage is at 203 S. Main Street, in front of the Breckenridge

Welcome Center. Since changing to this new location last year, we have received no negative feedback on the location or operation. Mr. Bays has also indicated that this location works well for his business.

### Referrals

As required by the new Street Use License ordinance (Ordinance 29, Series 2012), I have referred these permit renewals to the Police Department, Streets Department, Transit Department, and Community Development. I have received input from each department and each had no concerns with renewing the permits in the same locations and with the same conditions of approval. No changes are proposed to either operation from the past year.

One issue was raised by the Police Department during the summer of 2012 about the Bike Bus parked on the north side of Watson Avenue, just west of Main Street. This issue was fixed after staff contacted Mr. Cavnar.

### Next Steps

If the Council would like a public hearing with public notice for either of these permit renewals, we will schedule the hearing for a future Town Council meeting. However, because these are permit renewals, public hearings are not required. Please let staff know if you would like a public hearing. Otherwise, we will renew these permits administratively.



# Memorandum

**To:** Town Council  
**From:** Jennifer Cram, Planner III, AICP  
**Date:** 04/16/2013  
**Re:** Breckenridge Arts District Town Project Approval

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The Breckenridge Arts District campus build-out is being reviewed as a Town Project. All public noticing requirements for the approval of a Town Project have been fulfilled as required under the current Development Code. The proposed build-out includes the rehabilitation of four historic structures, construction of two new structures, development of the "Ridge Street Art Square", associated walkways, plazas, green spaces, proposed landscaping, lighting, informational kiosk and sculptures.

Since we last presented the revised conceptual site plan to the Town Council on March 12<sup>th</sup> the site plan and architecture have moved forward. Attached to this memo is the complete staff report, substantially the same as presented to the Planning Commission, and attachments that include the final Site Plan, Materials Plan, Lighting and Snowstack Plan, Landscaping Plan, Floor Plans and Elevations. We have also included a photo board for proposed materials and design character.

The project has been designed to meet the Town's Development Code and the Handbook of Design Standards for the Historic and Conservation Districts. The project meets all absolute and priority polices and passes with a net score of positive 9 points (+9). The project was reviewed by the Planning Commission at a public hearing on April 16, 2013. The Planning Commission made a formal recommendation to approve the Arts District Campus Build Out with the site plan and architecture as presented.

For the Council's further understanding of what the campus will include, we have noted the facilities and their proposed uses below:

- Ceramic Studio – Ceramics Programs for the Arts District and CMC and one resident artist studio for rent
- Metalsmithing Studio – "Hot Arts" including Metalsmithing, Glass Blowing, Encaustic Painting, etc.
- Robert Whyte House – Live/Work Studio for rent to visiting artists
- Mikolitis Barn – Printmaking and Textiles and one resident artist studio for rent
- Burro Barn – Public Restrooms and Storage
- Little Red Shed – Gas Kiln for Ceramics Programs and Storage

**Existing Facilities:**

- Fuqua Livery Stable – Painting and Drawing and one resident artist studio for rent
- Quandary Antiques Cabin – Children's Art Programs
- Tin Shop – Live/Work for visiting artists (not owned by the Town)

The Abby Hall is not part of this project approval. The anticipated use for Abby Hall is primarily Dance with some other supporting programs. This will be brought to the Council at a later date for discussion and approval.

Elizabeth Hallas with Anderson Hallas Architects, PC will present the architecture to the Council during the worksession on April 23, 2013, and answer any questions about the architecture. Staff will be available to answer any questions that the Council may have about the Breckenridge Arts District campus in general.

**Town Council Staff Report – Public Improvement Project**

**Subject:** Breckenridge Arts District Town Project

**Proposal:** To build out the Breckenridge Arts District campus including the restoration of five historic structures, construction of two new structures and the associated walkways, plazas and landscaping that create a pedestrian friendly campus dedicated to hands on arts experiences and cultural events.

**Date:** April 17, 2013 (For meeting of April 23, 2013)

**Project Managers:** Jennifer Cram, AICP, Planner III, Community Development  
Shannon Smith, Civil Engineer, Engineering Department

**Applicant/Owner:** Town of Breckenridge

**Agents:** Elizabeth Hallas, Principal, and Andy Emke; Project Manager, Anderson Hallas Architects, PC  
  
Don Leinweber, Alpine Engineering, Inc. and Mary Hart, Mary Hart Design

**Address:** Generally at 127 South Ridge Street

**Legal Description:** A portion of Lots 6 and 7, Block 12 Abbetts Addition, Lots 8-13, Block 12 Abbetts Addition, Lots 6-8, Block 1 Stiles Addition and Lots 26-28 Bartlett and Shock Placer Addition.

**Site Area:** .67 acres (29,145 sq. ft.)

**Land Use District:** 18.2 - Residential, 20 Units Per Acre (UPA), Commercial at 1:1

**Historic District:** 3 - South End Residential

**Site Conditions:** The site slopes to the northwest from the corner of South Ridge Street and East Washington Avenue. The site is slightly in a depression created when the street grade was raised. The grade around the Breckenridge Theatre was raised as a result of the street grade. Four historic structures exist on the site including the Robert Whyte House, Burro Barn and Privy and the Mikolitis Barn. There is little existing vegetation except for one Aspen tree southeast of the Robert Whyte House that is proposed to be preserved. Two gravel parking areas exist, one along the west side of the property off of the alley and one at the corner of South Ridge Street and East Washington Avenue, known as the Barney Ford Lot.

**Adjacent Uses:** Breckenridge Theatre to the north, McAdoo Corner, Tin Shop and Barney Ford House Museum to the south, Ridge Street (commercial) to the east and the alley (back of Main Street, commercial) to the west.

**Density:**

Allowed under LUGs:	29,145 sq. ft.
Recommended Above Ground at 9UPA	9,633 sq. ft.
Proposed density:	7,282 sq. ft.

**Mass:**

Allowed under LUGs:	29,145 sq. ft.
Proposed mass:	7,282 sq. ft.

### **Item History**

The Town purchased the properties on the corner of South Ridge Street and East Washington Avenue in 2002 with the vision of creating an arts campus. The Town began offering art workshops at the historic Robert Whyte House in 2003. The Breckenridge Arts District master plan was adopted in 2004 as a correlative document to the Town Code and Development Code. The Town partnered with the Saddle Rock Society to rehabilitate the historic Tin Shop into a guest artist facility in 2006. The historic Fuqua Livery Stable was rehabilitated with the help of a State Historic Fund Grant and opened in 2008. The Fuqua Livery Stable received the Stephen H. Hart award for outstanding efforts in historic preservation. The Quandary Antiques Cabin was donated to the Arts District by Jim and Maureen Nicholls. The Cabin was relocated to the campus and renovated in 2008. Although the cabin is not technically historic it does have social significance to the Town. The Town Council approved the accelerated buildout of the Arts District campus in the fall of 2012.

The Robert Whyte House was home to Robert H. Whyte, manager of the Grand Central Hotel in Breckenridge until it burned down and then the owner of a grocery store. The primary structure was built in 1889. The burro barn was built shortly afterwards.

The Mikolitis barn was built in 1902.

### **Planning Commission Worksessions**

- January 15, 2013 – Site Plan review
- March 5, 2013 – Update, Abby Hall Purchase
- April 2, 2013 – Site Plan updates and Preliminary Architecture

### **Planning Commission Public Hearing**

- April 16, 2013 – Final Public Hearing (Approved)

### **Staff Comments**

The build out of the Breckenridge Arts District will be a vibrant addition to the downtown core as part of the developing cultural spine from the Riverwalk Center to the Harris Street Community Center. The Arts District will provide the local community and visitors to Breckenridge the opportunity to participate in arts experiences in a variety of mediums; provide space for resident/local working artists, guest artists and cultural events. It is the vision for the Arts District to be a destination for the Arts. This project is being reviewed as a Town Project.

**Architectural Compatibility (5/A & 5/R):** Along with the specific criteria listed directly in this policy, this section also identifies the need to be compliant with the Priority Policies and Design Standards of the *Handbook of Design Standards for the Historic and Conservation Districts* and the *Design Standards for the Historic District, Character Area #3: South End Residential*.

#### **5/Absolute:**

- A. Colors will be selected at a later date via a Class D Permit and will meet the Code. All metal will not be highly reflective and will be treated with a vinegar wash so that it begins to rust.
- B. The proposed build out of the Arts District is in substantial compliance with all priority and absolute polices with regard to the rehabilitation of historic structures and new construction.

C. The proposed total density is under the required 12 UPA above ground.

**5/Relative:**

B. Please see the discussion related to each structure noted below with regard to compatibility.

C. The proposed total density is under the recommended 9 UPA above ground as noted above.

**Robert Whyte House:** The Robert Whyte House will be rehabilitated to its historic look within our historic period of significance. All policies within the Handbook of Design Standards are being met. The structure will remain in its historic location within the Arts District campus. The non-historic northern addition will be removed. As a result, one historic window opening will be re-established. The non-historic masonry chimney will also be removed. The structure will be placed on a new foundation. This foundation will raise the structure approximately one-foot to achieve positive drainage and to re-establish the historic relationship to the street. The roof will be structurally stabilized and roofing material will be replaced with rusting corrugated metal to match the historic roof. Siding will be scraped, painted and repaired as needed to match existing historic fabric. Historic windows will be restored and non-historic windows replaced with windows that are more compatible within historic window openings. The front and rear doors will be replaced with doors that are historically compatible. All electrical and mechanical systems will be updated. The interior floor plan will remain intact. The structure will be modified to provide a live/work studio for guest artists. We believe that this use is compatible with the historic use. Staff is recommending positive points under Policy 24R E. for these restoration efforts as discussed under the point analysis.

**Burro Barn:** The Burro Barn has been panelized and is being stored for rehabilitation, as it collapsed about three years ago. The Burro Barn has been thoroughly documented to ensure that it will be rehabilitated to its historic look within our historic period of significance. The structure will be placed on a new foundation. All siding will be repaired and material replaced as needed with like material. All historic openings will be restored. One new opening will be cut out of historic fabric to provide access to the storage room on the northeast elevation. The historic fabric will be used on the exterior of the new door. No historic fabric will be lost as a result of this opening. The door will be handled in the same way that we handled the door on the east side of Fuqua (see attached photo.). When the door is closed it will look like the original historic structure. The roof will be structurally stabilized and resurfaced with new rusting corrugated metal to match the historic roof. New electrical, mechanical and plumbing systems will be added. Staff is recommending positive points under Policy 24R E. for these restoration efforts as discussed under the point analysis.

The structure will be moved from its historic location 8 feet east and 10 feet south to provide adequate space on site for other programming elements. The historic Privy will move with the burro barn 6 feet east as well. Both structures will maintain their historic relationship behind the Robert Whyte House. Staff is recommending five negative points (-5) under Policy 5R B. for relocating a secondary structure on site.

The structure will be modified to provide public restrooms for the Arts District campus and storage. We believe that this use is compatible with the historic use.

**Mikolitis Barn:** The Mikolitis Barn will be rehabilitated to its historic look within our historic period of significance. All policies within the Handbook of Design Standards are being met. The structure will remain in its existing historic location within the Arts District campus. The structure will be placed on a new foundation. All siding will be restored and repaired as needed with like material. All historic window openings will be restored with appropriate wood windows. All doors will also be restored. No

new openings are proposed. The roof will be structurally stabilized and new rusting corrugated metal will be placed on the surface. New electrical, mechanical and plumbing systems will be added. The interior floor plan will remain intact. The structure will be modified to provide space for a printmaking and textile studio and one studio to rent to local artists. We believe that this use is compatible with the historic use.

We have presented two options for the south elevation, one that proposes replacing the false front. The second alternative shows the south elevation being restored as it exists today without a false front. The historic Sanborn Maps reference this structure as having a false front. In addition, native Breckenridge resident Robin Theobald remembers the structure with a false front and when it fell off. Likewise, long time local and historian Maureen Nicholls recalls the false front and when it fell off.

Policy 29 states: *“Replacement of missing architectural elements should be based on accurate information about original features. The design should be substantiated by physical or pictorial evidence.”*

Ms. Nicholls believes she has a photo of the structure with a false front and our architects are examining the structure closely. We would like the Council to approve the elevation with a false front based on the testimony of Robin Theobald and Maureen Nicholls. We will continue to look for photos of the false front and will go back to the Planning Commission to share this information if the design is changed. Staff is recommending positive points under Policy 24R E. for these restoration efforts as discussed under the point analysis.

**Little Red Shed:** The Little Red Shed will be rehabilitated to its historic look within our historic period of significance. All policies within the Handbook of Design Standards are being met. The structure will be relocated from another site to the Arts District. The new location is appropriate for a secondary structure along the alley and visible from Washington Ave. The new location will provide a good context for the structure. The existing location is not its historic location. The structure was moved outside of our period of significance from Hoosier Pass.

The structure will be placed on a new foundation. The roof will be structurally stabilized and roofing material will be replaced with like material to match the historic roof. All siding will be restored and repaired as needed with like material. Historic windows will be restored. Historic doors will also be restored. No new openings are proposed. New electrical and mechanical systems will be added. The interior floor plan will remain intact. The structure will be modified to provide space for a gas kiln and storage. We believe that this use is compatible with the historic use. Staff is recommending positive points under Policy 24R E. for these restoration efforts as discussed under the point analysis.

**Ceramic Studio:** This will be a new structure within the Historic District. We believe that the Ceramic Studio is in substantial compliance with Handbook of Design Standards.

Character – The character for the proposed Ceramic Studio is that of a secondary structure. We believe that this is consistent with what the South End Residential Character Area, as there is a combination of primary and secondary structures that exist today on the existing site.

Scale – The proposed scale of the building is consistent with historic structures that survive today. Typically the module size of surviving historic structures in the South End Residential Character Area is between 540 to 2,600 square feet. The average size or module size is 1,300 square feet. The module size of the historic Fuqua Livery Stable is 1,200 square feet. The footprint of the Ceramic Studio as proposed

is 1,322.5 square feet. Including the lower level that is more than 4' above proposed grade, the total approximate module size is 1,600 square feet +/- (above 4' by 12' on the south side and 7.5' on the north side). Priority Policy 158 notes that if the total above ground density of the development is under 9 Units per Acre (UPA) then an individual building module may be as large as the historic maximum. The total above ground density for the property containing the Fuqua Livery Stable, Mikolitis Barn, Robert Whyte House, Burro Barn, Little Red Shed, Ceramic and Metalsmithing Studios will be less than 9 UPA.

The width, length and height are appropriate as discussed below. The Ceramic Studio is also set back from the other historic structures and the massing is stepped with the shed addition on the east side as viewed from Ridge Street. Staff believes that the scale of the building is appropriate for the area and does not overwhelm the existing historic structures, meeting the requirements of Priority Policy 158 (*"New buildings should be in scale with existing historic and supporting buildings in the South End Residential Character Area"*).

Form - The building form is simple, similar to the historic Fuqua Livery Stable and other historic secondary structures as required by Priority Policy 160 (*"Use building forms similar to those found historically in the area. Use simple building forms."*).

Roof – The primary roof forms proposed are a simple, steep-pitched gabled form with a shed addition on the east side. Cues were taken for the monitor on the gabled roof from photos of the historic dipping station on Ridge Street. A copy of one of the photos is attached for reference. The roof pitch is consistent with historic structures. Priority Policy 161 states, *"Use roof forms that reflect the angles, scale and proportions of those historic buildings in the South End Character Area."* Although the dipping station was not located in the South End Residential Character Area, it was located nearby in the South End Residential Transition Area. Again, because the structure is intended as a secondary structure located off of the alley as part of the Arts District campus, we believe that the roof form is appropriate and does not negatively impact the remaining historic structures. Based on Commission input from the worksession on April 2<sup>nd</sup> Staff is recommending five negative points (-5) for the proposed monitor under Policy 5R B.

Height – The façade as viewed from Ridge Street is 1 ½ stories as required by Priority Policy 163 (*"Building height should be similar to nearby historic buildings."*). The façade as viewed from the west or alley is 2 stories. Historically, most buildings in this character area were 1 ½ stories, but there were some 2 story buildings, as noted in the discussion at the beginning of the South End Residential Character Area under "Character of Historic Development". Per Policy 6R, the structure is 24' measured to the mean, less than the recommended 25' and absolute height of 30'.

Façade Width – Both the east and west façades are less than the 30 feet required by Priority Policy 164 (*"Reinforce typical narrow front façade widths that are typical of historic buildings in the area. The front façade of a building may not exceed 30 feet in width."*).

Building Materials – Currently we are proposing a combination of board and batten siding and corrugated metal that is appropriate for a secondary structure within the Historic District, as discussed in Priority Policy 165 (*"Maintain the present balance of building materials found in the character area."*). We are proposing a Tamko asphalt shingle roof that looks like a wood shake. The Fuqua Livery Stable is board and batten with a wood shake roof. The Tamko roof is accepted by the Secretary of Interior Standards as being an appropriate alternative to wood shake roofs and meets the intent of Priority Policy 166 (*"Use roofing materials similar to those found historically."*).

Doors and Windows – All proposed doors and windows are similar in size and shape to those found historically as required by Policy 168 (“*Use building features similar in size and shape to those used traditionally. Windows should be similar in size and shape to those used historically. Doors that include glass are encouraged.*”).

Details – We are proposing an industrial bracket at the east entrance and a barn door on the upper level on the west facade. These details are appropriate for secondary structures and will be used with restraint as recommended by Policy 170 (“*Use ornament and detail with restraint, in keeping with the modest character of the South End Residential Character Area.*”).

**Metalsmithing Studio:** This will be a new structure within the Historic District. We believe that the Metalsmithing Studio is in substantial compliance with Handbook of Design Standards.

Character – The character for the proposed Metalsmithing Studio is that of a primary residential structure. We believe that this is consistent with what the South End Residential Character Area recommends and is appropriate as the structure is located along Ridge Street adjacent to the Robert Whyte House.

Scale – As noted above, the average module size within the South End Residential Character Area is 1,300 square feet. The proposed module size for the Metalsmithing Studio is 640 square feet.

Form - The building form is simple and in scale with the historic Robert Whyte House as required by Priority Policy 160. A front porch is proposed as encouraged by Policy 162 (“*Front and side porches are encouraged.*”).

Roof – The roof form proposed is consistent with other steeply pitched roofs found in the historic district. Dormer windows are proposed minimally per Priority Policy 161 (“*...but the dormers were used in limited numbers on individual buildings.*”).

Height – The Metalsmithing Studio is 1 ½ stories and the total height of 19’- 6” is well below the recommended building height of 25’ as measured to the mean, per Policy 6R.

Façade Width – The Metalsmithing studio as proposed is 20’ wide, well below the 30’ maximum as noted in Priority Policy 164. It has a nice relationship to the historic Robert Whyte House, which is approximately 16’ wide.

Building Materials – We are proposing a combination of wood lap siding with 4” reveal on the east façade that faces Ridge Street, with board and batten siding proposed on the sides and rear of the building. This material was used historically, but is proposed in a slightly different arrangement on this building, due to its use. We are proposing a combination of asphalt and rusting corrugated metal roofs meeting the intent of Priority Policy 166.

Doors and Windows – All proposed doors and windows are similar in size and shape to those found historically, as required by Policy 168. A double wide door is proposed on the south elevation that can be covered by a sliding barn door. This is consistent with the historic Tin Shop, which is also a primary structure within the South End Residential Character Area.

Details – Detailing is modest as recommended by Policy 170.

**Placement of Structures (9/A & 9/R):** All structures meet the required and recommended setbacks for LUD 18.2 within the Conservation District. For commercial uses structures can be built at the property line. For Residential structures a 10 foot front yard setback is required and the recommended set back is 15 feet. The proposed front yard setback for the Robert Whyte House is 39 feet. This is the historic setback. The Mikolitis Barn also maintains its historic setback at the property line. All structures on the campus meet building code requirements for separation. Staff believes that setbacks for the Arts District meet the intent of Policy 9A. Staff does not believe any negative or positive points are warranted.

Subsequently, during public comment the question was raised about the distance between the metalsmithing studio and Robert Whyte House. That distance is 12 feet. The distance between the metalsmithing studio and the proposed addition to the Breckenridge Theatre is 17.3 feet, leaving flexibility for the future addition and access.

**Snow Removal and Storage (13/A & 13/R):** The lighting and snowstacking plan shows the areas where snowstacking is proposed. The site meets the required 25% of paved area designated for snowstacking. All areas are functional. In addition, the plaza area and some of the walkways connected to the plaza are proposed to have snowmelt, as these areas are high pedestrian areas. Because of public safety concerns here, no negative points are proposed under Policy 33R.

**Storage (14/A & 14/R):** All of the Arts District structures propose adequate storage for their intended uses. No outdoor storage of materials is proposed.

**Refuse (15/A & 15/R):** There is an existing dumpster enclosure on the alley at the northwest corner of the site that serves the Arts District adequately.

**Access / Circulation (16/A & 16/R; 17/A & 17/R): Vehicular Access:** Vehicular Access to the site exists along East Washington Avenue, the alley and South Ridge Street. Staff believes that access to the Arts District and circulation meet the intent of Policy 16A. Staff does not believe any negative or positive points are warranted.

**Parking (18/A & 18/R):** Adequate parking is provided on site in the Ridge Street Art Square (existing Barney Ford Lot) and along the alley. Parking along the alley is encouraged. Staff believes that the proposed parking meets the intent of Policy 18A. Staff does not believe any negative or positive points are warranted.

Per the Off Street Parking Regulations, the Arts District is providing more than the required number of parking spaces on site. Within the Parking Service Area, Commercial Recreation projects should provide 2.0 spaces for every 1,000 square feet of gross floor area. The total density for the project is 7,282 square feet, thus 14.56 spaces are required. There are 14 spaces proposed along the alley and 13 spaces proposed within the Ridge Street Art Square for a total of 27 onsite parking spaces. The Exchange Parking Lot was also constructed to make parking available for the Arts District at buildout.

**Loading (19/A):** Adequate loading areas are provided along the alley, on Washington Avenue within the Ridge Street Art Square and in a designated loading zone on South Ridge Street. Staff believes that the proposed loading areas meet the intent of Policy 19A.

**Recreation Facilities (20/R):** The lawn south of the Robert Whyte House will provide a great passive recreation area. In addition a future playground sculpture is proposed. Staff does not believe any negative or positive points are warranted.



**Open Space (21/R):** The Arts District Campus is providing 24% open space as defined by the Code. Staff does not believe any negative or positive points are warranted.

**Landscaping (22/A & 22/R):** The Landscape plan proposed maintains the historic sense of yard within the South End Residential Character Area in front of the Metalsmithing Studio, Robert Whyte House, Mikolitis Barn and Fuqua Livery Stable. Plantings are appropriate for the Historic District. The one Aspen tree that exists will be preserved. The plan proposes 21 - Aspen with 11 at 3.5” caliper and 10 at 2.5” caliper, 4 - Balm of Gilead at 2.5” caliper, 128 shrubs at 5 gallon and 239 ornamental grasses and perennials. For the proposed Landscape Plan staff recommends two positive points (+2). This is consistent with the definition in the Development Code and past precedent.

**Social Community (24/R):**

**C. Social Services:** The Code states that those projects which provide social services are encouraged. Social services shall include developments that promote the arts within Town. The Arts District campus as noted above provides space for local artists, guest artists, workshops in a variety of mediums and cultural events. The Arts District will engage the local community and visitors. Staff believes magnitude of this project warrants eight positive points (+8) under Policy 24R C. This is consistent with other projects such as Valley Brook Child Care, CMC and Breckenridge Christian Ministries.

**E. Historic Preservation and Restoration** – On site historic preservation/restoration effort of above average public benefit. With regard to historic preservation the Code notes that projects that include on site historic preservation/restoration efforts of above average public benefit are warranted nine positive points (+9). Staff believes that the restoration of the Robert Whyte House, Burro Barn, Mikolitis barn and Little Red Shed meets the intent of the policy. No additions are proposed, all structures will be placed on new foundations and structurally stabilized, historic fabric will be restored including siding, windows, and doors. The projects fully meet the description under positive nine points (+9).

**Energy Conservation (33/R):**

**F.** With regard to the proposed snow melting system within the plaza and walkways as proposed, staff does not believe that any negative points are warranted. Under F. 1. a., it notes that Zero Points are warranted for public safety concerns on public or private property in high pedestrian traffic areas. The Town Council and Public Works Department are recommending snowmelt in the area proposed.

**Point Analysis (Section: 9-1-17-3):** At this Town Project review we are recommending a net score of nine positive (+9) points. Please see the summary of recommended points below.

- Policy 5/R B.(-5 points) for relocating a secondary historic structure on site.
- Policy 5/R B.(-5 points) for the proposed monitor on the Ceramic Studio.
- Policy 22R (+2 points) for the proposed landscape plan.
- Policy 24/R C.(+8 points) for fulfilling social goals by providing art facilities that promote the arts in Town.
- Policy 24/R E.(+9 points) for an on-site historic preservation/restoration effort of above average public benefit.

The proposal passes with a net score of positive nine (+9) points.

**Staff Recommendation**

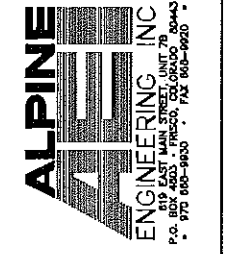
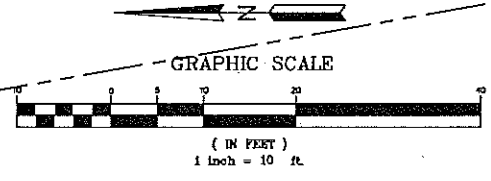
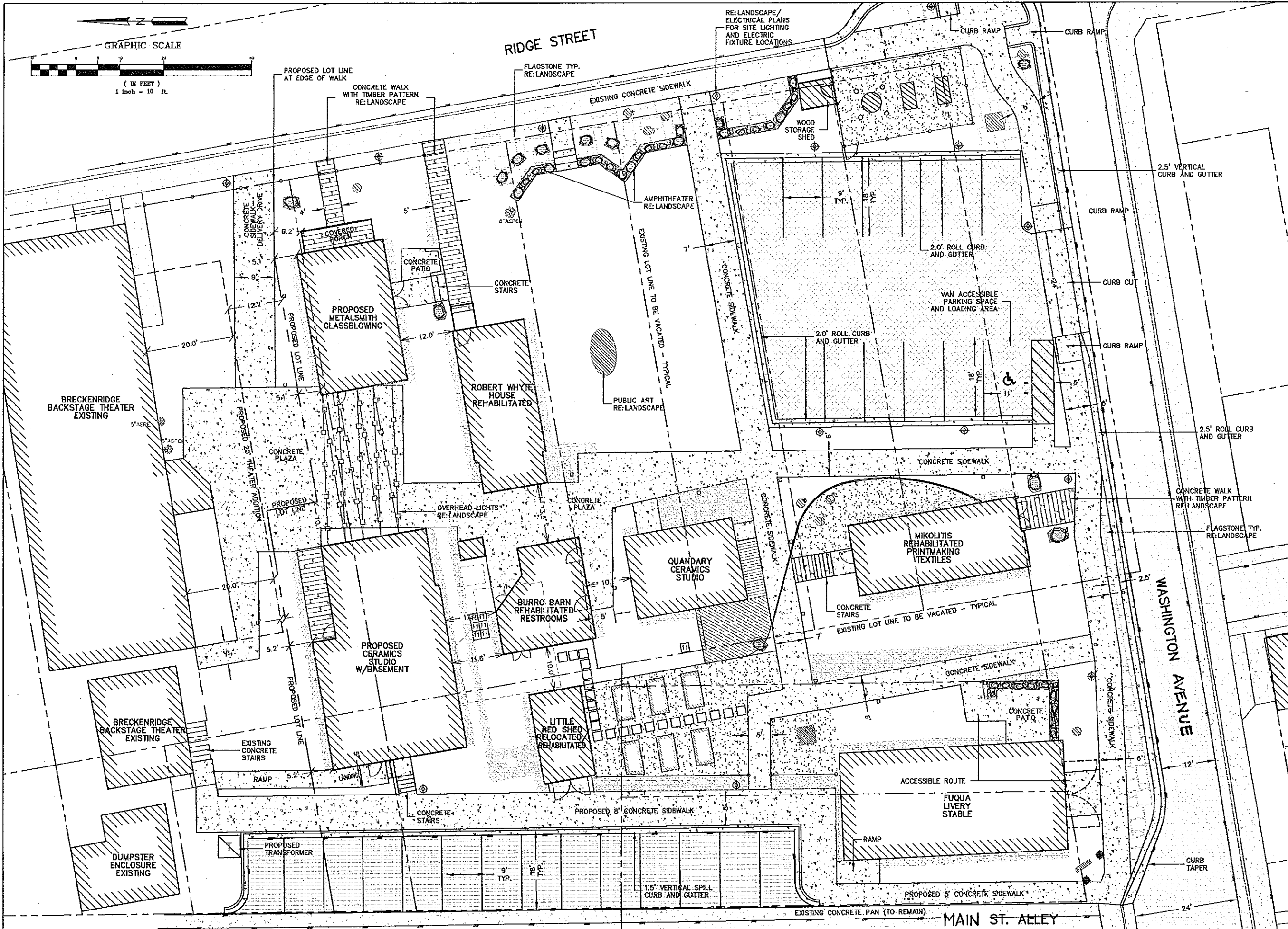
Staff believes that the buildout of the Breckenridge Arts District is an excellent public benefit for the community and will be a destination for the arts.

We would like the Town Council to endorse the proposed point analysis and attached Findings and Conditions. We also ask that the Town Council make a formal motion to approve the proposed buildout of the Breckenridge Arts District Town Project with the associated site plan and architecture as proposed.

Staff will be available during the meeting on April 23<sup>rd</sup> to walk the Council through the project and answer any questions.

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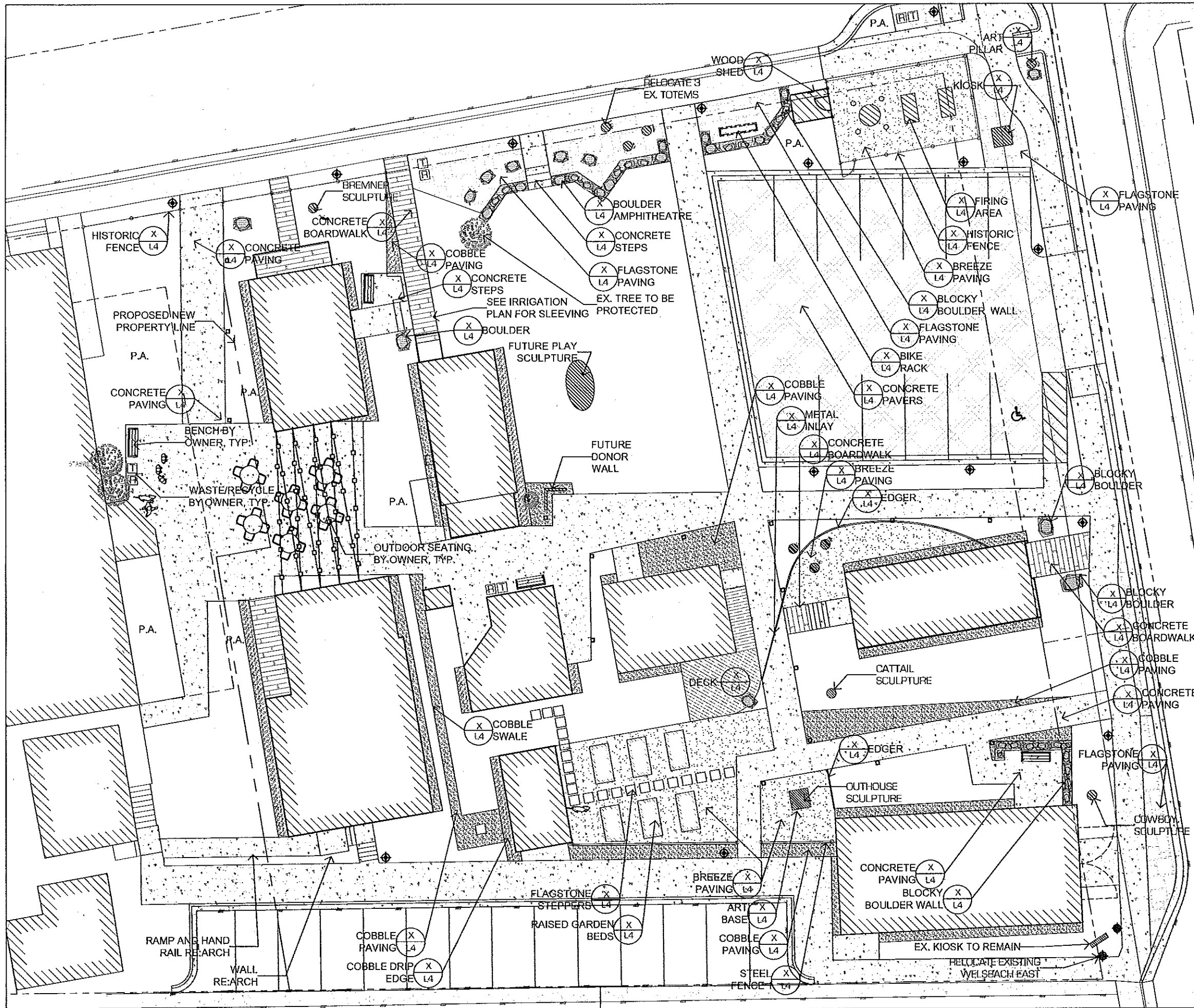
**BRECKENRIDGE ARTS DISTRICT**  
TOWN OF BRECKENRIDGE, COLORADO

No.	Description	Date
1	Schematic Design	1/31/2013
2	Design Development	2/25/2013
3	Design Development	4/1/2013
4	Planning Comm.	4/10/2013

Project Number	78198.5
Issue	PLANNING COMMISSION
Date	04.10.2013
Drawn by	DL
Checked by	JM
Scale	1"=10'

SITE PLAN

C2



**SITE CALCULATIONS:**

SITE AREA: 29,145 S.F. (.67 AC.)  
 BUILDING COVERAGE:  
 EXISTING BUILDINGS: 3480 S.F.  
 NEW BUILDINGS: 2035 S.F.  
 TOTAL: 5515 S.F.  
 PERCENTAGE: 19%

IMPERV. COVERAGE: 13,700 S.F.  
 PERCENTAGE: 47%

OPEN SPACE AREA: 7020 S.F.  
 PERCENTAGE: 24%

**LAYOUT & MATERIALS PLAN**

MARY HART DESIGN  
 land planning + landscape architecture  
 P.O. Box 82858  
 Breckenridge, CO 80424 maryhartdesign@gmail.com  
 970-868-4588

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**BRECKENRIDGE ARTS DISTRICT**  
 TOWN OF BRECKENRIDGE  
 BRECKENRIDGE, COLORADO

**LANDSCAPE LEGEND**

- EXISTING TREES TO REMAIN OR BE REMOVED, AS NOTED
- LANDSCAPE MATERIAL - SEE PLANT LIST
- PROPOSED LIGHTING - SEE LIGHTING LEGEND
- TRANSFORMER
- SNOWMELT MANIFOLD
- PLANTING AREA
- FIRE HYDRANT
- DETAIL CALLOUT
- EXISTING TUPPO LINES
- STEPPING STONES
- BOULDER OR BOULDER WALL
- STEEL BED EDGE, SEE DETAILS
- ENHANCED NATIVE TURF
- PERENNIAL BED
- ROCK, COBBLE MULCH, SEE DETAILS

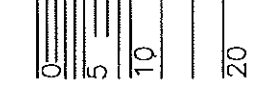
No.	Description	Date
1	Schematic Design	1/31/2013
2	100% DD	4/12/2013

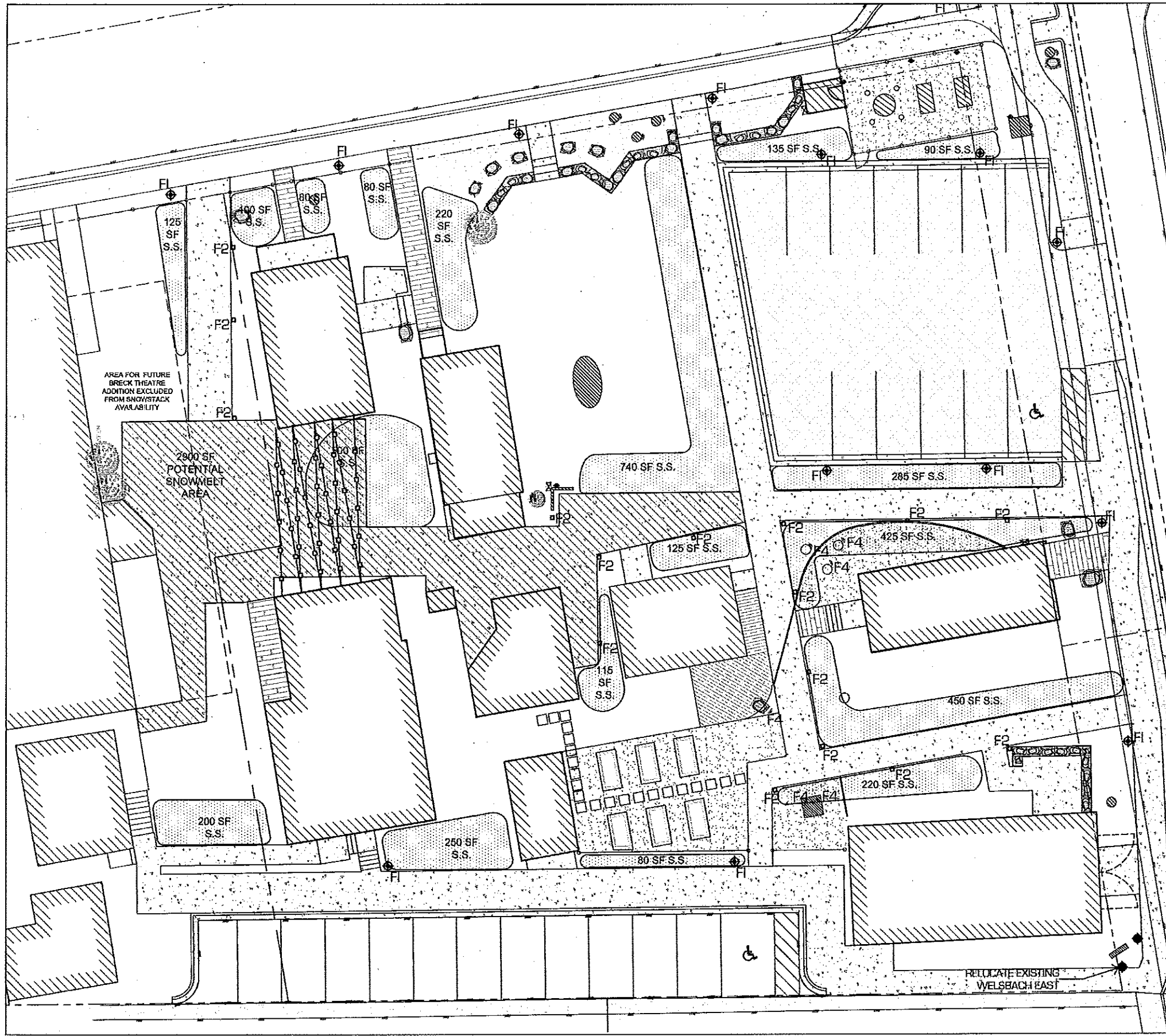
Project Number	
Issue	DESIGN DEVELOPMENT
Date	4.13.2013
Drawn by	MH
Checked by	MH
Scale	1"=10'

**LAYOUT & MATERIALS PLAN**

**L1**

SCALE: 1" = 10'





**LIGHTING SYMBOL LEGEND**

SYMBOL	DESCRIPTION	MANUFACTURE	FOOT CANDLE	WATTAGE	FLY LEAK PROTECTION
⦿	1. FLOOR MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	2. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	3. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	4. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	5. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	6. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	7. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
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⦿	14. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
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⦿	18. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
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⦿	49. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO
⦿	50. WALL MOUNTED LIGHT TO BE RELOCATED TO BE RELOCATED	LED, MICH	100	100	NO

**SITE LIGHTING NOTES**

1. THESE PLANS SHOW LIGHT FIXTURE LOCATIONS ONLY. SEE ELECTRICAL AND MECHANICAL PLANS FOR ADDITIONAL INFORMATION.

2. LIGHTING SYMBOLS ON PLANS ARE GRAPHIC REPRESENTATIONS ONLY. THEY ARE NOT DRAWN TO SCALE AND THEREFORE ALL LOCATIONS ARE REQUIRED TO BE REVIEWED BY THE FIELD BY THE EA AND/OR ELECTRICAL PRIOR TO INSTALLATION. ALL FIXTURES SHALL BE A MINIMUM OF 4 FEET FROM THE FACE OF ANY WALL. FINAL PLACEMENT AND ADJUSTMENT WILL BE MADE IN THE FIELD BY THE EA OR THE LICENSED ELECTRICIAN.

3. SEE ELECTRICAL SCHEDULE FOR WIRE AND CONDUIT SIZES, WIRE TYPES, AND CONDUIT TYPES.

4. SEE ELECTRICAL SCHEDULE FOR WIRE AND CONDUIT SIZES, WIRE TYPES, AND CONDUIT TYPES.

5. ALL NEW INSTALLATIONS OF ELECTRICAL EQUIPMENT SHALL BE INSTALLED TO MEET MANUFACTURERS' RECOMMENDATIONS AND APPLICABLE FEDERAL, STATE OR LOCAL CODES AND REGULATIONS.

6. THE LIGHT FIXTURES SHALL BE PROTECTED OR SHALL BE TYPED TO BE PROTECTED FROM DAMAGE BY VEHICLES OR TO BE PROTECTED FROM DAMAGE BY VEHICLES OR TO BE PROTECTED FROM DAMAGE BY VEHICLES.

**SNOWSTACK CALCULATIONS:**

AMOUNT OF PAVED AREA ON SITE TO HAVE SNOW REMOVED: +/- 13,700 S.F.

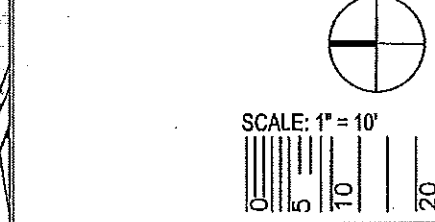
25% OF PAVED AREA/REGD SNOWSTACK: 3425 S.F.

AMOUNT OF SNOWSTACK: +/- 4,220 S.F.

AMOUNT OF POTENTIAL SNOWMELT AREA: 2900 S.F.

**LANDSCAPE LEGEND**

- EXISTING TREES TO REMAIN OR BE RELOCATED, AS NOTED
- LANDSCAPE MATERIAL - SEE PLANT LIST
- PROPOSED LIGHTING - SEE LIGHTING LEGEND
- TRANSFORMER
- SNOWMELT MANIFOLD
- PLANTING AREA
- FIRE HYDRANT
- DETAIL CALLOUT
- EXISTING TIEPO LINES
- STREETING ETDONS
- BOULDER OR BOULDER WALL
- STEEL BEG EDGE, SEE DETAILS
- EXPANDED NATIVE TURF
- PERMANENT BED
- ROCK, COBBLE MULCH, SEE DETAILS



**BRECKENRIDGE ARTS DISTRICT**  
TOWN OF BRECKENRIDGE  
BRECKENRIDGE, COLORADO

**MARY HART DESIGN**  
landscape architecture  
P.O. Box 8898  
Breckenridge, CO 80424  
maryhartdesign@gmail.com  
970-969-3983

**LIGHTING & SNOWSTACK PLAN**

No.	Description	Date
1	Schematic Design	1/31/2013

Project Number: \_\_\_\_\_

Issue: DESIGN DEVELOPMENT

Date: 03.25.2013

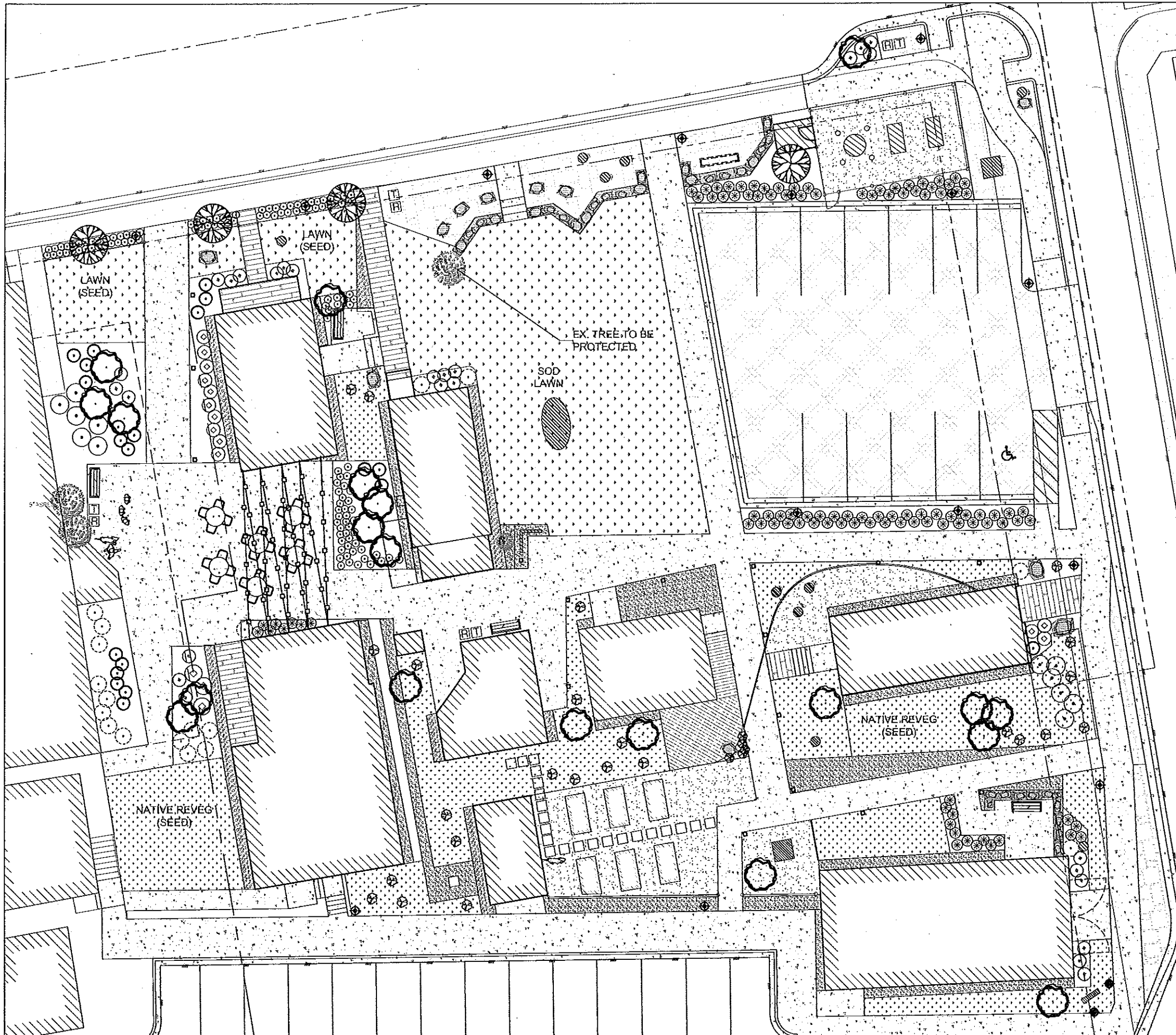
Drawn by: MH

Checked by: MH

Scale: 1"=10'

**LIGHTING AND SNOWSTACK PLAN**

LH



BRECKENRIDGE ARTS DISTRICT  
PROPOSED LANDSCAPE MATERIALS

TREES			
SYMBOL	QTY.	BOTANICAL NAME / COMMON NAME	SIZE
⊙	3	EXISTING TREE OR SHRUB	
⊙	21	POPULUS TREMULOIDES / QUAKING ASPEN NURSERY GROWN	50% 3.5" CAL 50% 2.5" CAL
⊙	4	POPULUS BALSAMIFERA / BALM OF GILEAD OR APPROVED EQUAL	2.5" CAL.
SHRUBS			
⊙	12	CORNUS SERICEA BAILEY / BAILEY REDTWIG DOGWOOD	3" HT. B&B
⊙	24	C-RYTHOXYMUNUS NAL. / RABBITRUSH	1 GAL.
⊙	16	PIES ALPNUM OR ALPELUM / CURRANT	5 GAL.
⊙	0	MAHONIA REPENS / CREEPING HOLLYHEDGE	1 GAL.
⊙	21	COTONEASTER ACUTIFOLIUS / PEKING COTONEASTER	5 GAL.
⊙	18	ROSA GALICA / REDLEAVED ROSE	5 GAL.
⊙	27	ROSA MOROEN SUNRISE / MOROEN SUNRISE ROSE	5 GAL.
ORNAMENTAL GRASSES AND PERENNIALS			
⊙	12	PERENNIALS - SEE PLAN	PERENNIALS 1 GAL.
⊙	10	BOUTELLOA GRACILIS / BLOOM AMETHYST BLUE GRASS	1 GAL.
⊙	10	HELICTOTRICHON SEMPERVIRENS / SAPPHIRE FTW BLUE CAT GR.	1 GAL.

PERENNIAL LIST:  
 AGILEGA C-RYTHANTHA / DENVER GOLD / DENVER GOLD COLLENE  
 LUPINUS RUSSEL HYBRID / LUPINE  
 OSTEOSPERMUM AVALANCHE / SUN DAZE  
 PAPAVER NUCIFALE / EYE AND POPPY - PINKS AND WHITE  
 PENSTEMON MENSARUM / GRAND MESA BEARD TONGUE  
 NEPETA PSYCHE LITTLE TRUDY / LITTLE TRUDY CATMINT

ADDITIONAL LANDSCAPE ITEMS	
⊙	3875 SF. SOD LAWN - REVELLE BLUE GRASS
⊙	3,700 SF. NATIVE VEGETATION AREA - SEED - SEE SPECIES LIST ON DETAILS
⊙	1,700 SF. COBBLE AREA - SEE DETAILS
⊙	1,700 SF. CRUSHER FINE / BREEZE PAVING

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LANDSCAPE PLAN

BRECKENRIDGE ARTS DISTRICT  
TOWN OF BRECKENRIDGE  
BRECKENRIDGE, COLORADO

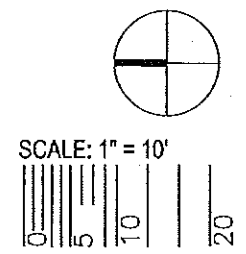
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2	100% DD	4/12/2013

Project Number  
 Issue DESIGN DEVELOPMENT  
 Date 4.13.2013  
 Drawn by MH  
 Checked by MH  
 Scale 1"=10'

LANDSCAPE PLAN  
L3

LANDSCAPE LEGEND

⊙	EXISTING TREES TO REMAIN OR BE REMOVED, AS NOTED
⊙	LANDSCAPE MATERIAL - SEE PLANT LIST
⊙	PROPOSED LIGHTING - SEE LIGHTING LEGEND
⊙	TRANSFORMER
⊙	SNOWMELT MANFOLD
⊙	PA PLANTING AREA
⊙	FIRE HYDRANT
⊙	DETAIL CALLOUT
⊙	EXISTING TOP LINES
⊙	STEPPING STONES
⊙	BOULDER OR BOULDER WALL
⊙	STEEL BED EDGE, SEE DETAILS
⊙	ADVANCED NATIVE TURF
⊙	PERENNIAL BED
⊙	POCK, COBBLE MULCH, SEE DETAILS





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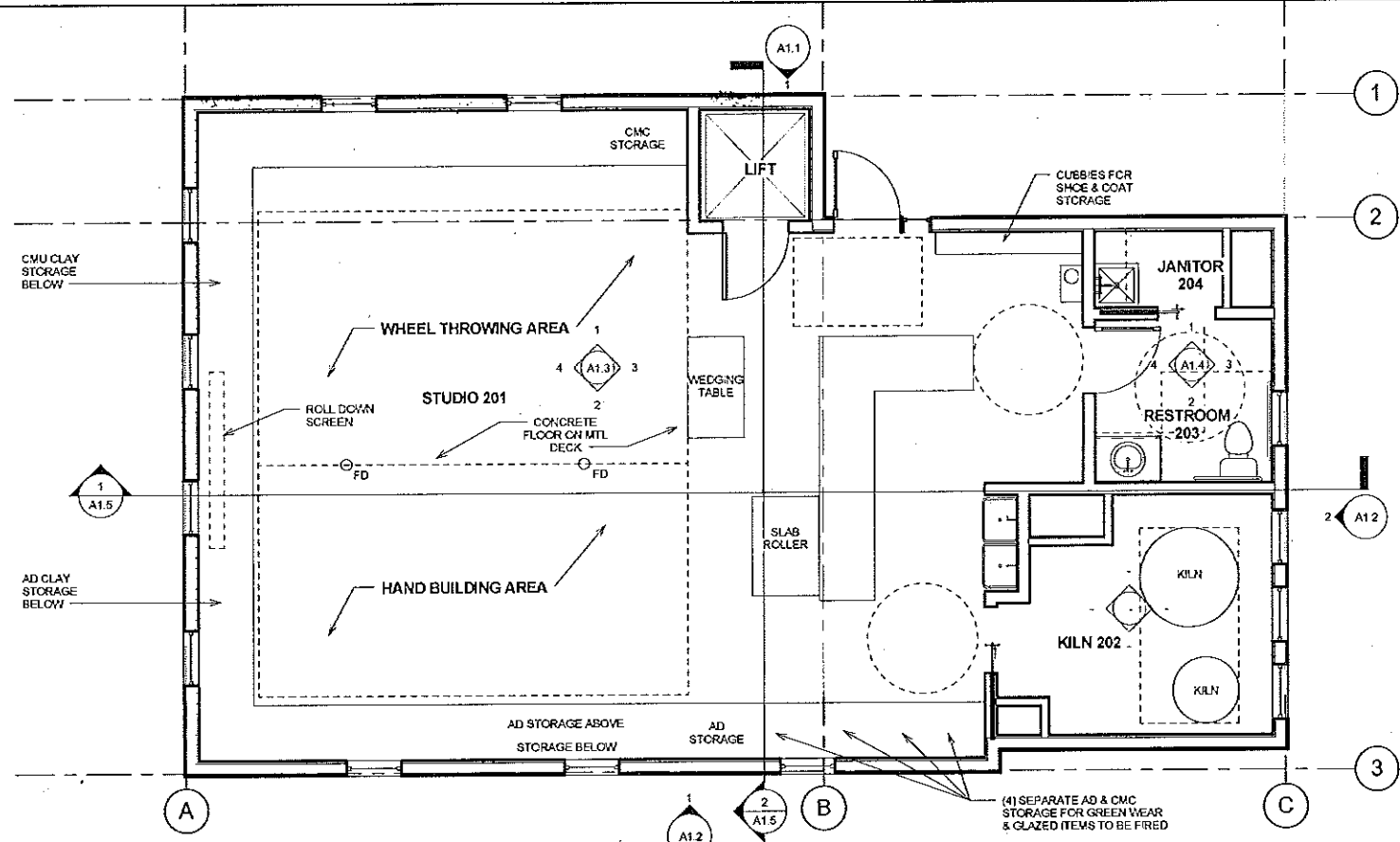
BRECKENRIDGE ARTS  
DISTRICT  
TOWN OF BRECKENRIDGE  
150 SKI HILL ROAD P.O. BOX 168 ~ BRECKENRIDGE, COLORADO 80424

No.	Description	Date

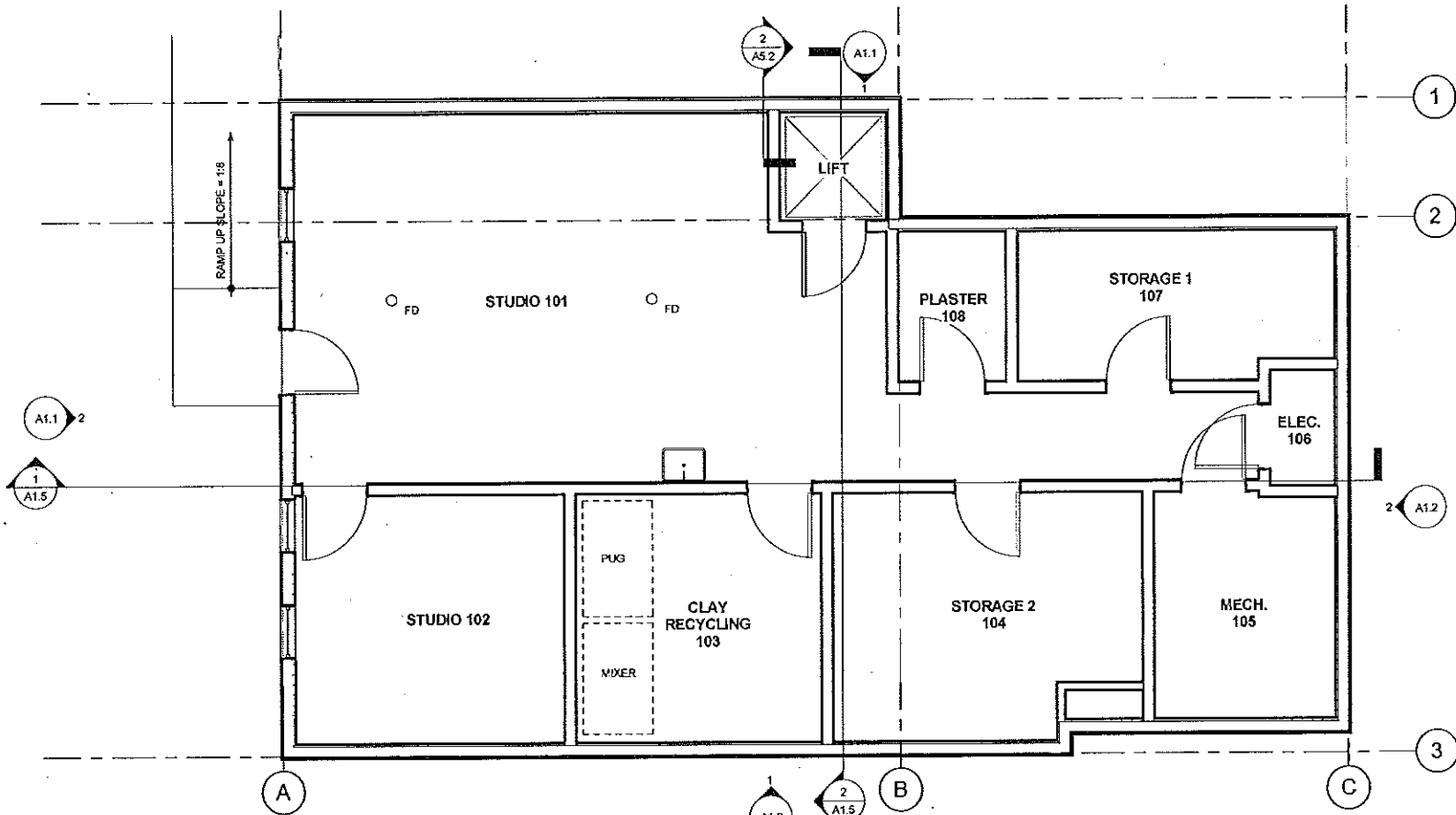
Project Number 2012500  
Issue 75% DD  
Date 04/09/2013  
Drawn by DAM  
Checked by AE  
Scale 1/4" = 1'-0"

- CERAMIC STUDIO -  
Floor Plans

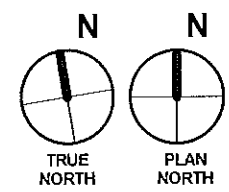
A1.0



2 New - Ceramic Studio - Upper Level  
1/4" = 1'-0"



1 New - Ceramic Studio - Lower Level  
1/4" = 1'-0"





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TOWN OF BRECKENRIDGE

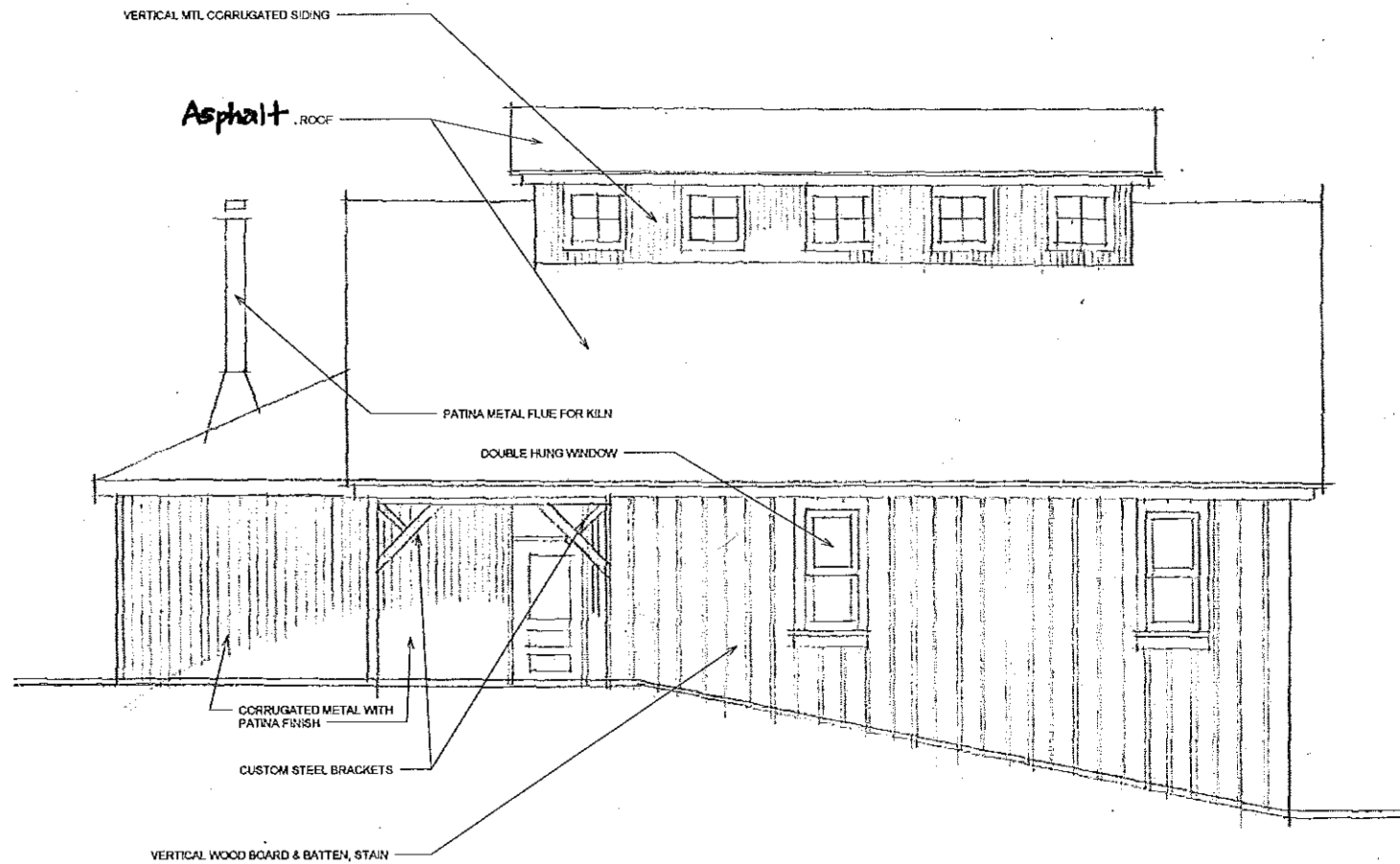
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No.	Description	Date

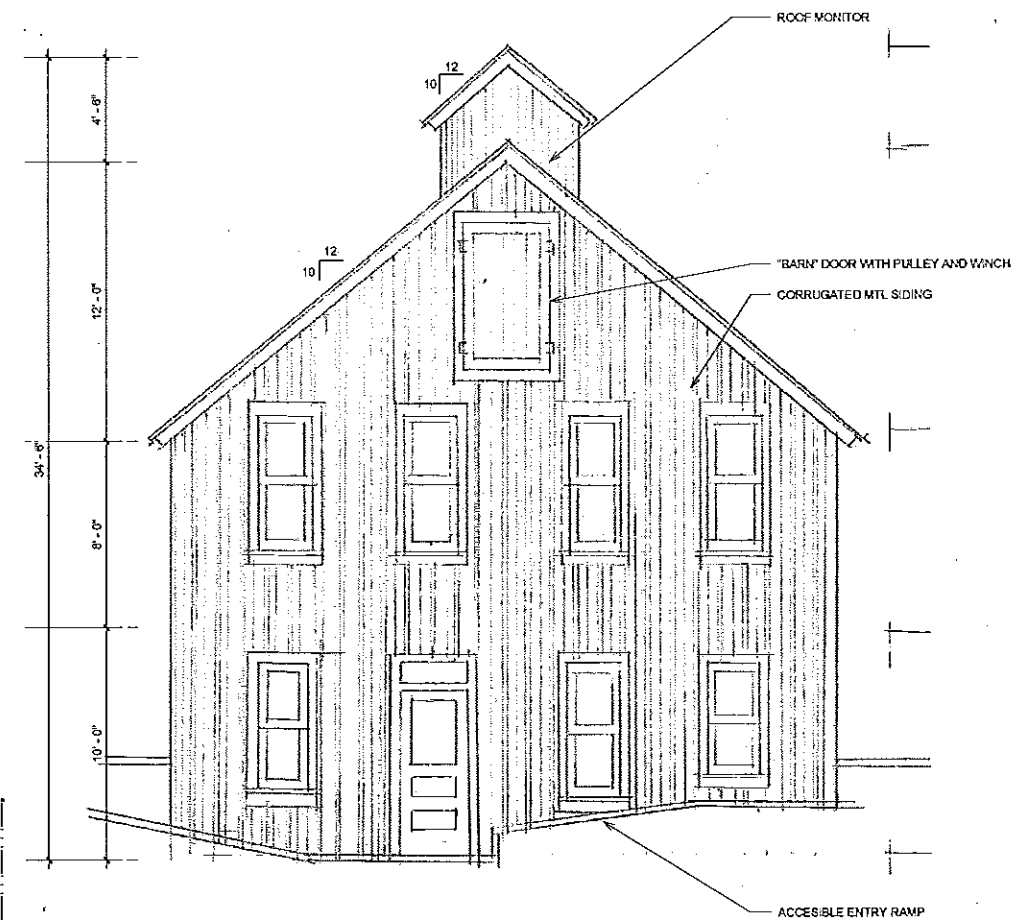
Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- CERAMIC STUDIO -  
Exterior Elevations

A1.1



1 Ceramic Studio - North Elevation  
1/4" = 1'-0"



2 Ceramic Studio - West Elevation  
1/4" = 1'-0"







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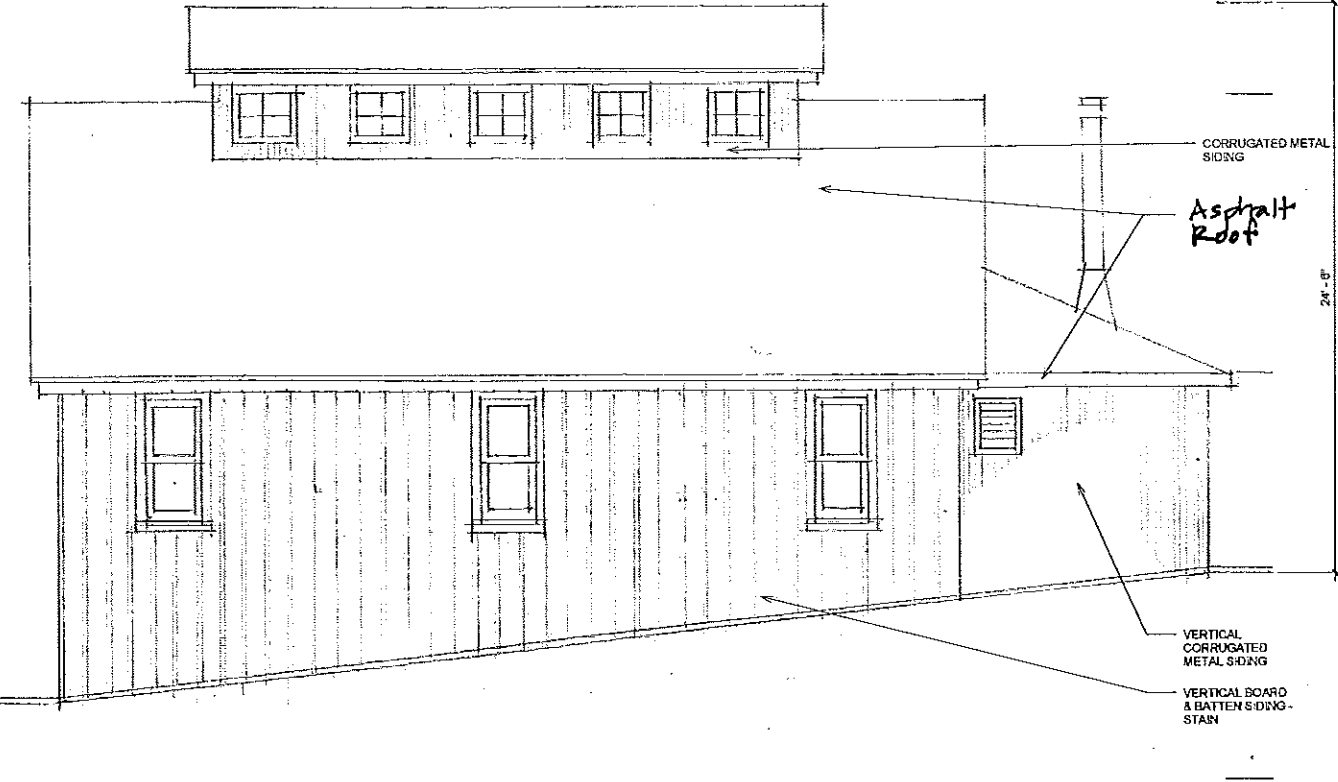
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No.	Description	Date

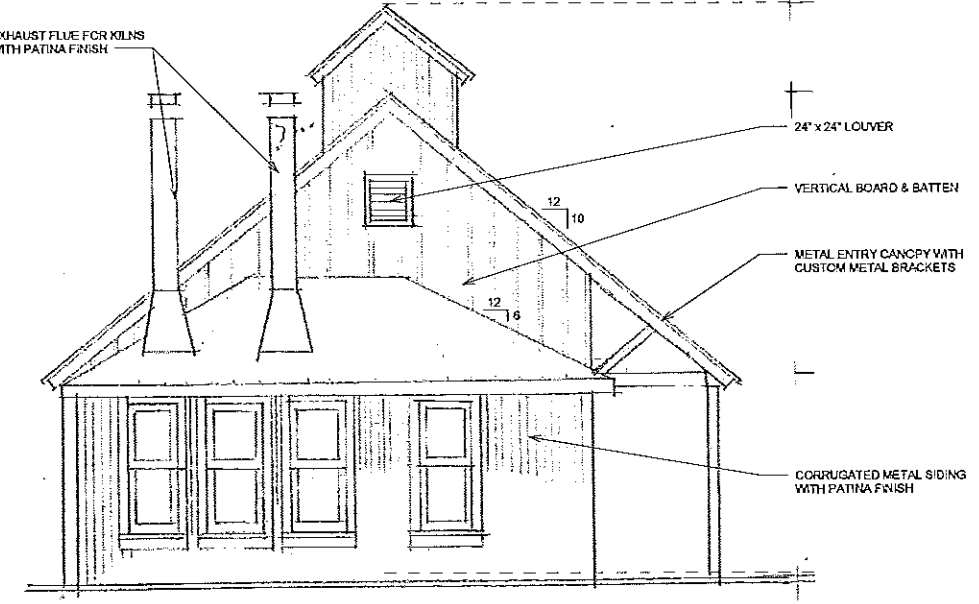
Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- CERAMIC STUDIO -  
Exteriors Elevations

A1.2

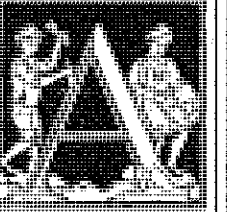


1 Ceramis Studio - South Elevation  
1/4" = 1'-0"



2 Ceramic Studio - East Elevation  
1/4" = 1'-0"





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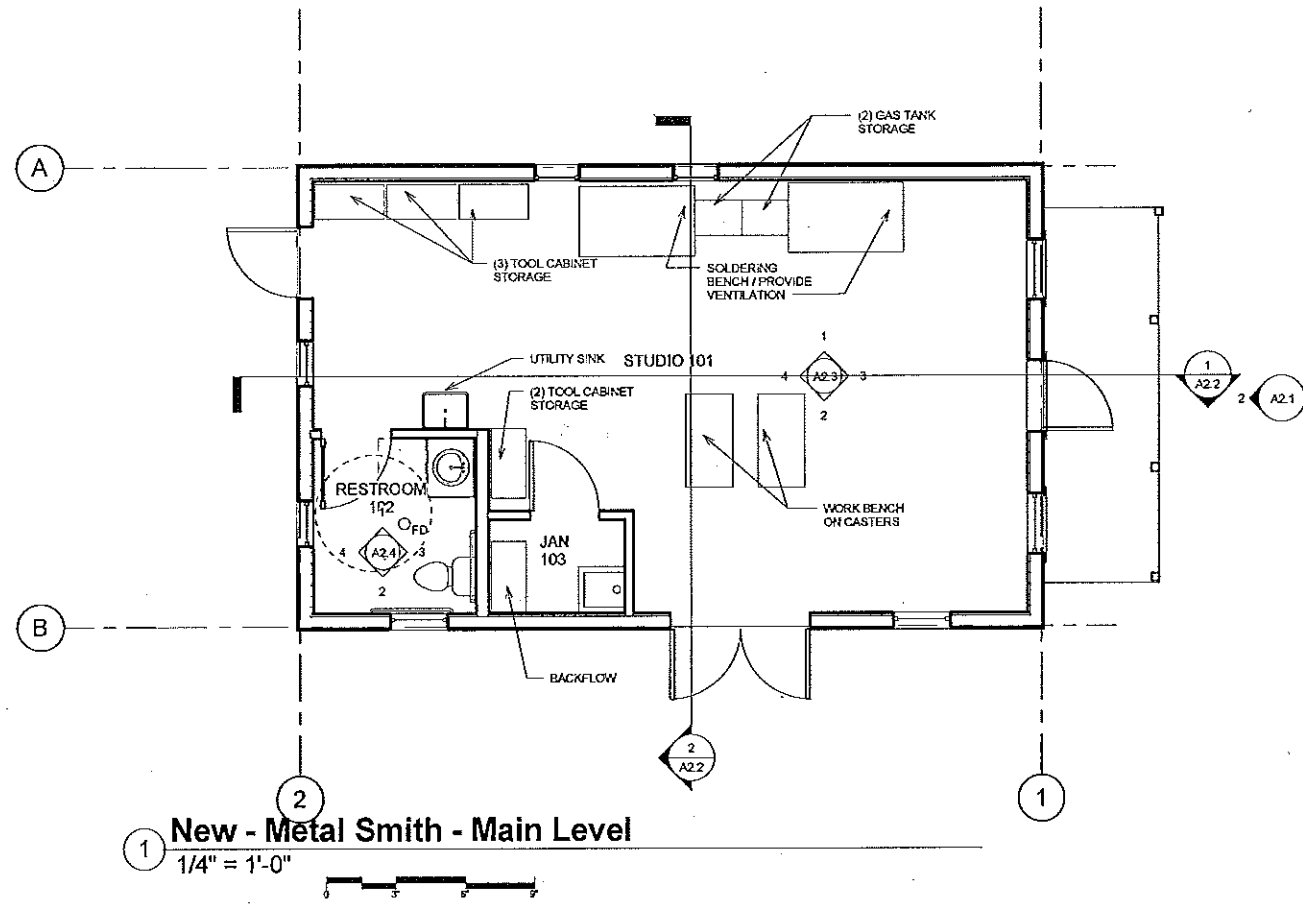
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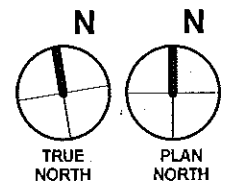
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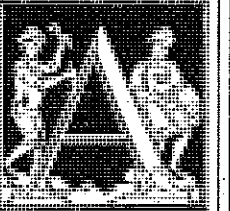
No.	Description	Date

Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- METAL SMITH -  
Floor Plans



A2.0



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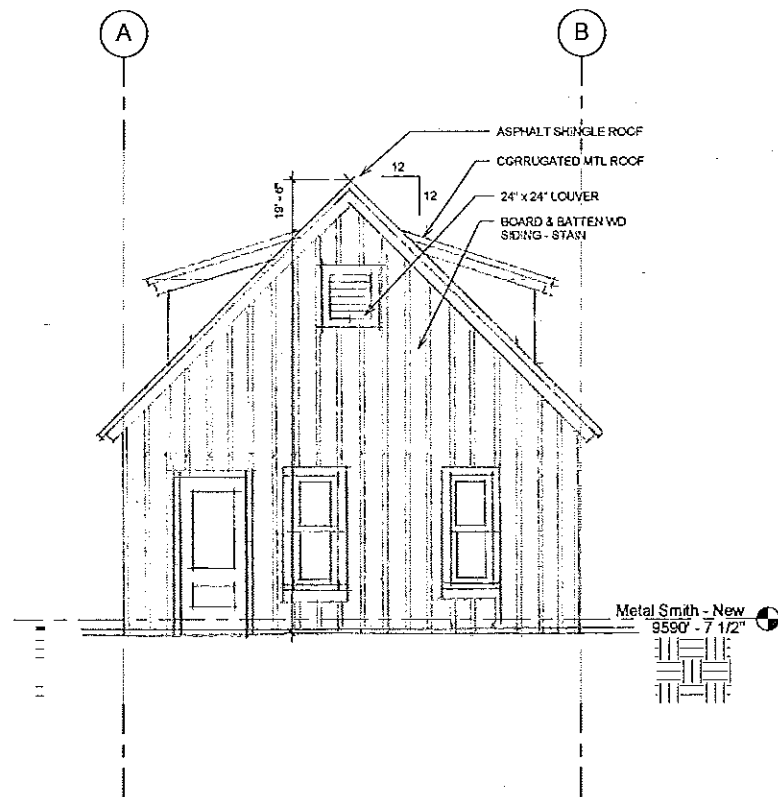
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No.	Description	Date

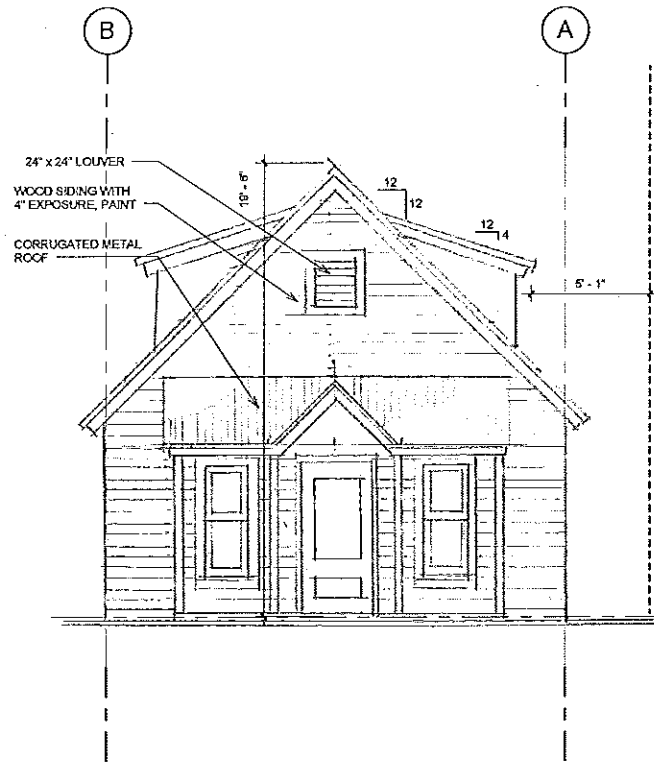
Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- METAL SMITH -  
Exterior Building Elevations

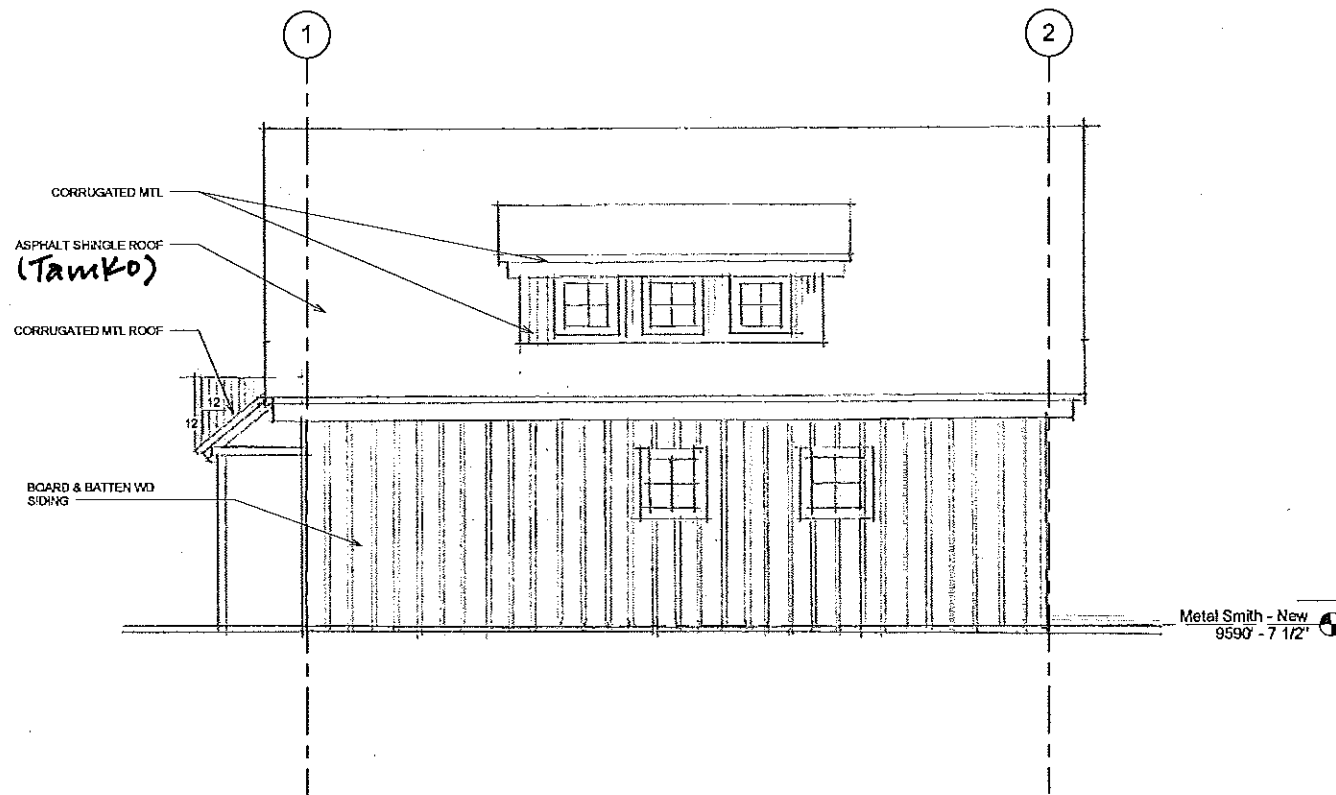
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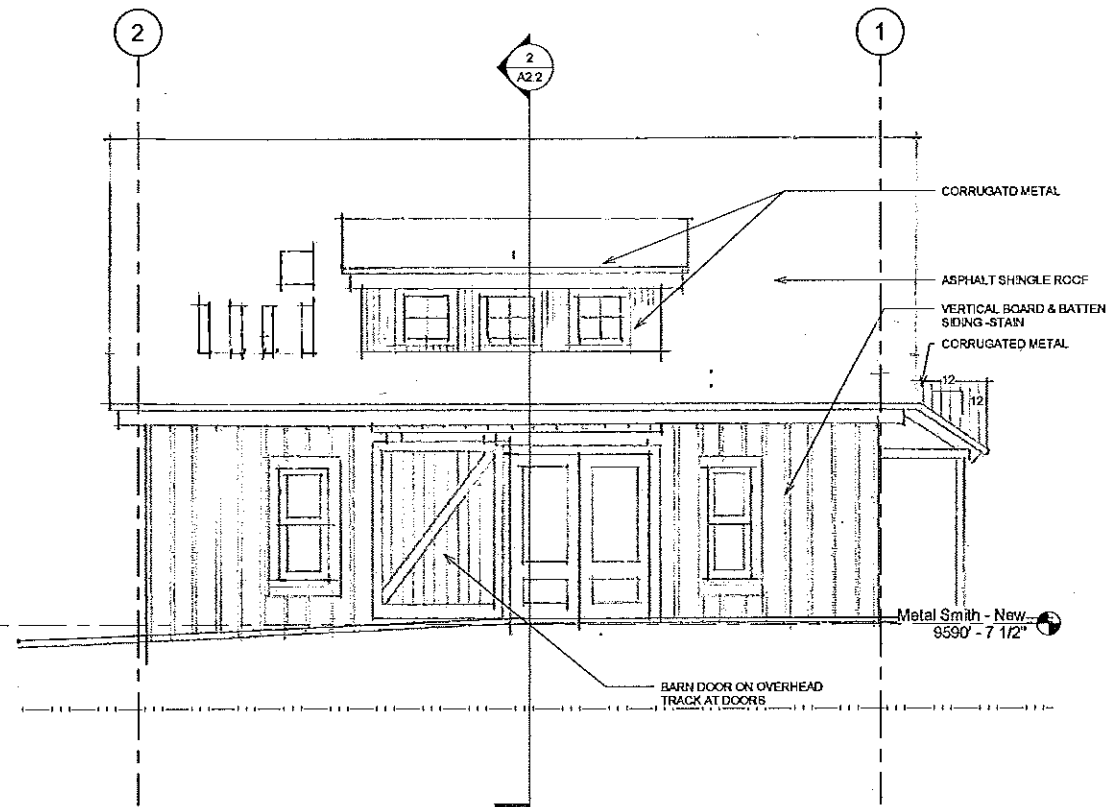
1 Metal Smith - West Elevation  
1/4" = 1'-0"



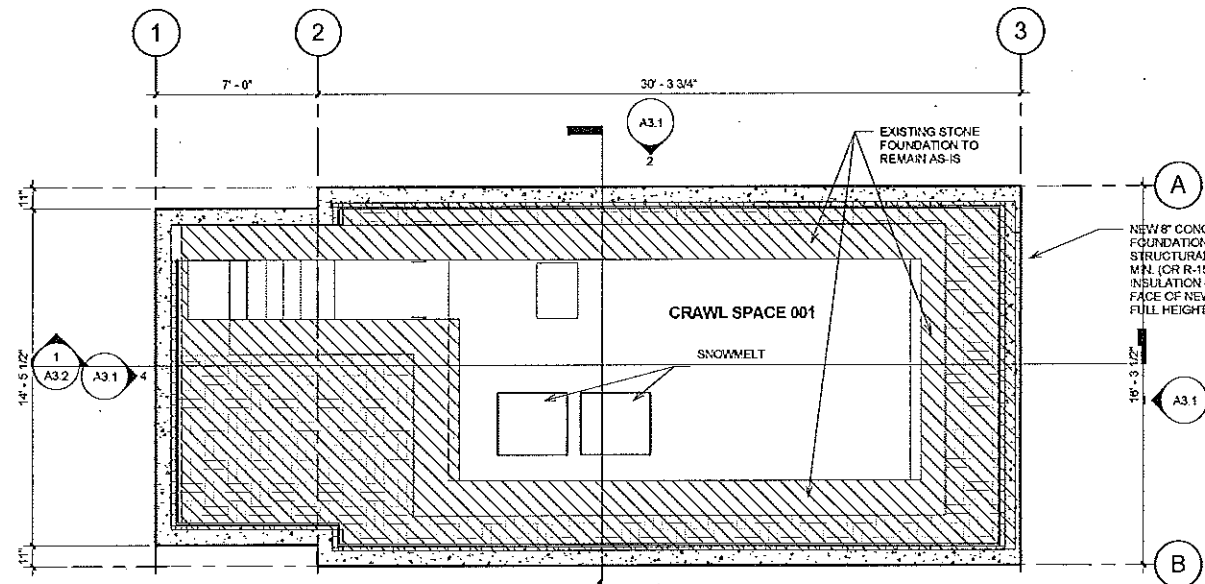
2 Metal Smith - East Elevation  
1/4" = 1'-0"



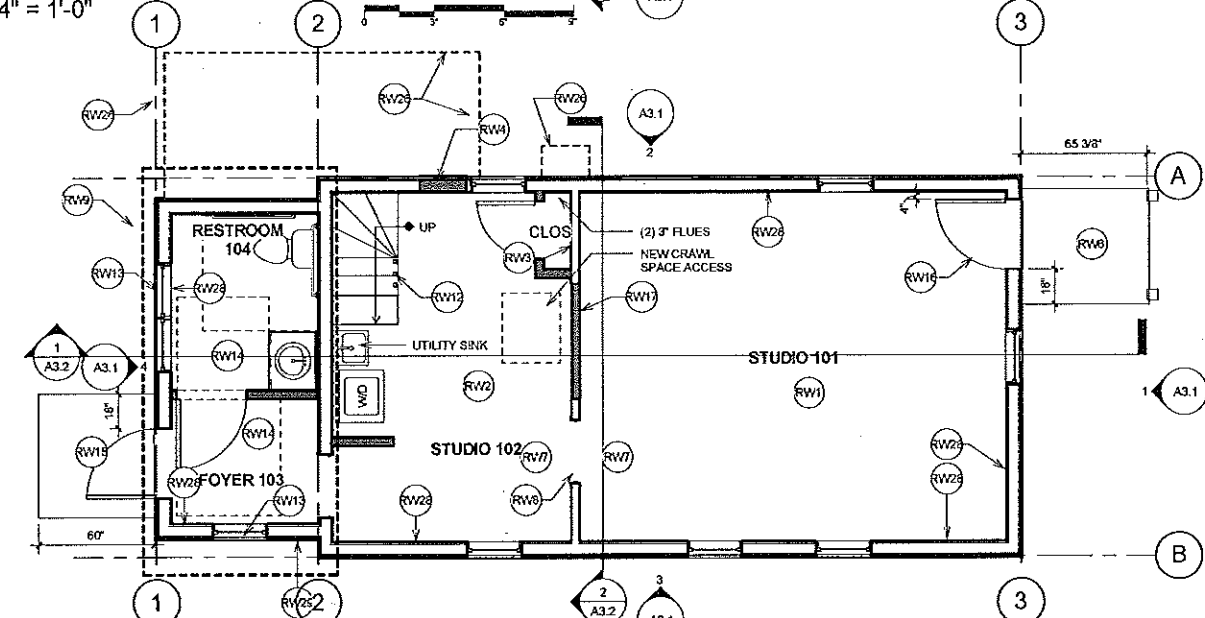
4 Metal Smith - North Elevation  
1/4" = 1'-0"



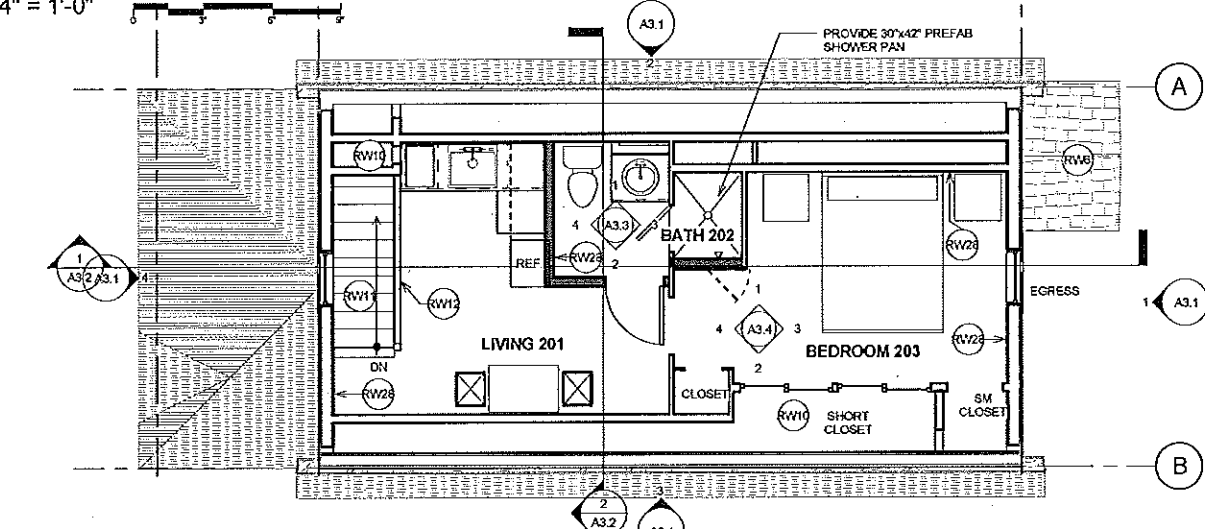
3 Metal Smith - South Elevation  
1/4" = 1'-0"



1 New - Robert Whyte - Crawl Space  
1/4" = 1'-0"



2 New - Robert Whyte - Main Level  
1/4" = 1'-0"



3 New - Robert Whyte - Upper Level  
1/4" = 1'-0"

**Demo General Notes:**

1. DEMO ALL <E> PLUMBING AND ASSOCIATED PIPING & EQUIPMENT.
2. DEMO ALL <E> MECHANICAL AND ALL ASSOCIATED DUCT WORK.
3. DEMO ALL <E> INTERIOR FINISH, PLASTER & LATH, R.S. PLANK FLOORING (U.O.N.), TRIM (U.O.N.), CEILING, CARPET, AND WAINSCOT (U.O.N.).
4. REMOVE <E> CHIMNEY, REPAIR SIDING WITH NEW W.D. SIDING TO MATCH ADJACENT.
5. REMOVE & SALVAGE <E> METAL PANEL ROOFING. REPLACE ANY DETERIORATED ROOF SHEATHING WITH NEW ROOF SHEATHING TO MATCH ADJACENT IN KIND.
6. PROTECT ALL <E> 1X DOOR AND WINDOW TRIM.

**LEGEND:**

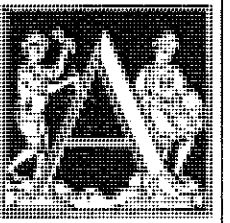
- = PROVIDE INSULATION BETWEEN EXISTING FLOOR JOIST, R-30
- = NEW 8\"/>

**Robert Whyte - Keynotes**

- RW1 REMOVE <E> R.S. LUMBER. VERIFY CONDITION OF FLOOR MATERIAL UNDER R.S. FLOOR & REPORT FINDINGS TO ARCHITECT. INTENT IS TO REUSE ORIGINAL FLOOR IF POSSIBLE.
- RW2 REMOVE <E> R.S. LUMBER.
- RW3 REMOVE AND SALVAGE <E> WAINSCOT TO STUDIO #2. WAINSCOT TO BE REINSTALLED WITH NEW CHAIR RAIL.
- RW4 REMOVE EXISTING DOOR, FRAME, AND THRESHOLD - IN-FILL OPENING TO MATCH EXISTING ADJACENT WALL CONSTRUCTION, INSTALL NEW EXTERIOR LAP SIDING TO MATCH EXISTING. INSTALL INTERIOR FINISH.
- RW5 SHORE <E> PORCH. PROVIDE NEW FOUNDATION PER STRUCTURAL. REPAIR W.D. COLUMN BASE. PROVIDE 1/2\"/>

**General Notes:**

1. PROVIDE NEW 5/8\"/>



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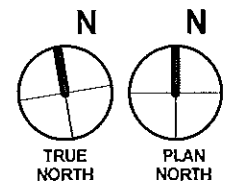
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DISTRICT  
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No.	Description	Date

Project Number 2012500  
Issue 75% DD  
Date 04/09/2013  
Drawn by DAM  
Checked by AE  
Scale 1/4" = 1'-0"

- ROBERT WHYTE -  
Floor Plans

A3.0

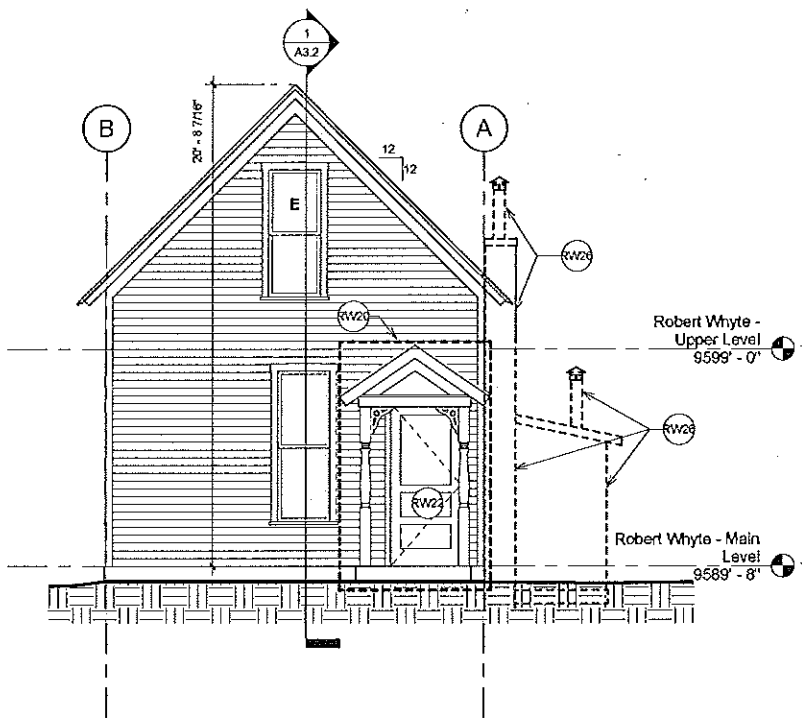




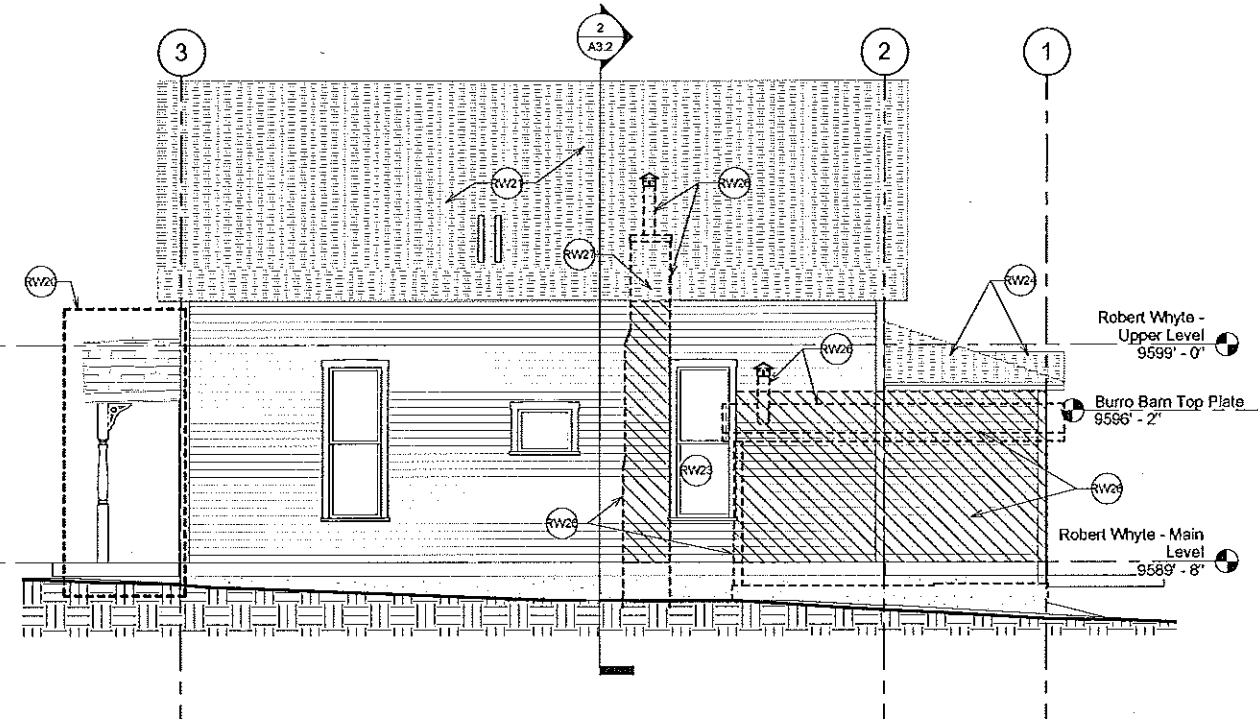
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1 Robert Whyte - East Elevation  
1/4" = 1'-0"



2 Robert Whyte - North Elevation  
1/4" = 1'-0"

**General Notes ~ Elevation:**

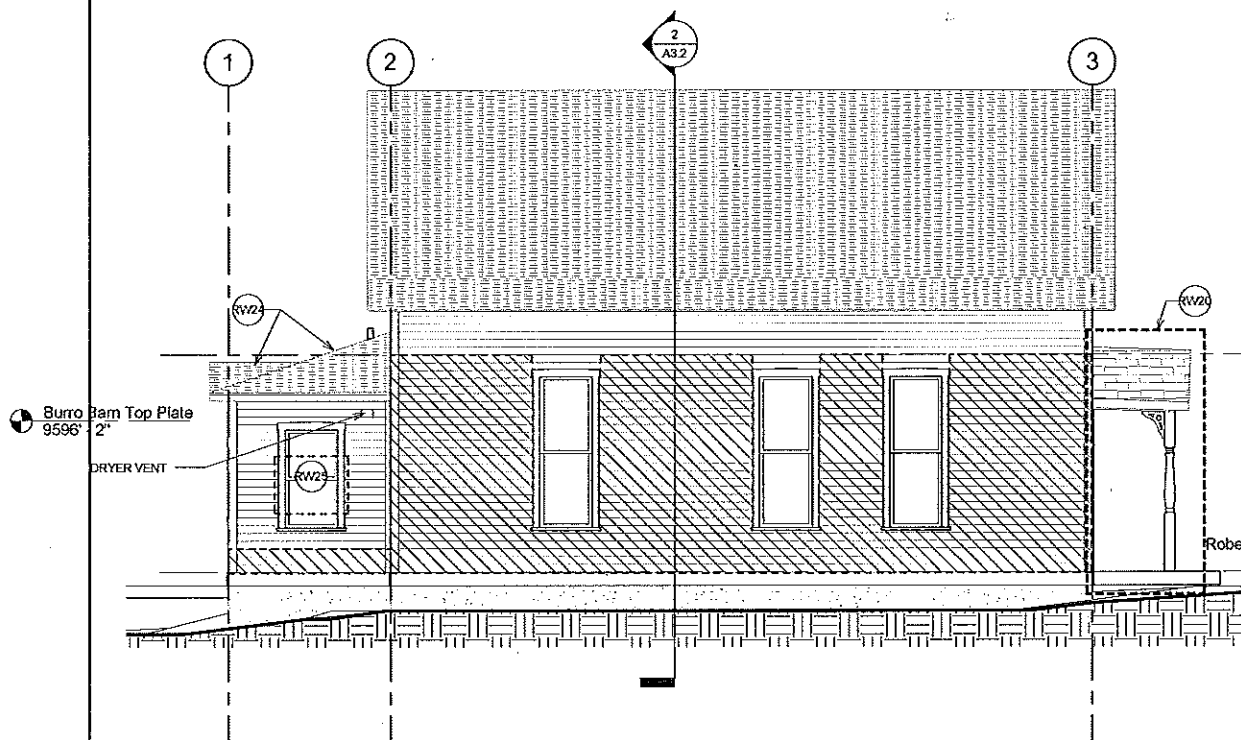
1. ALL EXTERIOR WOOD SIDING & TRIM TO BE SCRAPPED, SANDED & PAINTED. PERFORM PAINT ANALYSIS TO DETERMINE HISTORIC COLOR PALETTE.
2. PROVIDE NEW FLASHING AT ALL HORIZONTAL SURFACES, WINDOW TRIM, EAVES, RAKES, ETC.

**LEGEND:**

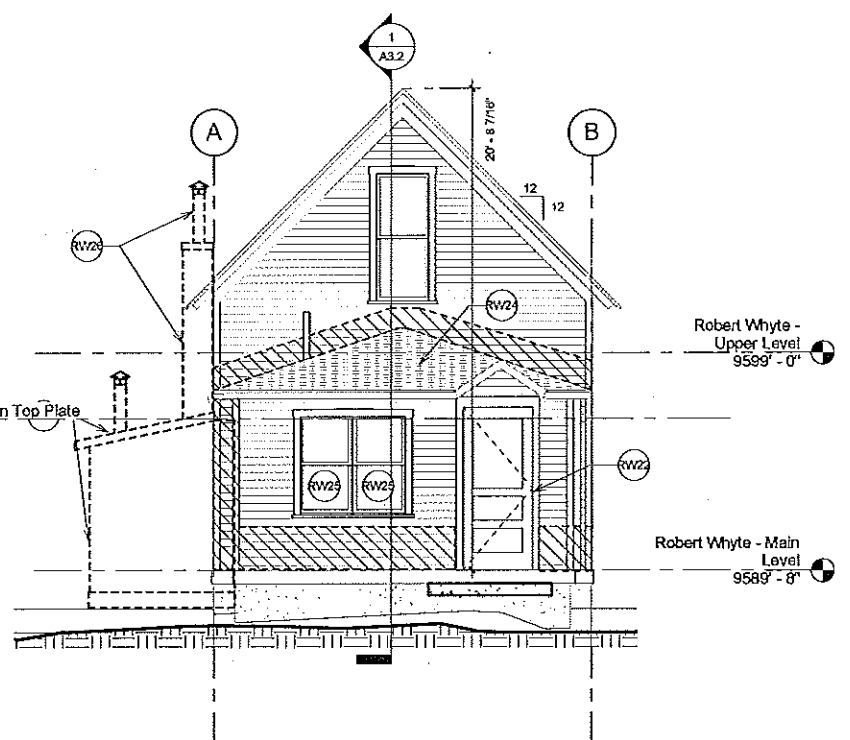
- REPLACE DAMAGED WOOD SIDING WITH NEW. MATCH <E> PROFILE AND EXPOSURE.
- ELEVATION KEY NOTES

**Robert Whyte - ELEVATION KEYNOTES**

- RW20 SHORE <E> PORCH DURING MOVE. PROVIDE NEW FOUNDATION PRE STRUCTURAL. REPAIR COLUMN BASE. PROVIDE NEW CONCRETE LANDING.
- RW21 REMOVE AND SALVAGE <E> ROOF. PROVIDE NEW CORRUGATED MTL. ROOF. STABILIZE ROOF PER STRUCTURAL. PROVIDE NEW ICE AND WATER SHIELD OVER ENTIRE ROOF WITH NEW SLIP SHEET. PROVIDE NEW 1/2 LITE WOOD STILE AND RAIL WOOD DOOR.
- RW22 RE-OPEN EXISTING WINDOW LOCATION. REMOVE INTERIOR FINISHES AND REHABILITATE EXISTING WINDOW.
- RW23 REMOVE <E> ASPHALT SHINGLE. REPAIR DAMAGED SHEATHING. PROVIDE NEW ICE AND WATER SHIELD THROUGHOUT, WITH NEW CORRUGATED MTL. ROOFING.
- RW24 REMOVE <E> MODERN WINDOW. PROVIDE NEW WD. DOUBLE HUNG WINDOW. PROVIDE PRIVACY FILM ON INTERIOR SIDE OF ENTIRE WINDOW IN RESTROOM.
- RW25 OUTLINE INDICATES REMOVAL OF EXISTING MASONRY CHIMNEY, AND SHED ADDITION AND ALL ASSOCIATED ELEMENTS.
- RW26 NEW ROOF STRUCTURE INFILL AT REMOVED CHIMNEY, NEW INFILL TO MATCH EXISTING IN KIND.



3 Robert Whyte - South Elevation  
1/4" = 1'-0"



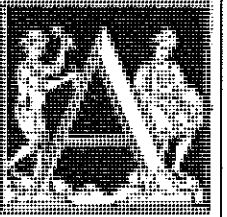
4 Robert Whyte - West Elevation  
1/4" = 1'-0"

No.	Description	Date

Project Number 2012500  
Issue 75% DD  
Date 04/09/2013  
Drawn by DAM  
Checked by AE  
Scale 1/4" = 1'-0"

- ROBERT WHYTE -  
Exterior Elevations

A3.1



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No.	Description	Date

Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- MIKOLITIS BARN -  
Floor Plans

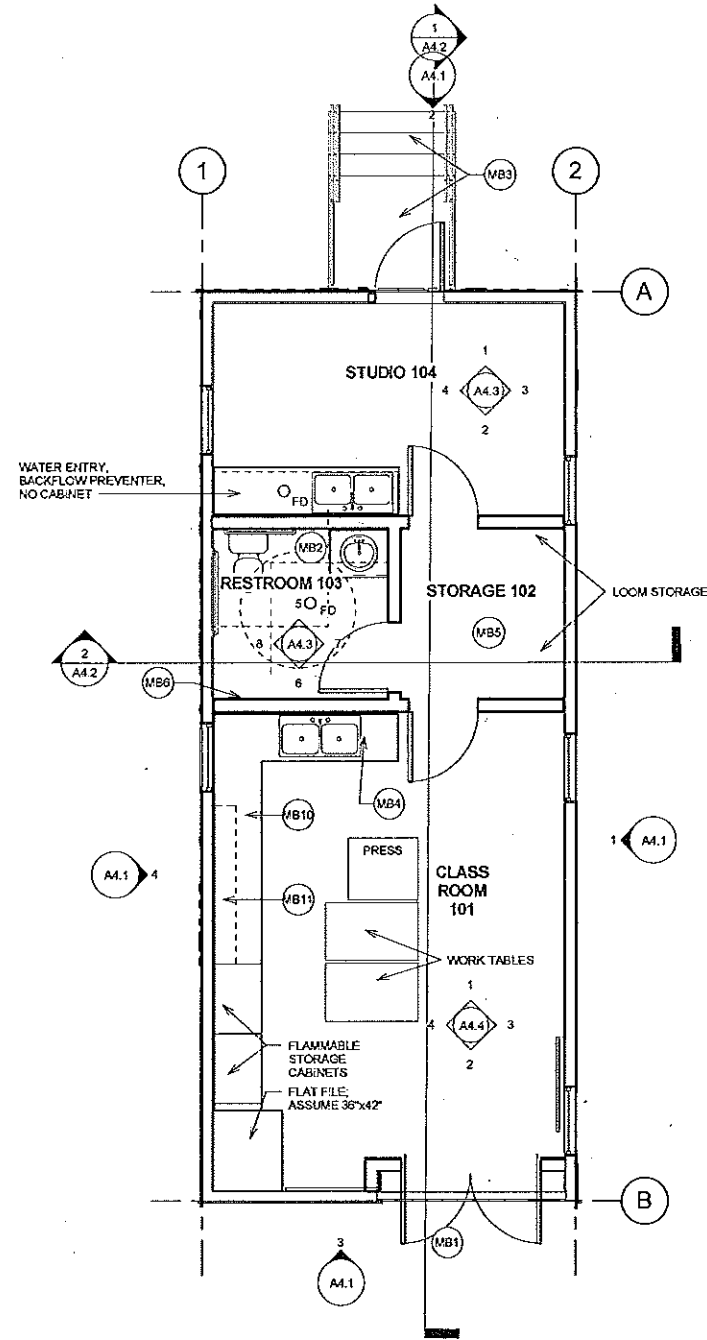
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**General Notes:**

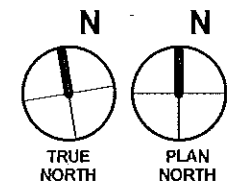
1. DEMO EXISTING FOUNDATION FRAMING AND FLOOR STRUCTURE TO ACCOMMODATE NEW CONCRETE SLAB ON GRADE PER STRUCTURAL. SALVAGE ALL W.D. FLOORING AND FLOOR STRUCTURE FOR RE-USE. NEW STEM WALL SHALL BE 8" TALL TO SET TOP PLATE TO 107'00".
2. NEW WINDOWS SHALL FIT IN <E> OPENINGS. CONTRACTOR SHALL VERIFY OPENING SIZE AND GEOMETRY. PROVIDE NEW CUSTOM W.D. CASEMENT WINDOWS TO FIT WITH IN <E> OPENINGS.
3. STAIN AND SEAL NEW CONCRETE FLOOR.
4. ALL <E> EXTERIOR WALL TO BE FILLED WITH SPRAY FOAM INSULATION. PROVIDE NEW G.W.B. FINISH.
5. <E> 2X SHEATHING CEILING TO REMAIN EXPOSED. PROVIDE NEW OVERFRAMING TO ACHIEVE R-48. FILL NEW FRAMING WITH SPRAY FOAM INSULATION.
6. USE SALVAGED W.D. FLOORS AS 42" TALL WAINSCOT. USE SALVAGED FRAMING TO CREATE NEW CHAIR RAIL.

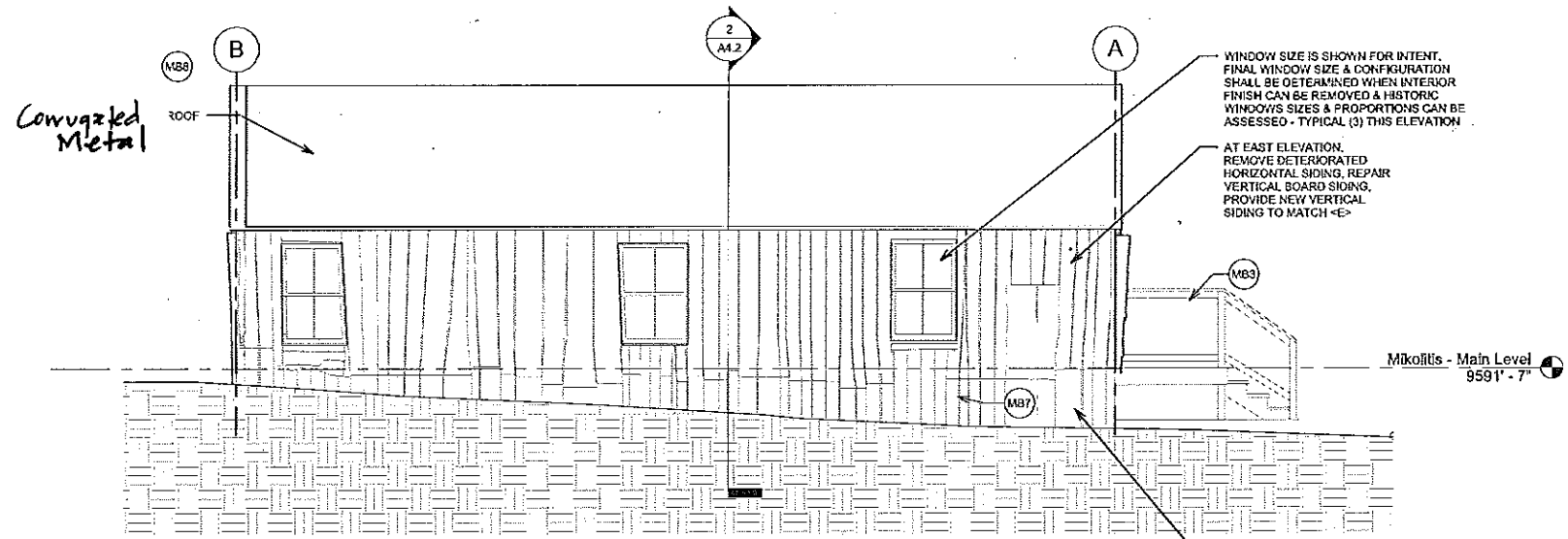
**Mikolitis Barn - Keynotes**

- MB2 NEW ACCESSIBLE RESTROOM
- MB3 NEW W.D. FRAMED LANDING AND STAIR
- MB4 NEW 24" DEEP 42" TALL CABINETS WITH COUNTER TOPS. PROVIDE 1" BEAD 28" TALL UPPER CABINETS. CABINETS TO BE OPEN SHELVING WITHOUT DOORS.
- MB5 PROVIDE FRAMING ABOVE RESTROOM AND STORAGE FOR MECHANICAL AREA. PROVIDE G.W.B. CEILING.
- MB6 WALL MOUNTED WATER HEATER RE. MECH.
- MB10 COUNTER TOPS TO BE IMPERVIOUS AND CHEMICAL RESISTANT.
- MB11 (2) SETS LOCKABLE UPPER CABINETS.

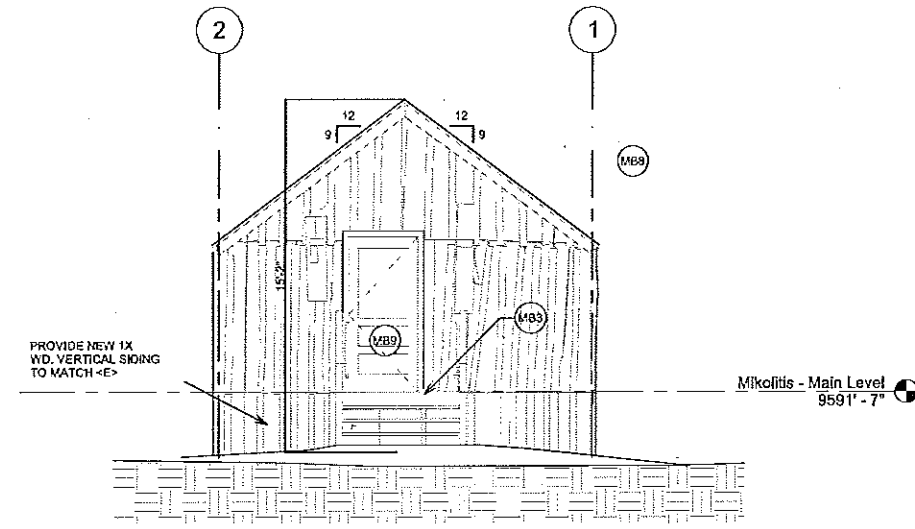


1 New - Mikolitis - Main Level  
1/4" = 1'-0"

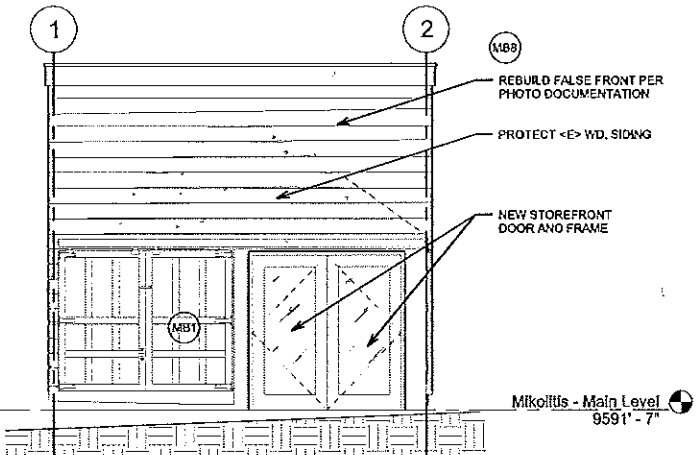




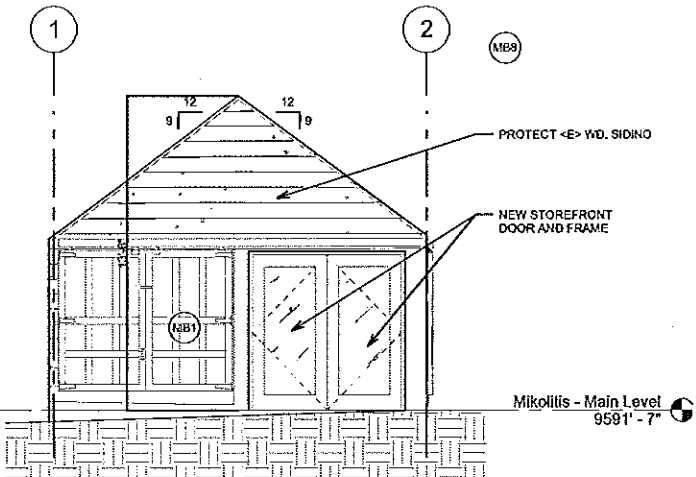
1 Mikolitis Barn - East Elevation  
1/4" = 1'-0"



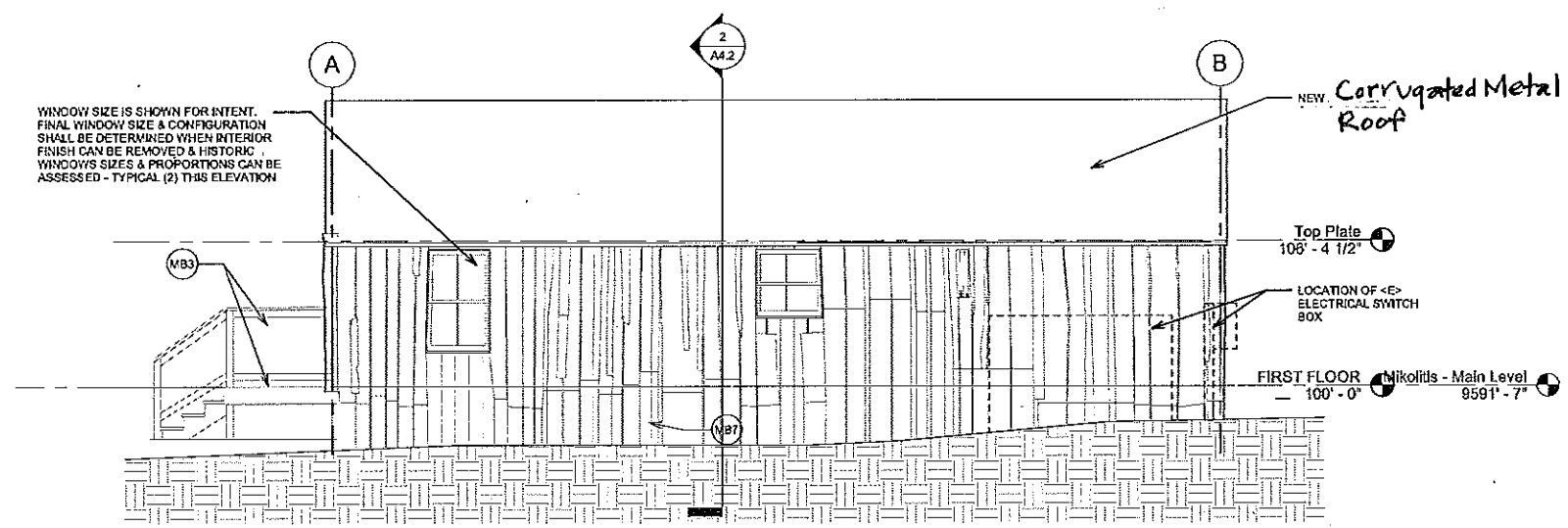
2 Mikolitis Barn - North Elevation  
1/4" = 1'-0"



3 Mikolitis Barn - South Elevation / false front  
1/4" = 1'-0"



3 Mikolitis Barn - South Elevation  
1/4" = 1'-0"



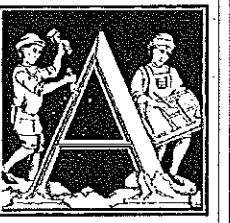
4 Mikolitis Barn - West Elevation  
1/4" = 1'-0"

Mikolitis Barn - Keynotes

- MB1 EXISTING WOOD DOORS TO BE REHABILITATED AND SECURED TO AN OVERHEAD TRACK. PROVIDE NEW STORE FRONT DOORS.
- MB3 NEW WD. FRAMED LANDING AND STAIR.
- MB7 PROVIDE NEW WOOD SIDING TO MATCH <E> AT NEW CONCRETE FOUNDATION.
- MB9 PROVIDE NEW 1/2 LITE DOOR.

General Notes:

1. PROVIDE NEW ASPHALT SHINGLE ROOF.
2. PROVIDE NEW OVERFRAMING ON ROOF. FILL FRAMING WITH SPRAY FOAM INSULATION, PROVIDE NEW ROOF SHEATHING.
3. EXTERIOR WOOD SIDING TO BE REHABILITATED. SIDING THAT IS BEYOND REPAIR SHALL BE REPLACED IN-KIND. PROVIDE NEW SIDING TO MATCH <E> WHERE MISSING.



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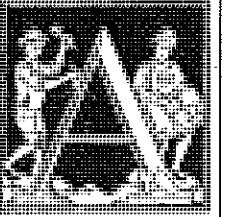
BRECKENRIDGE ARTS  
DISTRICT  
TOWN OF BRECKENRIDGE  
150 SKI HILL ROAD P.O. BOX 168 ~ BRECKENRIDGE, COLORADO 80424

No.	Description	Date

Project Number 2012500  
Issue 75% DD  
Date 04/09/2013  
Drawn by DAM  
Checked by AE  
Scale 1/4" = 1'-0"

- MIKOLITIS BARN -  
Exterior Elevations

A4.1



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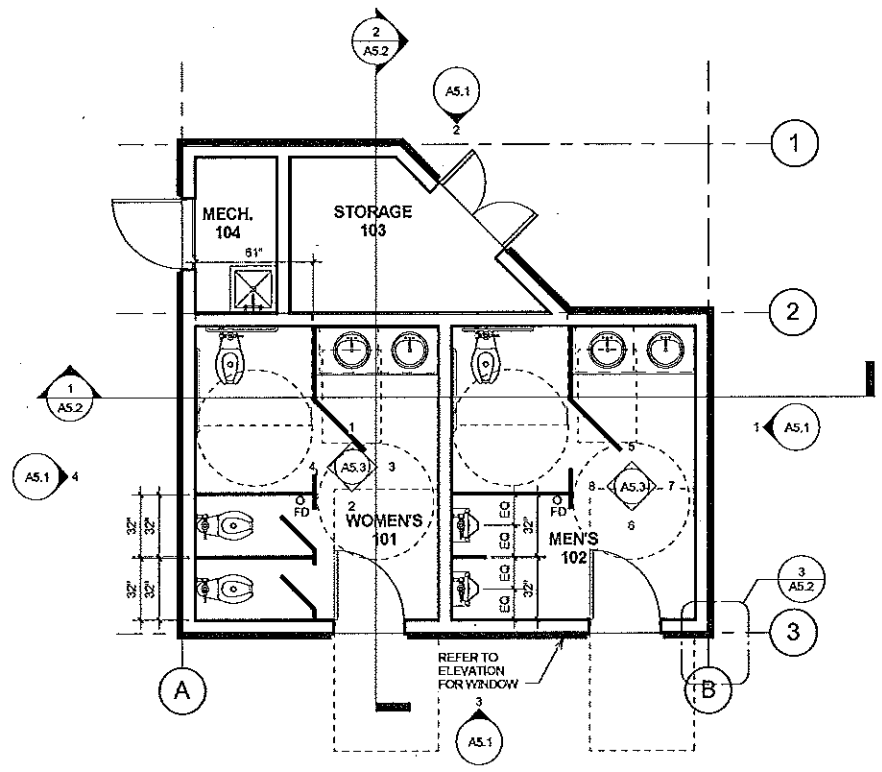
**BRECKENRIDGE ARTS  
DISTRICT**  
TOWN OF BRECKENRIDGE  
150 SKI HILL ROAD P.O. BOX 168 ~ BRECKENRIDGE, COLORADO 80424

No.	Description	Date

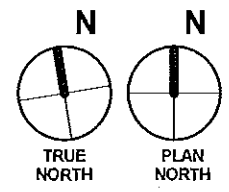
Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- BURRO BARN -  
Floor Plans

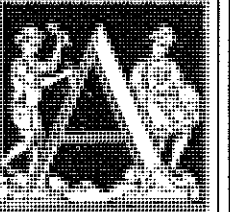
**A5.0**



① **New - Burro Barn - Main Level**  
1/4" = 1'-0"







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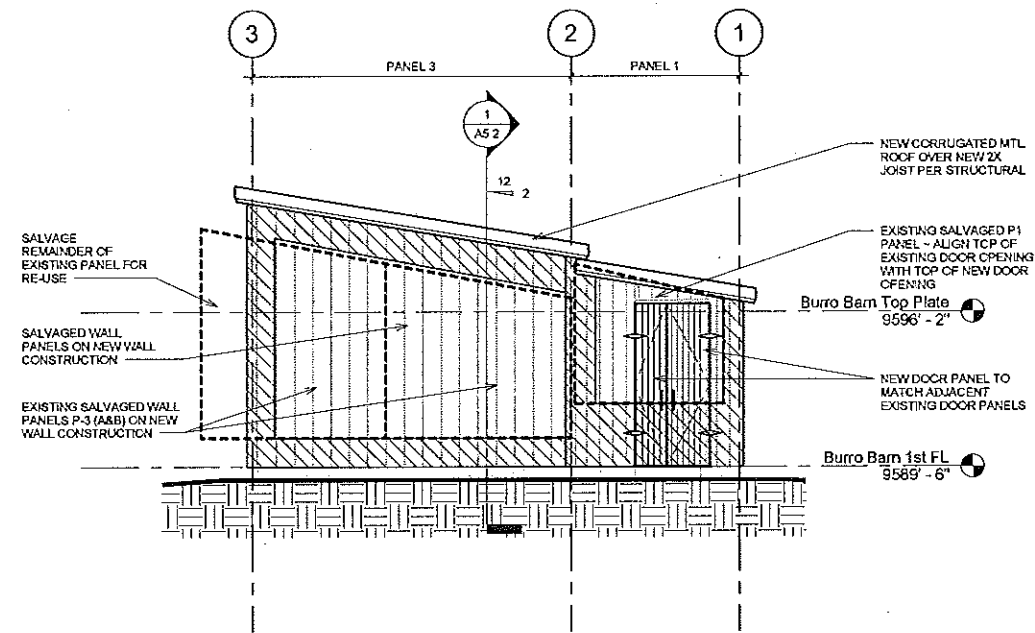
**BRECKENRIDGE ARTS  
DISTRICT**  
TOWN OF BRECKENRIDGE  
150 SKI HILL ROAD P.O. BOX 188 - BRECKENRIDGE, COLORADO 80424

No.	Description	Date

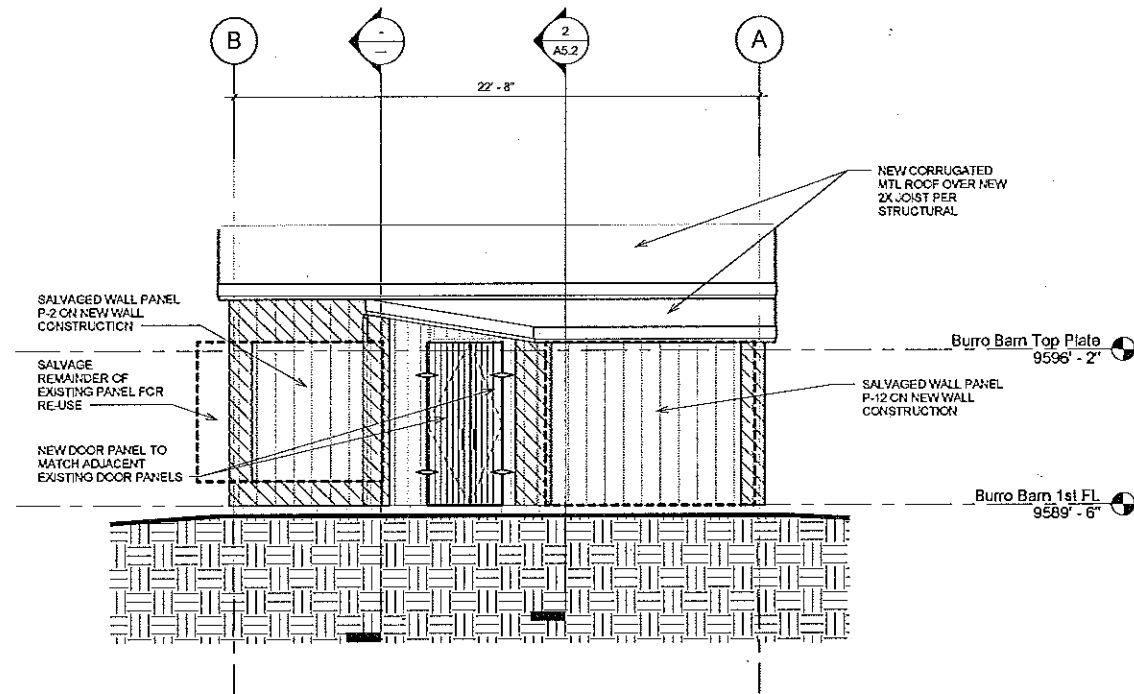
Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	DAM
Checked by	AE
Scale	1/4" = 1'-0"

- BURRO BARN -  
Exterior Elevations

**A5.1**



1 Burro Barn - East Elevation  
1/4" = 1'-0"

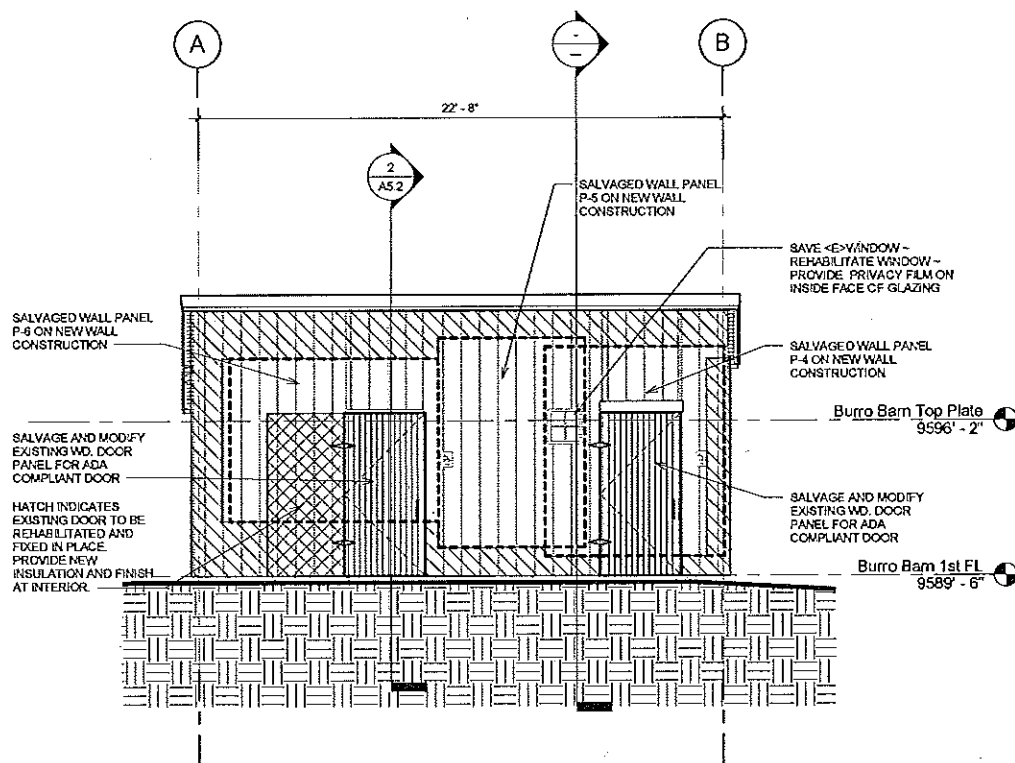


2 Burro Barn - North Elevation  
1/4" = 1'-0"

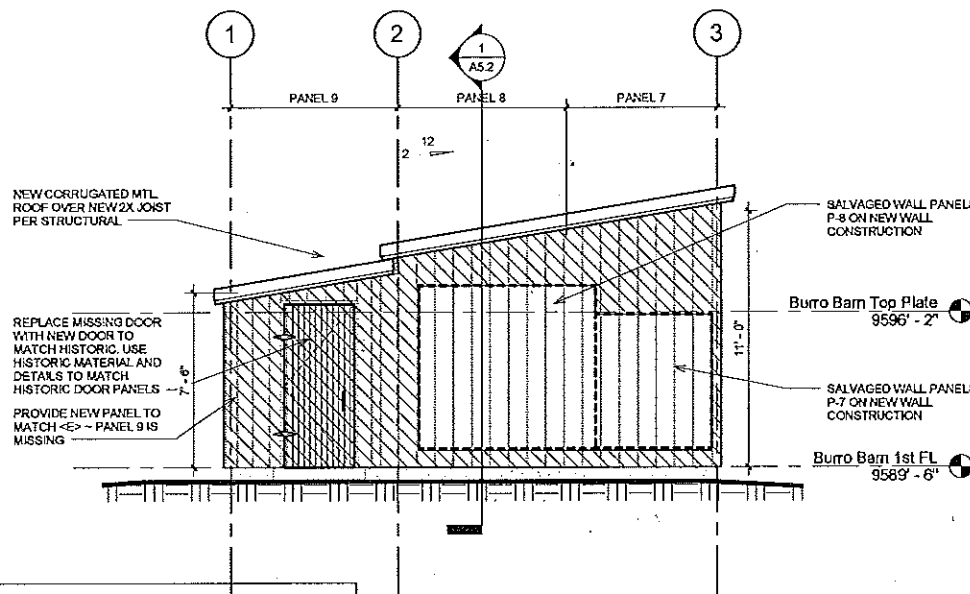
**LEGEND:**



TO PROVIDE AN ACCESSIBLE COMPLIANT RESTROOM OR ACCOMMODATE MISSING PANELS OF SALVAGED BURRO BARN PANELS, PROVIDE NEW WD. SIDING TO MATCH <E> AT CORNERS, ENDS OF PANELS & AT MISSING PANEL 9. TWO INTERNAL PANELS WILL NOT BE USED. USE MATERIAL FROM THESE SALVAGED PANEL TO FILL MISSING SIDING

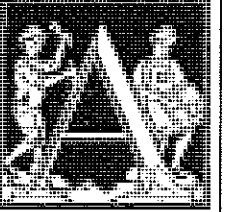


3 Burro Barn - South Elevation  
1/4" = 1'-0"



**NOTE:**  
<E> PANEL 12 IS 6'-8" HIGH. A NEW CONCRETE STEM WALL WILL PROVIDE ENOUGH HEAD HEIGHT FOR NEW ROOF STRUCTURE AND MECHANICAL

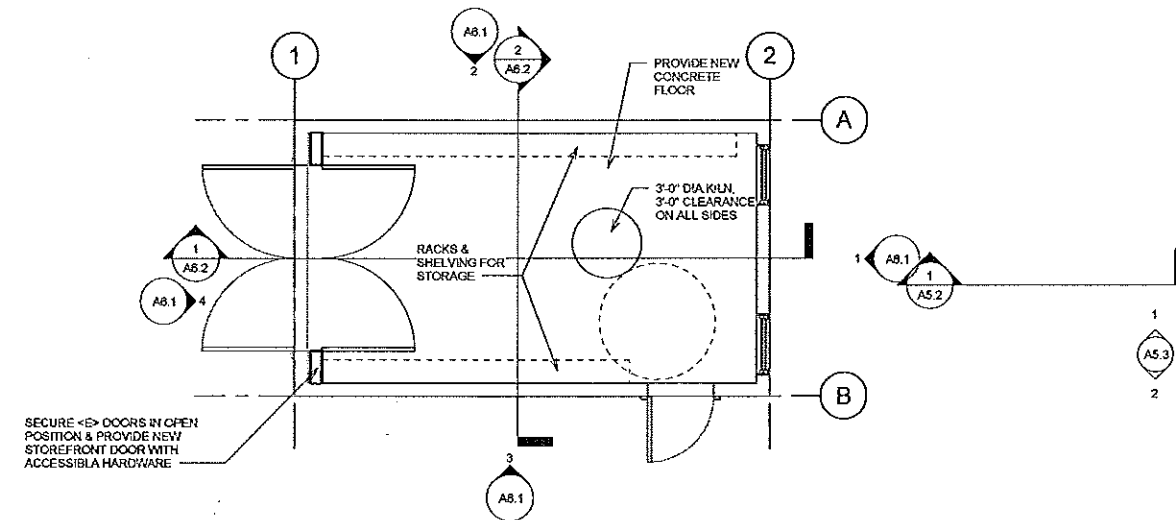
4 Burro Barn - West Elevation  
1/4" = 1'-0"



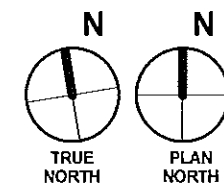
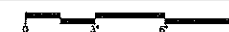
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TOWN OF BRECKENRIDGE  
150 SKI HILL ROAD P.O. BOX 168 ~ BRECKENRIDGE, COLORADO 80424



① New - Little Red Shed - Main Level  
1/4" = 1'-0"

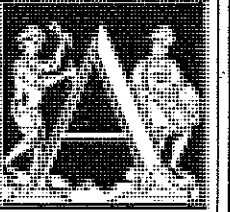


No.	Description	Date
AS.3		
61		

Project Number 2012500  
Issue 75% DD  
Date 04/09/2013  
Drawn by DAM  
Checked by AE  
Scale 1/4" = 1'-0"

- LITTLE RED SHED -  
Floor Plans

A6.0



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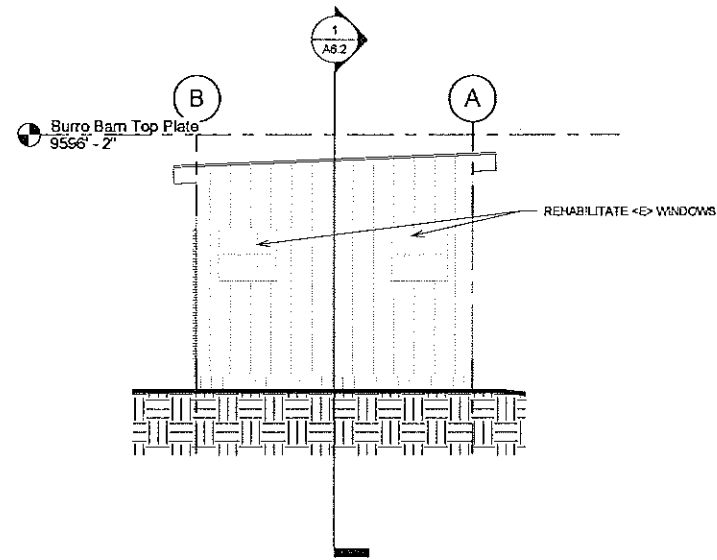
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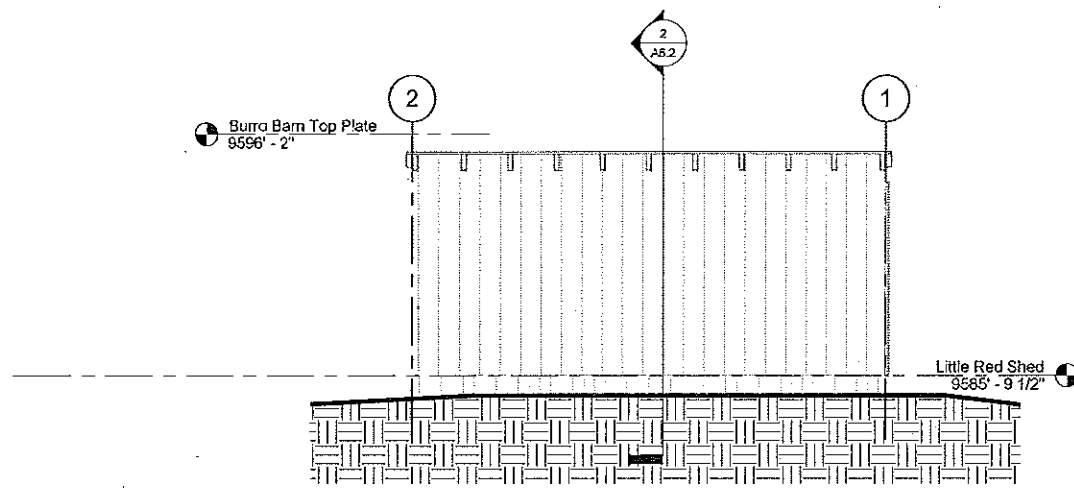
BRECKENRIDGE ARTS  
DISTRICT

TOWN OF BRECKENRIDGE

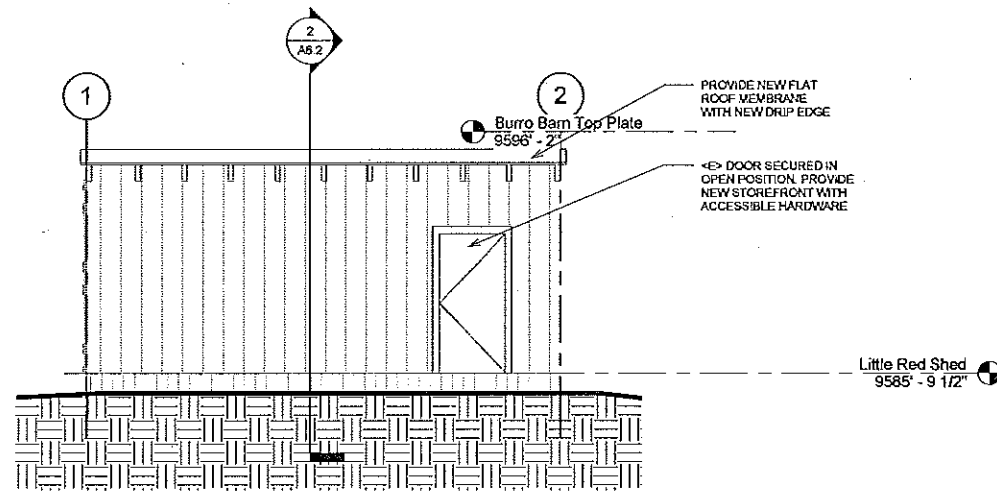
150 SKI HILL ROAD P.O. BOX 168 ~ BRECKENRIDGE, COLORADO 80424



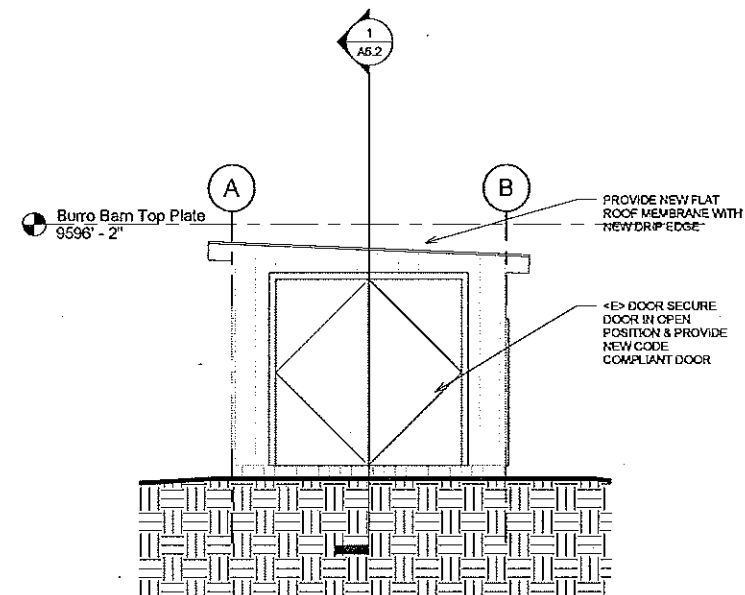
1 Little Red Shed - East Elevation  
1/4" = 1'-0"



2 Little Red Shed - North Elevation  
1/4" = 1'-0"



3 Little Red Shed - South Elevation  
1/4" = 1'-0"



4 Little Red Shed - West Elevation  
1/4" = 1'-0"

No.	Description	Date

Project Number	2012500
Issue	75% DD
Date	04/09/2013
Drawn by	Author
Checked by	Checker
Scale	1/4" = 1'-0"

- LITTLE RED SHED -  
Exterior Elevations

A6.1

SITE ELEMENTS



PAVING



LANDSCAPE CONCEPTS



Site Design Concepts

Town of Breckenridge Arts District

Scale: n.t.s.

Date: 4.15.13



## 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, unless otherwise noted.*

### APRIL 2013

Friday, April 19, 2013; 5:00-7:00pm Speakeasy Movie Theatre Goodbye Party

Friday, April 19, 2013; 8:00-9:00am; Cool River Coffee House Coffee Talk

**Tuesday, April 23, 2013; 3:00/7:30 pm Second Meeting of the Month**

### MAY 2013

**Tuesday, May 7, 2013, 8:30am-5:00pm; Mountain Thunder Lodge Town Council Retreat**

Friday, May 10, 2013; 8:00-9:00am; Park & Main Coffee Talk

**Tuesday, May 14, 2013; 3:00/7:30 pm First Meeting of the Month**

**Tuesday, May 28, 2013; 3:00/7:30 pm Second Meeting of the Month**

### JUNE 2013

**Tuesday, June 11, 2013; 3:00/7:30 pm First Meeting of the Month**

Friday, June 14, 2013; 8:00-9:00am; TBD Coffee Talk

**Tuesday, June 25, 2013; 3:00/7:30 pm Second Meeting of the Month**

### OTHER MEETINGS

1<sup>st</sup> & 3<sup>rd</sup> Tuesday of the Month; 7:00 p.m.

Planning Commission; Council Chambers

1<sup>st</sup> Wednesday of the Month; 4:00 p.m.

Public Art Commission; 3<sup>rd</sup> floor Conf Room

2<sup>nd</sup> & 4<sup>th</sup> Tuesday of the Month; 1:30 p.m.

Board of County Commissioners; County

2<sup>nd</sup> Thursday of every other month (Dec, Feb, Apr, June, Aug, Oct) 12:00 noon

Breckenridge Heritage Alliance

2<sup>nd</sup> & 4<sup>th</sup> Tuesday of the month; 2:00 p.m.

Housing/Childcare Committee

2<sup>nd</sup> Thursday of the Month; 5:30 p.m.

Sanitation District

3<sup>rd</sup> Monday of the Month; 5:30 p.m.

BOSAC; 3<sup>rd</sup> floor Conf Room

3<sup>rd</sup> Tuesday of the Month; 9:00 a.m.

Liquor Licensing Authority; Council Chambers

4<sup>th</sup> Wednesday of the Month; 9:00 a.m.

Summit Combined Housing Authority

4<sup>th</sup> Wednesday of the Month; 8:30 a.m.

Breckenridge Resort Chamber; BRC Offices

4<sup>th</sup> Thursday of the Month; 7:00 a.m.

Red White and Blue; Main Fire Station

3<sup>rd</sup> Monday of the Month; 1:00 p.m.

Breckenridge Marketing Advisory Committee; Breck PD Training Room

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition