



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, June 11, 2013; 3:00 PM

Town Hall Auditorium

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

3:00-3:10pm	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:10-3:40pm	II	<u>LEGISLATIVE REVIEW*</u>	
		McCain Solar Garden Lease	14
		Stillson Solar Garden Lease	47
		Town Employee Retirement Plan	81
		Elected Official, Planning Commission & BOSAC Benefits	86
		BOLT ordinance change - Administrative License	89
3:40-4:10pm	III	<u>MANAGERS REPORT</u>	
		Public Projects Update	100
		Housing/Childcare Update	
		Committee Reports	101
4:10-5:00pm	IV	<u>OTHER</u>	
		Recreation Department Annual Report	102
		Solar Garden Purchase	139
		Administrative Regulations - BOLT Administrative License Category	149
5:00-6:00pm	V	<u>PLANNING MATTERS</u>	
		Maggie Point Annexation Agreement Modification (MM - LB)	153
		Disposable Bag Outreach Update	155
		Childcare Ballot Issue	159
6:00-7:00pm	VI	<u>EXECUTIVE SESSION</u>	

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

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: June 5, 2013

Re: Planning Commission Decisions of the June 4, 2013, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF June 4, 2013:

CLASS C APPLICATIONS:

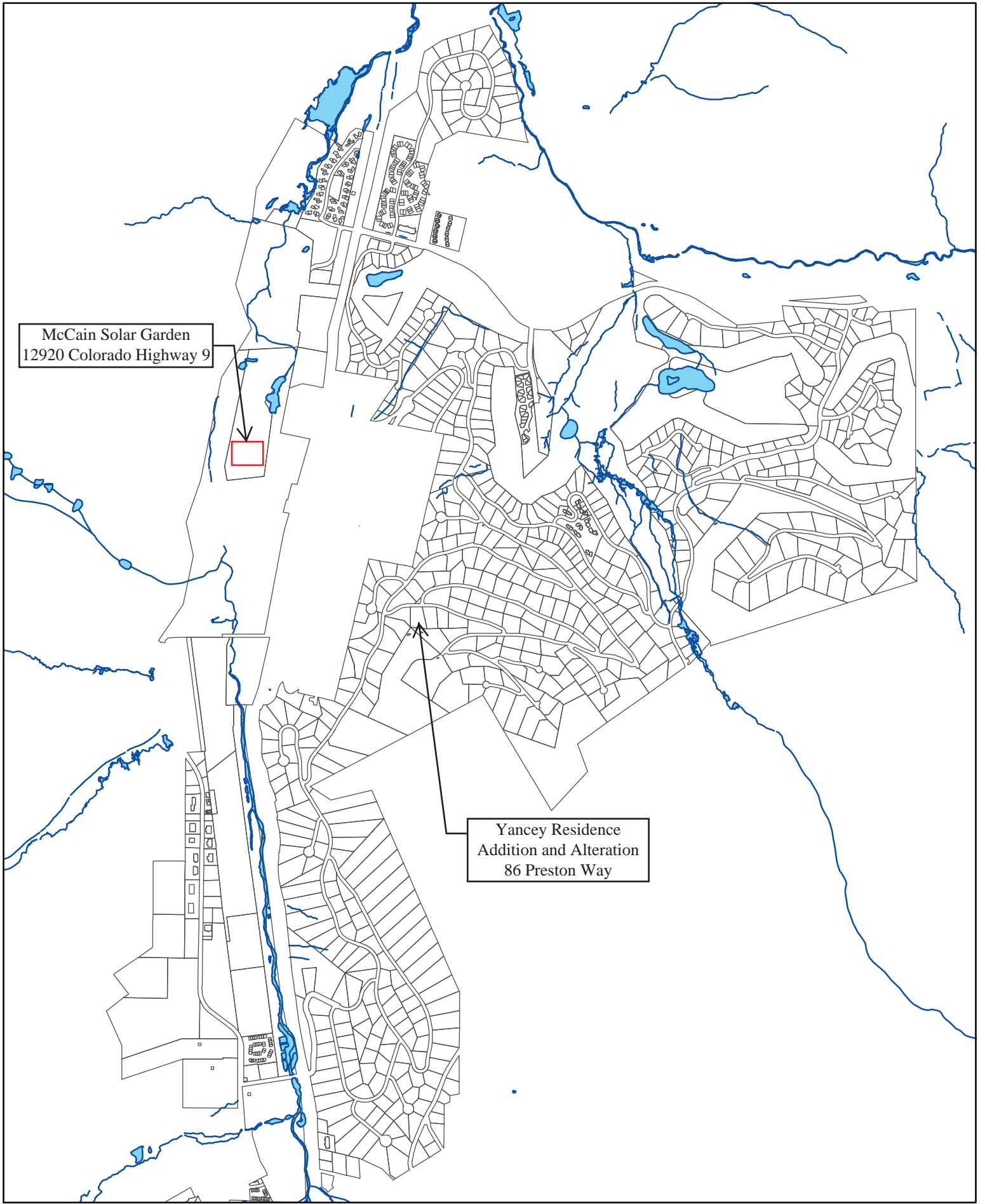
- 1) Yancey Residence Addition and Alteration (MM) PC#2013039; 86 Preston Way
Remodel of existing single family residence to create a total of 5 bedrooms, 6 baths, 5,240 sq. ft. of density and 6,244 sq. ft. of mass for a F.A.R. of 1:10.3. Approved.
- 2) Lot 27 Corkscrew Flats Single Family Residence (MM) PC#2013042; 420 Corkscrew Drive
Construction of a new single family residence with 3 bedrooms, 3.5 bathrooms, 3,086 sq. ft. of density and 3,744 sq. ft. of mass for a F.A.R. of 1:5.09. Approved.

CLASS B APPLICATIONS:

- 1) McCain Solar Garden (JP) PC#2013036; 13250 & 12920 Colorado Highway 9
Install a 500kW photovoltaic (PV) solar garden on a 3 acre portion of the McCain property. The proposed solar panels would consist of approximately 2,106 panels in 16 rows, accessed by the existing dirt road utilized by Alpine Rock. Approved.
- 2) Shock Hill Lots 6, 7 and 8 (MGT) PC#2013044; 145, 142 and 120 Penn Lode
Variance from the Cucumber Gulch PMA Regulations. Approved.

CLASS A APPLICATIONS:

- 1) Shock Hill, Tract C (MGT) PC#2013045; 200 Shock Hill Drive
Resubdivide Shock Hill Tract C into eight lots for eight duplexes as approved in the Shock Hill Tract C Master Plan (PC#2012050). Approved.



McCain Solar Garden
12920 Colorado Highway 9

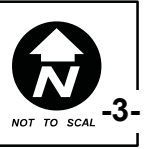
Yancey Residence
Addition and Alteration
86 Preston Way

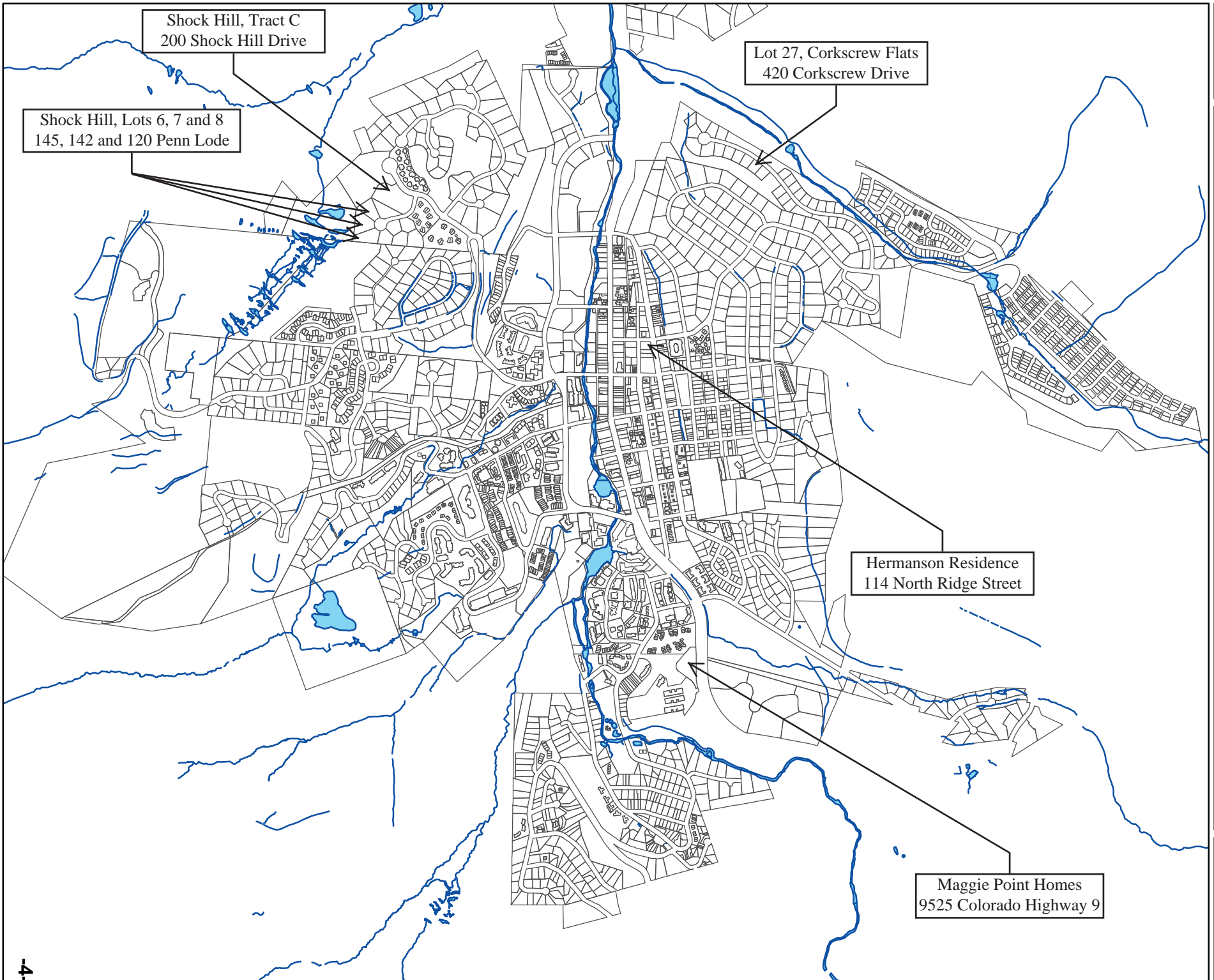


Breckenridge North

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.

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Shock Hill, Tract C
200 Shock Hill Drive

Shock Hill, Lots 6, 7 and 8
145, 142 and 120 Penn Lode

Lot 27, Corkscrew Flats
420 Corkscrew Drive

Hermanson Residence
114 North Ridge Street

Maggie Point Homes
9525 Colorado Highway 9

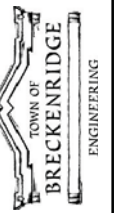


NOT TO SCALE

printed 4/12/2011

Breckenridge South

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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 Jim Lamb
Dan Schroder Eric Mamula Gretchen Dudney
Dave Pringle arrived at 8:20pm
Jennifer McAtamney, Town Council Liaison

APPROVAL OF AGENDA

With no changes, the June 4, 2013 Planning Commission meeting agenda was approved unanimously (6-0).

APPROVAL OF MINUTES

Mr. Lamb: On page 13 of the packet, please change “you power 75 points and you get two points” to “you power 75 homes and you get two points”.

With no other changes, the May 21, 2013 Planning Commission meeting minutes were approved unanimously (6-0).

CONSENT CALENDAR:

1. Yancey Residence Addition and Alteration (MM) PC#2013039; 86 Preston Way
2. Lot 27 Corkscrew Flats Single Family Residence (MM) PC#2013042; 420 Corkscrew Drive

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

TOWN COUNCIL REPORT:

Ms. McAtamney: Town Council met last week; we completed the annexation and zoning for the Wakefield Sawmill property. We also finished the land marking of the Giller Residence and approved the leases for the McCain and Stillson solar gardens. We hope that the McCain Solar Garden makes it through Planning without issue. We also did some Town Council amendments regarding procedures for voting. With the Main Street project, we got a little behind because of the bad weather so hopefully they will be done by July 4th. They also started the asphalt overlays and concrete replacement this week.

Regarding the Rugby plating field, we were not successful in obtaining that grant, but we would like to pursue others. We also backed off the Blue River Restoration; the Staff came to Council and said that with the struggles with the Army Corps we wouldn't see any funds coming from them soon so essentially they wanted to know what we should do. The Council requested that Staff go get numbers from Stan Miller and they think that if we did it as the Town it would be a \$5 million project. Some think this is an important project and others think that it is too expensive. We will continue to look at that; public input on that would be very helpful.

We were also looking at the Harris Street Community Building, and we will have final guaranteed maximum price in mid July. They explained to us that some things were not in the initial bids since they gave them to us about a year and a half ago. The Arts District is going to be a little bit more money as well. Since I've been on Town Council, there hasn't really been anything that didn't get more expensive but everyone would like the Staff to be correct when they quote. Things just cost more and there is room for issues. We are working with the County to go to vote about the scholarship program; our community is really leaning towards a property tax to support the scholarships. We'll understand in late June if there is support for that from the community. Also, at the State level there will be a billion dollar bill, and the marijuana tax as well as we passed a tax in this community for medical marijuana use. With the incoming recreational marijuana use, we will want to

broaden that verbiage to include the 5% tax on that marijuana use as well. We also looked at some improvements to this building, so now that we have some open spaces we are looking at a Phase I of that renovation. We took a tour of it with Rick Holman and are looking at a renovation of the HVAC system which will be a fairly expensive items coming up next year.

Ms. Dudney: When does the recreational marijuana commence?

Ms. McAtamney: The State will come out with that in October; they signed those bills into law just recently. The direction that the Council is going right now is that we feel like our medical marijuana licensing procedure is stricter than the State's and we would like to stick with that. We have a good relationship with the people in that business now and with informal polling it appears that many will be going into the recreational marijuana business as well. Mayor Warner believes that this will be a strong increase in our tax revenue and generate roughly \$350,000 as an increase in sales tax revenue.

WORKSESSIONS:

1. Maggie Point Homes (MM) PC#2013004; 9525 Colorado Highway 9
(Mr. Butler recused himself from the worksession as his company is bidding to work on the project.)

Mr. Mosher presented. The Maggie Point Homes are returning after the May 7 Worksession with Planning Commission to review for a fit test.

At the last worksession, the Commission reviewed a site plan for the development. Concerns were raised from Staff and the Commission about the Site Buffering and Privacy (Policy 7, Site and Environmental Design) and the efficiency of the snow stacking (Policy 9, Placement of Structures/ Snow Storage), resulting in the following preliminary points assessment for the project.

Negative points:

- -4 points under Policy 7, Site and Environmental Design / Site Buffering
- -2 points under Policy 7, Site and Environmental Design / Site Privacy
- -4 points under Policy 9, Placement of Structures/ Snow Storage (still under review and need Commission input)

This would bring the total to negative six (-6) or negative ten (-10) points. Positive points, so far, are being obtained from Policy 24, Social Community Employee Housing.

Responding to these concerns the applicant has returned with a modified site plan showing:

- A reduction of one unit to a new total of 18 units. (50% Market Rate and 50% Deed Restricted)
- Three buildings in Triplex form.
- The separation between buildings (not the eaves) is at a minimum of 20 feet, with the exception of the separation between Building 4 & 5 which is at 19-feet.
- Landscaping has been added between units adding to the buffering and privacy.
- The snow stacking areas on the outside of the private drive have been increased slightly.

As a result of these modifications, Staff believes the concerns regarding the Site Buffering and Privacy and the efficiency of the snow stacking has been resolved to a point where no negative points are suggested.

Since the provided employee housing exceeds 10% of the market rate density, the Development Code suggests positive ten (+10) points. As mentioned in the last review, the Town Council may consider a modified assignment of positive points under Policy 24 Social Community, Employee Housing that may be lower than the Development Code identified positive ten (+10) points. This would be addressed in the modified Annexation Agreement.

Staff welcomed any Commissioner comments and asked one question: Did the Commission recommend the Applicant proceed with Town Council to modify their Annexation Agreement based on the proposal potentially obtaining a passing score on a future Point Analysis?

Bobby Craig, Arapahoe Architects, Thanks to Ms. Best; we've listened to her, Mr. Mosher and the Commission. I'd like to introduce our team: Deb Linden, Owner, Diane Yost, Owner's Representative and Tim Crane, Builder.

The big news is that we dropped one unit; made the site plan less tight and obtained more separation between buildings. Yes, we did hear you about going to a bigger building instead of smaller individual buildings. The result is that we have a 20-foot separation up from a 10-foot separation and still maintained our angled and staggered design. We did an open house and obtained 7 reservations for the deed restricted units. The addition of opening this up created more snow stack and landscaping. We are at 150% over what is required for snow stack. We need your opinion and approval to get to the Council. Hopefully we won't need any of the point changes; we could still pass with a zero.

Commissioner Questions / Comments:

Ms. Dudney: I think from the outside it looks so much better; it satisfies my concerns. I hope that you feel like you haven't comprised the interior or salability.

Ms. Christopher: I appreciate the changes; the 20-foot building separation is at the nearest point? (Mr. Craig - Correct) Looks better.

Mr. Schroder: I would support this approval; the modification suits my perspective here.

Mr. Lamb: I agree, it's a big improvement, it is still a bit tight site but I feel that it needed development code to send this back to Town Council and reiterate what Eric said. This is far from over. I think it's ready to go to Council and let them make their decision on points and we'll look at this afterwards.

Ms. Dudney: I'm comfortable with sending it to Council

Ms. Christopher: I second that.

Mr. Mamula: I'm comfortable with moving forward even with only a little criteria and lack of in-depth look at this project. Its fine for the Council to discuss the Annexation Agreement with the Applicant and set points for Employee Housing as long as everyone understands that this is no more than a recommendation to proceed with a modification to the agreement and when you return it will not be a rubber stamp for approval. I think it's a lot better, but there are still more things that we haven't seen. I would also like to send a message to Council that this (the 50% - 50% split) may start to become the norm in the community so instead of continuing to address this by point structure, we should change the way we deal with Employee Housing point assignments; we've bent a lot of applicants in order to get that 80%/20%, but as we go forward we need to have something that allows us to set those points as Planning Commission instead of sending it back to Town Council.

Ms. Dudney opened the worksession to public comment.

Jay Rust, President of Woods Manor Homeowners Association: We appreciate what you've been doing; I've been involved in the Town since 1978. I do believe that there are aspects of this project that are far improved. We have an interest because our property line is adjacent to the Maggie Homes Project but more so as an HOA, we advocate for the Town and for doing responsible development. With this being a massive improvement from the beginning, we would still like to make sure that we take a look at the setbacks, the elevation and the slope plus we wonder, do we really need to clear-cut the entire treed area? There is never a paradise where the best solution is two things, but it is always worthwhile to take another site visit to

determine what might improve this project. We look forward to being with you as this project progresses.

There was no further public comment and the worksession was closed.

Commissioner Questions / Comments:

Mr. Mamula: We aren't really giving this a formal blessing. We are saying that there is the potential that this could generate enough positive points that it might pass. There is not an understanding by the Applicant that when they return to this it will be a slam dunk. This is not a promise or a blessing. Fine with a recommendation.

Ms. Dudney: Wasn't the discussion for only seven positive points? I thought that they decided they would provide a range of guidance. Does anyone want to comment to the Town Council about Council providing a set number of points and in a range? I would like to suggest to the Council that they provide a range and allow the Staff to suggest the number and Planning to approve. (Mr. Mosher: The Planning Commission has to abide by the Development Code. Currently, if an application is providing 10% or more employee housing, the maximum positive ten (+10) points must be awarded. Council has the authority to make any changes via the Annexation Agreement and will likely set a new positive point "cap" at the 10% or more option in this case.)

Mr. Lamb: The Council could very well see this and say positive three points; they could change the rules that they choose anyway. This is a Council decision.

Ms. Dudney: The Town Council discussed the proper policy as to whether or not they should set points a week following the last presentation that Maggie Homes provided to us. It doesn't have much to do with the number of points really, just the theory of the Council dictating the number of points.

The Planning Commission in general recommended that the Maggie Point Homes, 9525 Colorado Highway 9, proceed with Town Council to modify their Annexation Agreement based on the proposal potentially obtaining a passing score on a future Point Analysis.

(Mr. Butler returned to the meeting.)

FINAL HEARINGS:

1. McCain Solar Garden (JP) PC#2013036; 13250 & 12920 Colorado Highway 9

Ms. Puester presented a proposal to install a 500kW photovoltaic (PV) solar garden on a 3 acre portion of the McCain property. The proposed solar panels would consist of approximately 2,106 panels in 16 rows, access by the existing dirt road utilized by Alpine Rock. The proposed solar panels would be managed by Clean Energy Collective (CEC). CEC would sell panels to residents and businesses within the entire Summit County area. The residents and businesses would pay the upfront cost of the panels purchased. In return, Xcel Energy would credit the purchaser's Xcel bill monthly for their share of the value of the energy produced.

With the Town's annexation of this parcel, the property was incorporated into Land Use District 43 in 2003. The Town is currently in the process of purchasing the Alpine Rock property (which the proposed solar garden is located on a portion of). The Town Council approved the McCain Master Plan on May 14, 2013, that allows for open space and governmental uses including solar gardens. The Planning Commission denied the McCain solar garden on October 18, 2011 due to a nonpassing point analysis. Primary concerns from the Planning Commission were lack of buffering to the site as well as the lack of landscaping proposed. The Applicants returned with a new proposal which includes a well screened location and smaller scale solar garden on the Alpine Rock property to the north of the previous site. The Planning Commission unanimously supported the application at the preliminary hearing May 21, 2013.

Changes from the May 21, 2013, Planning Commission Hearing

The primary concern from the Planning Commission was additional visual buffering to the site from the Highway 9 and Coyne Valley Road rights-of-ways. Primary changes made since the May 21 review include:

- Landscape plans
- Revised visual representations (which include the existing berm)

Staff has been working with the applicants to address the landscape screening issues raised by the Planning Commission. Staff believes that the applicant has made appropriate efforts with strategic landscape plantings proposed and would like to work with the applicant to field locate the trees once the panels start going in to make sure we have screening in the right spots. Staff welcomed any additional comments or questions.

Staff recommended the Planning Commission approve the final Point Analysis for the McCain Solar Garden, PC# 2013036, 13250 & 12920 Colorado Highway 9. Staff also recommended the Planning Commission approve the McCain Solar Garden, PC# 2013036, 13250 & 12920 Colorado Highway 9, along with the presented Findings and Conditions.

Richard Miller, Land Manager with the Clean Energy Collective: We mainly want to fill in the voids to screen the site from the highway and also the site to the south from Coyne Valley Road. Ok with field locating trees with Staff. We are also prepared to put up a bond so that we can start the construction and decide the best location to achieve the maximum benefit.

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

Commissioner Questions / Comments:

Mr. Schroder: I think it's amazing that Breckenridge has this opportunity; we have about 20% of Xcel allocation within the State; I am pleased to be in a Town that has alternative sources of energy.

Mr. Lamb: It's a good project, I agree. It's gone through the process. Thank you for taking us out on the site.

Ms. Dudney: This has been an excellent example of public input, and a lot of changes that have been made as a direct result. You've done an excellent job locating it. Terrific site.

Mr. Butler: Excellent location and site. Ready to go forward.

Ms. Christopher: I concur.

Mr. Mamula: I agree.

Mr. Lamb made a motion to approve the point analysis for the McCain Solar Garden, PC#2013036, 13250 & 12920 Colorado Highway 9. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

Mr. Mamula made a motion to approve the McCain Solar Garden, PC#2013036, 13250 & 12920 Colorado Highway 9, with the presented findings and conditions. Mr. Lamb seconded, and the motion was carried unanimously (6-0).

PRELIMINARY HEARINGS:

1. Hermanson Residence (MGT) PC#2013043; 114 North Ridge Street

Mr. Thompson presented a proposal to construct a new 4,195 square foot single family residence including: 4 bedrooms, 4 ½ baths, a 575 square foot accessory apartment below ground, and two gas fireplaces, with 4 ½" reveal horizontal cedar siding and 1'x 6' smooth four sides vertical square edge tongue and groove cedar siding, with a dark grayish 40-year asphalt shingle roof with corrugated metal on the low roofs.

In October of 2009, the Planning Commission and Town Council approved an 8,174 square foot single family residence (PC#2008076) with an accessory apartment. In April of 2012, the Planning Commission and Town Council approved a three year extension (PC#2012017) of this original development permit. In January of 2013, the Hermanson's purchased the property. On April 23, 2013 the Town Council approved a subdivision of the property creating two 50' wide lots for two future single-family residences.

Mr. Thompson described the preliminary assessment of the project.

Staff had the following questions for the Planning Commission:

1. Did the Commission agree with Staff's interpretation of Priority Policy 145 as it relates to horizontal lap siding?
2. Did the Commission believe the colors of yellow and white need to be changed to a darker color to meet the requirements of Policy 8/A Ridgeline and Hillside Development? Do you think that it is Ridgeline and Hillside Development?
3. Did the Commission believe the brackets or corbels are non-functional or ornamental bric-a-brac that is out of character with the area?

The Planning Department recommended the application return for a Final Hearing.

Janet Sutterley, Architect for Owner: I wanted to reinforce the setback discussion; it's actually 44'6" (it is actually 43', the Development Code requires setbacks to be measured to roof overhangs, per Matt Thompson) and we moved to the main first façade for the house which is at 53'0" and the shed is 2' from the first dormer. In terms of the architectural, there is a bit of detail and I think that it's really important; this is a very prominent corner and we need to pay attention to the massing and proportion of the building. The idea was to start stepping the massing back in both directions. Regarding the siding, the vertical siding that is going on the shed is not the dark brown board; the whole thing is yellow. I was trying to avoid having everything horizontal, so the shed I thought would be good to change to a vertical siding, as this is a smooth cedar. What I like about the vertical is that this is a long vertical element and putting vertical siding on it tends to dimension the long verticalness of it. I found some examples of vertical siding. The first is Amazing Grace, the second is the Bed and Breakfast just north of the Watson building, the Williamson House. Our main entry is off of French Street, we need to break up some of the areas around the doors with transoms and then this truss. There is the first bracket that is the entry, and then three others that are supporting roof overhangs. I told Staff that I would be happy to look at some alternatives and I brought some. The fourth picture is the only curved bracket that I could find on Main Street. Regarding colors, the owners really want to do yellow and white. I would like to know what you all think about that. The next house over is going to be some kind of green. Most of the body of the house will be yellow. I agree that this is a prominent site; whether or not it falls into the definition of Ridgeline, I'm not so sure.

Ms. Dudney opened the hearing to public comment.

Mr. Andy Harris: I live in 114 French St; if I could afford it I would like to buy the house. The comments are that French Street is the major road; the major view of this building will be from French Street. I know that I do not own a right of view in America but the last owner of that property said that the height of the building would be 23; I want to be reassured that the 23' would be the ridgeline not the window. There is quite a high climb onto that ridge so we were rather worried about the height of that building and no one can tell me the answer to that. From French Street there is about a 6 foot climb; then you're going to put 26' on top of that. If you could dig down a little more, we would appreciate it. We also asked Staff about the bus stop. We make our money on that bus stop, and what I want to know is where are they going to move that bus stop when the property goes in. I just don't want to lose the bus stop by a block. It just needs to be a conceivable walk for people in ski boots. (Mr. Thompson: It hasn't been determined. I share your concern about that bus stop; it will have to be moved though.)

Mr. Lee Edwards, owner of property across the street: Thank you for allowing two lots to be developed here; I did not read through all of the subdivision agreement. Do they have an equal amount of density? Is the density then based on the size of the lot? I have to agree that the front porch on Mr. Stais' office is a little bit further to the west than this building. This could easily be tucked up closer to Ridge Street and pulled back farther from French Street. Because of the height difference on Ridge Street, I am going to be walking next to the stone wall and if it means taking out a couple of trees, we replant some trees and they grow. It might help the function of the flow. Architectural; it's what we have become accustomed to around here. Is there no potential for a shared driveway? So there will be two driveway cuts? We are losing 3 parking spots. This might be the time to put this in the parking district. (Mr. Mosher: Engineering looked at it and was fine with having two driveways. With the loss of the bus stop there is potential for adding them back in.) (Ms. Sutterley: I am keeping this down a little lower, not right on the top of the knoll. I found out a couple of days ago that the house next door is a foot and a half higher than what we are going to be.) (Mr. Thompson: They are not equal in size.)

There was no further public comment, and the hearing was closed.

Commissioner Questions / Comments:

Ms Christopher: The building to the south, is it beige or yellow?

Ms. Dudney: Why is the front door of this on French Street and not on Ridge Street? Do you have any comment about sliding it to the West? (Mr. Thompson: In the previous approval and in the historic guidelines they talk about this setback being very important. I don't feel Staff is comfortable in going further; the trees were also important as well. We really worked hard to get a plan that worked.) Further clarification on the setbacks? (Ms. Sutterley: If we go further to the west we will have to take those two trees out; which the owner would be delighted to do.)

Mr. Schroder: Vertical vs. Horizontal: Policy talks about that it should be horizontal and there isn't stronger language than that so I'm not opposed; is this Ridgeline development? There's no way that this could be Ridgeline development because it's smack in the middle of a neighborhood. Code says that it would be a forested backdrop, and again, we have development that goes on beyond this, that used to be the ridge but not now so colors could work. The brackets don't seem to meet the code expectation of less. Seems to be a bit much.

Mr. Pringle: We should maintain the historic setback; it's very important for this block. The house is proposed in the correct location on the lot. French Street was always the back side to these buildings but that is what we have. I think moving the building forward would violate more policies than it would solve. This is not a Ridgeline development; I do have a problem with the extra ornamentation that seems to be going on. That needs to be taken back a little bit, and drawn back into policy. I don't believe that the vertical siding on the primary residence is appropriate. We are getting very creative these days; I think that we need to relook at that. The north elevation needs to be looked at; it seems to be very prominent in the back. Maybe a reorientation might reduce some of that mass on the French Street side. The garage module seems a little massive.

Mr. Mamula: I do think that you can use the vertical siding; I agree with the argument that this is a secondary structure. I like the interpretation that the shed is an addition in its own time. I would like to say that I hate the colors, but I can't make the Ridgeline argument so I don't object. The code definitely points out that ornament and detail needs to be in modest character. There is not an argument to put those brackets in; I would almost even argue about the curved windows; use similar windows in size and shape. I have an issue with this front on Ridge Street. I agree with Staff that you probably can't move the home; there needs to be a walkway to the front of the house. This is really the back of the house that has no entryway to the house. I think it's going to read weird; that it's not the front of the house and

- we are creating a front of the house that isn't really the entry of the house. If it doesn't read as the front of the house we have failed in our mission to provide a front yard.
- Ms. Dudney: What about the door off of the porch?
- Mr. Mamula: There is no way to get to the front of this house. It's not the front of the house. There is the dormer, but there is no door. No walkway and a 4 foot wall.
- Ms. Dudney: There is a door off of the porch.
- Mr. Mamula: I'm alluding to more of a front façade. Or, we call that the back yard, but policy won't let us do that.
- Mr. Pringle: I think that you make a good point, Mr. Mamula.
- Ms. Christopher: I agree with Mr. Mamula on the vertical siding; this small element is an addition so that using the same material but changing orientation is fine; it isn't Ridgeline development; it's the middle of a neighborhood. The corbelled embellishments are out of character. The Main Street example was a modern building. I agree with Mr. Mamula about the front yard; if we make it read more like a front yard, then less room on French Street would make more sense.
- Mr. Butler: I'm not a big fan of the vertical; it goes back to the front yard. The two most interesting facades for this prominent site are the backyard and the side that the neighbor gets to see. I have a bad feeling about that; it isn't the nicest side but it is the most prominent side. It makes me feel like it shouldn't be treated as an add-on building/out building. It needs to be more prominent; more important because it is a very important façade. I don't have a problem with the yellow and white and I do have a problem with the brackets.
- Ms. Dudney: I agree with Mr. Butler, I prefer the horizontal siding; I do have a problem with the brackets and I do not have a problem with the colors. I don't have a problem with where the front door is but you need some kind of sidewalk.
- Mr. Lamb: The front setback, I think that they already compromised on that. I also think that the horizontal should be on the primary and vertical should be on the secondary. One example of that is Amazing Grace. The Ridgeline development doesn't apply and the code is fairly clear on the ornamental brickabrack; I do agree with that.

COMBINED HEARINGS:

1. Shock Hill, Lots 6, 7 and 8 (MGT) PC#2013044; 145, 142 and 120 Penn Lode

Mr. Thompson presented a request for a variance from the Cucumber Gulch PMA Regulations. The disturbance envelopes are in the PMA, which otherwise prohibits construction activities. The Cucumber Gulch Overlay Protection District and the Preventive Management Area were adopted by the Town of Breckenridge by Ordinance on February 22, 2000. The Shock Hill Subdivision that created these lots was approved by the Town on June 17, 1999. This subdivision was exempted from the PMA regulations for the three year vesting period of the subdivision permit. The intent of the ordinance was to adopt development standards for construction activity in the District, and to prohibit certain activities within the PMA; however, the ordinance also anticipated that some development would be allowed under very specific conditions, through a variance process.

Staff found that the proposal meets the requirements for a variance from the Preventive Management Area of the Cucumber Gulch Overlay Protection District, and recommended that the Planning Commission approve the requested Variance from the Cucumber Gulch PMA Regulations, PC#2013044, with the presented Findings and Conditions.

Mr. Steve West, Attorney for the Applicant: This subdivision was long in the works before there was any PMA; the PMA was figured out around the time this was being platted. For reasons that no one is clear on, these 3 lots were left in the PMA. These are no longer developer owned lot and the 10 year vesting helped with things like when the original the original big development was approved, they had the benefit of the vesting. It did not help at all if you wanted to build a house in the PMA which is why we are requesting this

variance. We had a contract on one of the lots but it fell through; at that point we and the Staff figured out that we really need to fix this problem with the variance and a covenant that will make it much clear in the record all of the things that you have to do on the lots. It is not obvious that this PMA applied.

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

Commissioner Questions / Comments:

Ms. Christopher: I live in this area and after all of the rock remediation they have put up the 8 inch berms to prevent sediment run off and they are piled with sediment. The area is in danger of sediment runoff. With new construction we need to take precautions to keep it out of Cucumber Gulch.

Mr. Pringle: Do we grant the variance or doesn't the Council grant the variance? (Mr. West: I believe that the town attorney wants you to approve the variance.)

Mr. Pringle made a motion to approve Shock Hill, Lots 6, 7 and 8, PC#2013044, 145, 142 and 120 Penn Lode, along with the presented Findings and Conditions. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

2. Shock Hill, Tract C (MGT) PC#2013045; 200 Shock Hill Drive

Mr. Thompson presented a proposal to re-subdivide Tract C of the Shock Hill Subdivision (Rec# 598532) into eight lots. The use and density associated with this tract remain the same as the approved in the Shock Hill Tract C Master Plan (PC#2012050) for eight duplexes. In September of 2012 the Planning Commission and Town Council approved the Shock Hill Tract C Master Plan for 16 duplex units (PC#2012050) totaling 38,400 square feet of density and 46,080 square feet of total mass, per the overall Shock Hill Master Plan.

This application has been advertised as a combined Preliminary & Final Hearing. Staff believes that all of the issues relating to this subdivision have been adequately addressed. Staff recommended the Shock Hill Tract C Subdivision, PC#2013045, be approved with the presented Findings & Conditions.

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

Commissioner Questions / Comments:

Mr. Pringle: Pretty straight forward application.

Mr. Pringle made a motion to approve Shock Hill, Tract C, PC#2013045, 200 Shock Hill Drive, with the presented Findings and Conditions. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

OTHER MATTERS:

None.

ADJOURNMENT:

The meeting was adjourned at 9:25 pm.

Gretchen Dudney, Chair

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: MCCAIN SOLAR GARDEN LEASE
DATE: 5/31/13
CC: TIM GAGEN, RICK HOLMAN

Attached for your review and second reading is the McCain Solar Garden Lease. Please note changes from first reading in sections 4.6 and 5.4, as well as section 3 of the lease ordinance. The same changes have been made to the Stillson Solar Garden Lease. The changes are highlighted in the attached documents. The changes address;

- Lease section 4.6 – Site access for Clean Energy Collective (CEC)
- Lease section 5.4 – Tenant (CEC) responsibility for any damages to site (vandalism etc.)
- Lease Ordinance section 3 – Facilitates utility easements required by Xcel

1 ***FOR WORKSESSION/SECOND READING – JUNE 11***

2
3 ***CHANGES TO LEASE ARE MARKED***

4
5 Additions To The Ordinance As Approved on First Reading Are
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 21

9
10 Series 2013

11
12 AN ORDINANCE APPROVING A LONG-TERM LEASE WITH BRECK SOLAR1, LLC, A
13 COLORADO LIMITED LIABILITY COMPANY
14 (McCain Property Solar Garden)

15
16 WHEREAS, the Town of Breckenridge owns the real property commonly known as “the
17 McCain Property”; and

18
19 WHEREAS, a portion of such real property is suitable for use by Breck Solar1, LLC, a
20 Colorado limited liability company (“**Breck Solar**”), as a community-owned, renewable solar
21 energy generating facility, also known as a “solar garden”; and

22
23 WHEREAS, the Town is willing to lease a portion of its McCain Property to Breck Solar;
24 and

25
26 WHEREAS, a proposed Lease with Breck Solar has been prepared by the Town Attorney
27 and reviewed by the Town Council; and

28
29 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

30
31 The council may lease, for such time as council shall determine, any real or
32 personal property to or from any person, firm, corporation, public and private,
33 governmental or otherwise.

34
35 and;

36
37 WHEREAS, the term of the proposed Lease with Breck Solar exceeds one year in length;
38 and

39
40 WHEREAS, Section 1-11-4 of the Breckenridge Town Code requires that any real estate
41 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

42
43 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
44 BRECKENRIDGE, COLORADO:

1
2 Section 1. The proposed Lease between the Town and Breck Solar1, LLC, a Colorado
3 limited liability company, a copy of which is marked **Exhibit "A"**, attached hereto, and
4 incorporated herein by reference, is approved, and the Town Manager is authorized to execute
5 such Lease for and on behalf of the Town of Breckenridge.

6
7 Section 2. Minor changes to or amendments of the approved Lease may be made by the
8 Town Manager if the Town Attorney certifies in writing that the proposed changes or
9 amendments do not substantially affect the consideration to be received or paid by the Town
10 pursuant to the approved Lease, or the essential elements of the approved Lease.

11
12 Section 3. **The Town Manager is authorized, empowered, and directed to execute,**
13 **acknowledge, and deliver to the appropriate utility providers utility easements over Town-**
14 **owned real property as may be required for the installation and operation of the solar**
15 **garden described in the Lease that is approved by Section 1 of this ordinance. The form of**
16 **such easements shall be acceptable to the Town Attorney,**

17
18 Section 34. The Town Council finds, determines, and declares that it has the power to
19 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
20 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

21
22 Section 45. This ordinance shall be published and become effective as provided by
23 Section 5.9 of the Breckenridge Town Charter.

24
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
29 Building of the Town.

30
31 TOWN OF BRECKENRIDGE, a Colorado
32 municipal corporation

33
34
35
36 By: _____
37 John G. Warner, Mayor

38
39 ATTEST:

40
41
42
43 _____
44 Helen Cospolich
45 Town Clerk

1 SOLAR GARDEN LEASE
2 (McCain Property)
3

4 THIS SOLAR GARDEN LEASE (“Lease”) is dated [REDACTED], 2013,
5 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation
6 (“Landlord”) and BRECK SOLAR1, LLC, a Colorado limited liability company (“Tenant”).
7 The Landlord and the Tenant are each a “Party”, and are collectively the “Parties.”
8

9 **ARTICLE 1 □ BASIC LEASE PROVISIONS**

10 1.1 **Background and Purpose.** Landlord owns the land that is subject to this
11 Lease, and has agreed to lease it to Tenant for the construction and operation of a “solar garden”
12 as hereafter defined. Tenant has a contract to sell renewable energy produced at the solar garden
13 to Xcel Energy, and Tenant is willing to design, construct, and maintain the solar garden. The
14 purpose of this Lease is to provide land for the construction, operation, and maintenance of
15 Tenant’s solar garden as described and defined in this Lease, and to set forth the terms and
16 conditions under which Tenant will design, construct, and maintain the solar garden..

17 1.2 **Leased Premises.** In consideration of Tenant’s payment of rent and the
18 keeping of the promises, covenants, and conditions required of Tenant by this Lease, Landlord
19 leases to Tenant, and Tenant leases from Landlord, for the term and upon the conditions of this
20 Lease, the real property described and depicted on the attached **Exhibit “A”** (“**Leased**
21 **Premises**”). The Leased Premises are located at 12920 Colorado Highway 9, Breckenridge,
22 Colorado 80424. At the time of the commencement of this Lease the Leased Premises consist of
23 vacant, unimproved land.

24 1.3 **Use Of Leased Premises.**

25 (a) Tenant will construct, install, and operate on the Leased Premises a
26 community-owned, renewable solar energy generating facility under the terms of Xcel Energy’s
27 solar power purchase agreement, or its equivalent (“**Solar Garden**”), all in accordance with the
28 terms of this Lease. Tenant will not use the Leased Premises for any other purpose without
29 Landlord’s prior written consent.

30 (b) Tenant will initially investigate constructing and operating a 500kW Solar
31 Garden on the Leased Premises. If the construction and operation of a 500kW Solar Garden on
32 the Leased Premises is not technically feasible or commercially reasonable, in Tenant’s sole
33 discretion, Landlord and Tenant will use their best efforts to select an alternative site on other
34 land owned by Landlord upon which a 500kW Solar Garden can be constructed and operated. If
35 Landlord and Tenant cannot agree upon an acceptable alternative site, this Lease may be
36 terminated by either Landlord or Tenant by notice given in accordance with Section 16.2 of this
37 Lease.

38 1.4 **Term; Extension Term.**

SOLAR GARDEN LEASE (McCain Property)

1 (a) The initial term of this Lease (“**Initial Term**”) begins at 12:01 A.M., local
2 time, on the date the Solar Garden is first placed in service and ends, unless sooner terminated as
3 hereafter provided, at 11:59 P.M., twenty five (25) years thereafter. Once the Solar Garden is
4 placed in service the Parties will execute an amendment to this Lease confirming the date of the
5 commencement of the Initial Term. The “**Term**” of this Lease includes both the Initial Term, and
6 the Extension Term described in Subsection (b) of this Section, if the Extension Term is
7 applicable.

8 (b) Upon the expiration of the Initial Term this Lease will automatically be
9 extended for an additional twenty five (25) years (“**Extension Term**”) upon the same terms and
10 conditions set forth in this Lease, and without the necessity of executing any written extension of
11 this Lease, unless the Tenant, in its sole discretion, notifies Landlord in the manner provided in
12 Section 16.2, not less than six months prior to the end of the Initial Term, that the Lease will not
13 be extended.

14 1.5 **Possible Further Extension of Lease.** Prior to the expiration of the Term
15 the Parties will meet and discuss the possible extension of this Lease beyond the fifty (50) year
16 time period provided in this Lease; provided, nothing in this Lease obligates either the Landlord
17 or the Tenant to extend this Lease beyond the fifty (50) year time period provided in this Lease,
18 or to enter into a new Lease for the Leased Premises when the Term of this Lease expires.

19 1.6 **Holdover.** If Tenant continues to hold possession of the Leased Premises
20 after the natural expiration of the Term of this Lease, then such holding over is not a renewal of
21 the Lease for the whole term, but Tenant will be a tenant from month to month only under the
22 same terms and conditions as are provided in this Lease; EXCEPT Landlord may, at Landlord’s
23 option, establish a new monthly rent for any holdover period upon thirty (30) days’ prior written
24 notice to Tenant.

25 1.7 **Redelivery of Leased Premises.** Except as otherwise provided in this
26 Lease, upon the expiration or earlier termination of this Lease the Tenant will redeliver the
27 Leased Premises to Landlord in good condition, ordinary wear and tear excepted.

28 1.8 **Obligation To Meet and Confer.** Throughout the Term of this Lease the
29 Parties will meet and confer at least annually for the purpose of determining whether changed
30 circumstances require the amendment to this Lease. The Parties will act reasonably and in good
31 faith to determine if changed circumstances require the amendment to this Lease and, if so, will
32 execute appropriate documentation amending this Lease.

33 1.9 **Tenant’s Right to Mortgage or Collaterally Assign Lease.**
34 Notwithstanding anything contained in this Lease to the contrary, Tenant may mortgage, pledge,
35 or collaterally assign this Lease if required to obtain its financing and development of the Solar
36 Garden. Upon request, Landlord will execute any required consent to the mortgage, pledge, or
37 collateral assignment of this Lease; provided, however, the form of the mortgage, pledge, or
38 collateral assignment is subject to the review and approval of Landlord’s attorney.

1 1.10 **Additional Consideration For Lease.** As additional consideration for this
2 Lease, Tenant covenants and agrees with Landlord that throughout the Term Tenant will offer to
3 all subscribers located within the corporate limits of the Town of Breckenridge, Colorado a
4 pricing discount equal to \$.10 (ten cents) per watt sold. The discount shall be off the retail price
5 offered at the time of purchase and may be in the form of a reduced sales price or rebate.

6 **ARTICLE 2 □ RENT AND SECURITY**

7 2.1 **Rent.** The total rent to be paid by the Tenant for the Term (including both
8 the Initial Term and, if applicable, the Extension Term) is \$10.00, the receipt and sufficiency of
9 which is acknowledged by the Landlord.

10 2.2 **“Additional Rent” Defined.** Any amount due to Landlord from Tenant
11 under this Lease that is not specifically identified as “rent” is additional rent.

12 2.3 **Interest On Past Due Amounts.** Tenant will pay interest to Landlord on
13 any sum due to Landlord under this Lease that is thirty (30) days or more past due at the rate of
14 eight percent (8%) per annum from the date due until the date such payment is fully paid.

15 2.4 **Place And Manner Of Payments.** All sums payable to Landlord under
16 this Lease will be made to:

17 Town of Breckenridge
18 Clerk & Finance Division
19 Attn: Accounts Receivable
20 P. O. Box 168
21 Breckenridge, CO 80424

22
23 or at such other place as the Town Manager of the Town of Breckenridge (“**Town Manager**”)
24 may hereafter designate by written notice provided to Tenant in accordance with Section 16.2 of
25 this Lease. All sums will be made in legal tender of the United States. Any check given to the
26 Landlord will be received subject to collection, and Tenant agrees to pay any charges, fees or
27 costs incurred by the Landlord for the collection, including reasonable attorney’s fees.
28

29 2.5 **Security Deposit.** Tenant has deposited with Landlord the sum of
30 \$10,000.00 as a security deposit (“**Security Deposit**”), the receipt of which is acknowledged by
31 Landlord. Landlord may (but is not be required to) use the Security Deposit for the payment or
32 reimbursement of any amount that Landlord may spend or become obligated to spend by reason
33 of Tenant’s default under this Lease; to compensate Landlord for any other loss, damage or
34 expense that Landlord may suffer by reason of Tenant’s default under this Lease; or to
35 compensate Landlord for damage to Town of Breckenridge streets or rights of way caused by
36 Tenant. If any portion of the Security Deposit is so used or applied, Tenant will within ten (10)
37 days after written demand deposit with Landlord cash in an amount sufficient to restore the
38 Security Deposit to its original amount, and Tenant’s failure to do so will be a breach of this
39 Lease. Landlord is not required to maintain the Security Deposit separately from Landlord’s

1 general funds, and Tenant is not entitled to interest on the Security Deposit. If Tenant fully and
2 faithfully performs all of its obligations under this Lease, the Security Deposit, or any balance
3 thereof, will be returned to Tenant within sixty (60) days of the expiration or earlier termination
4 of this Lease.

5 **ARTICLE 3 □ LANDLORD’S DISCLAIMERS AND EXCULPATORY PROVISIONS**

6 3.1 **“As Is” Condition of Leased Premises.** Tenant acknowledges that it had
7 adequate and fair opportunity to inspect the Leased Premises prior to taking possession. The
8 Leased Premises are leased by Landlord to Tenant, and accepted by Tenant, in **“AS IS”**
9 condition. Tenant’s act of taking possession of the Leased Premises is conclusive evidence that
10 Tenant accepted the Leased Premises in then **“AS IS”** condition, and that the Leased Premises
11 (including all leased personal property) were in satisfactory condition at the time of
12 commencement of Tenant’s possession.

13 3.2 **Landlord’s Non-liability.** As a material part of the consideration to be
14 received by Landlord under this Lease, Tenant assumes all risk of damage to property or injury
15 to persons in or upon the Leased Premises from any cause other than Landlord’s gross
16 negligence or intentional act, and Tenant waives all claims in respect thereof against Landlord.

17 3.3 **Limitation of Remedies.** **LANDLORD IS NOT LIABLE FOR ANY INDIRECT,**
18 **SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF**
19 **ANTICIPATED PROFITS, REVENUE OR SAVINGS, BUSINESS INTERRUPTION, OR ANY SIMILAR**
20 **CLAIM ARISING FROM THE LANDLORD’S BREACH OF THIS LEASE, EVEN IF LANDLORD HAS**
21 **BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES**
22 **NOTWITHSTANDING THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

23 **ARTICLE 4 □ TENANT’S SITE IMPROVEMENTS**

24 4.1 **Tenant to Pay Landlord For Initial Site Improvements.** Not later than
25 June 30, 2013 Tenant will pay the Landlord the sum of \$20,000.00, which funds will be used by
26 Landlord to construct the initial site improvements upon the Leased Premise as defined in
27 Section 4.2, below.

28 4.2 **Landlord’s Site Improvements- Defined.** The initial site improvements to
29 be constructed by Landlord upon the Leased Premises, include the following (**“Landlord’s Site**
30 **Improvements”**):

- 31 (a) removal of spoils; and
32 (b) grading of land to meet Tenant’s requirements as depicted on the attached
33 **Exhibit “B”**

1 Landlord commenced construction and installation of Landlord’s Site Improvements on
2 approximately May 31, 2013 (prior to the execution of this Lease), and all of Landlord’s Site
3 Improvements shall be completed by Landlord not later than June 30, 2013.
4

5 **4.3 Tenant’s Site Improvements** □ **Defined.** The initial Solar Garden
6 improvements to be constructed by Tenant upon the Leased Premises, include, without
7 limitation:

- 8 (a) racking and foundations;
- 9 (b) inverters and transformers;
- 10 (c) necessary electrical interconnections and all improvements and connections
11 required to transfer and deliver electrical generation offsite, including, without limitation, 3
12 three-phase extension and powers boxes, a 200-400 square structure to house electrical and
13 maintenance equipment;
- 14 (d) security fencing and gating, with cameras, enclosing the Leased Premises; a
- 15 (e) safety signage; and
- 16 (f) solar photo voltaic (“PV”) panels.

17 As used in this Article 4, **“Tenant’s Site Improvement”** means the initial improvements to the
18 Leased Premises to be constructed by Tenant as described above, together with in any other
19 physical improvement made, or proposed to be made, to the Leased Premises.
20

21 **4.4 Procedure For Review and Approval of Tenant’s Site Improvements.**
22 No Tenant Site Improvement may be made to the Leased Premises by the Tenant except under
23 the following conditions:

- 24 (a) No Tenant Site Improvement may be undertaken until the Tenant has obtained
25 approval of the plans and specifications for such Tenant Site Improvement from the Landlord,
26 acting in its capacity as owner of the Leased Premises (and not in its governmental capacity). In
27 connection therewith, the Landlord has the right to review and approve a proposed Tenant Site
28 Improvement in its sole and absolute discretion.
- 29 (b) The Tenant must also obtain a “Development Permit” from the Landlord,
30 acting in the Landlord’s governmental capacity.

31 **4.5 Construction of Tenant Site Improvements.** All work done in connection
32 with the construction of an Tenant Site Improvement must be done in a good and workmanlike
33 manner and in material conformity with the plans and specifications that are approved by the
34 Landlord. All Tenant Site Improvements must be constructed in accordance with any applicable

1 rule, regulation, code, ordinance, or administrative regulation of any governmental authority with
2 jurisdiction.

3 **4.6 Timeline for Construction of Tenant’s Site Improvements.** The
4 construction of an approved Tenant Site Improvement must be prosecuted with reasonable
5 dispatch, subject to delays caused by Force Majeure Events (See Section 16.10). The Solar
6 Garden shall be placed in service by Tenant not later than August 31, 2013. Once the Solar
7 Garden is placed in service, Tenant will operate the Solar Garden continuously and without
8 interruption throughout the Term, except when it is necessary to temporarily cease operations of
9 the Solar Garden to maintain, repair, or replace the Solar Garden equipment or the access road to
10 the Leased Premises (“**Access Road**”).

11 **4.7 Access to Leased Premises.**

12 (a) If the Access Road crosses other land owned by Landlord, Landlord will
13 provide Tenant with legal access to the Leased Premises over such land.

14 (b) Tenant, and its employees, guests, contractors, agents, representatives, and
15 invitees may access the Leased Premises only via the Access Road. No other access to the
16 Leased Premises is permitted without the prior, written consent of the Town Manager.

17 (c) At any time during the Term, Landlord, at its expense, may relocate the
18 Access Road so long as Tenant is provided commercially reasonable access to the Leased
19 Premises over the relocated Access Road.

20 (d) To the extent required, Landlord will assist Tenant in obtaining any required
21 permit or authorization to access the Leased Premises from Colorado Highway 9.

22 **4.8 Additional Land Required By Tenant During Construction of Tenant’s**
23 **Site Improvements.** Tenant is not permitted to use any land other than the Leased Premises for
24 the staging, storage, and construction of the Tenant Site Improvements; provided, however, that
25 if Tenant reasonably requires additional land for staging, storage, and related activities for its
26 construction of the Tenant Site Improvements Landlord will provide, on a temporary basis (until
27 the Tenant Site Improvements are completed, but not to exceed six (6) months) up to one acre of
28 Landlord-owned real property adjacent to the Leased Premises for Tenant’s use in connection
29 with the construction of the Tenant’s Site Improvements. Tenant’s interest in such one acre tract
30 is a license, and is not a leasehold. Upon the completion of the Tenant Site Improvements,
31 Tenant will return the one acre tract to its condition as existed when it began its use of the land,
32 normal wear and tear excepted.

33 **4.9 Title to the Tenant Site Improvements.** Except as otherwise provided in
34 this Lease, title to the Tenant Site Improvements belongs to the Tenant; however, Landlord
35 understands that the some of the Tenant Site Improvements will be subject to one or more
36 agreement between the Tenant and third parties. Upon the expiration or earlier termination of

1 this Lease, title to the **Tenant Site Improvements** will be subject to the provisions of Section 4.9
2 of this Lease.

3 **4.10 Disposition of Tenant Site Improvements Upon Termination or**
4 **Expiration of this Lease.**

5 (a) Not later than the last day of the Term Tenant will remove the Tenant Site
6 Improvements from the Leased Premises, and dispose of them in accordance with any
7 contractual relationship then existing between Tenant and any third party. The cost of such
8 removal will be borne by Tenant, and Tenant will repair all injury or damage done to the Leased
9 Premises in connection with the removal of the Tenant Site Improvements.

10 (b) Landlord may retain or dispose of any personal property, fixtures (including,
11 but not limited to, trade fixtures), alterations or improvements, including, without limitation, any
12 Tenant Site Improvement, left remaining by Tenant at or upon the Leased Premises following the
13 expiration or earlier termination of this Lease, and Landlord is not accountable to Tenant for any
14 damages for the loss or destruction thereof, or for any part of the proceeds of sale, if any,
15 realized by Landlord. Tenant waives all claims against Landlord for any damages suffered by
16 Tenant resulting from Landlord's retention or disposition of such personal property, fixtures
17 (including, but not limited to, trade fixtures), alterations or improvements, including, without
18 limitation, any Tenant Site Improvement. Tenant is liable to Landlord for Landlord's costs for
19 storing, removing and disposing of any such personal property, fixtures (including trade
20 fixtures), alterations, or any Tenant Site Improvement.

21 **ARTICLE 5 □ TENANT'S AFFIRMATIVE OBLIGATIONS**

22 5.1 **Required License.** Throughout the Term Tenant will obtain and maintain
23 in full force and effect a Town of Breckenridge Business and Occupational License Tax license.

24 5.2 **Utilities.** Tenant will initiate, contract for, and obtain in its name, all utility
25 services required for the operation of the Solar Garden on the Leased Premises, including, but
26 not limited to, electricity and telephone, and Tenant will pay all charges for such services as they
27 become due. Any construction work done to extend or provide utility service to the Leased
28 Premises will be done in a good and workmanlike manner by Tenant, and Tenant will promptly
29 repair any damage caused by the construction and installation of utility service to the Leased
30 Premises. With respect to electrical service only, Landlord grants permission and a non-exclusive
31 right to Tenant to install any required electrical service for the Leased Premises.

32 5.3 **Taxes.**

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

1 (b) Pursuant to Section 39-3-105, C.R.S., all real or personal property owned by
2 Landlord is exempt from taxation. However, the Parties acknowledge that Tenant's occupancy
3 and use of the Leased Premises pursuant to this Lease may be deemed to be a "taxable
4 possessory interest" pursuant to Section 39-1-103(17)(a), C.R.S.

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

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

21 5.4 **Maintenance.** The Solar Gardens and the Leased Premises will be
22 maintained by Tenant at its sole expense. Tenant will maintain, protect, and preserve the Leased
23 Premises and the Solar Garden in a safe, neat, and attractive condition and in good and
24 serviceable condition at its sole cost. Tenant will repair all damage to the Leased Premises and
25 the Solar Garden regardless of cause; provided, however, Landlord (and not Tenant) will repair
26 all damage to the Leased Premises and the Solar Garden caused by Landlord, its employees,
27 contractors, agents, and representatives.

28 5.5 **Snow Plowing.** Tenant, at its sole expense, will provide all required snow
29 plowing and removal necessary to allow the Premises to be used by Tenant for the uses described
30 in Section 1.3. This obligation includes, without limitation, providing all required snow plowing
31 and removal with respect to the Access Road. Tenant's snow plowing and removal operations
32 will be done in a manner that minimizes damage to the existing surface of the Access Road, and
33 Tenant will promptly repair and damage to the surface of the Access Road caused by its snow
34 plowing and removal operations.

35 5.6 **Landscaping.** No landscaping may be installed by the Tenant at the
36 Leased Premises without the Landlord's prior, written consent. Once installed, all landscaping
37 will be maintained by the Tenant in accordance with the approved landscaping plan for the
38 Leased Premises. Tenant will provide weed management and protect against any noxious weed
39 on the Leased Premises.

1 5.7 **Damage to Leased Premises.** If any damage occurs to the Leased
2 Premises, or any other real or personal property-owner by Landlord and used by Tenant, Tenant,
3 at its sole cost, shall promptly repair or restore the damaged property to its previous condition at
4 Landlord's option.

5 5.8 **Trash and Rubbish.** Tenant's use of the Leased Premises pursuant to this
6 Lease may not create any industrial waste or hazardous material. Tenant, at is sole cost, shall
7 provide any required off-site disposal of any waste connected with its used of the Leased
8 Premises pursuant to this Lease, including, without limitation, the collection, storage, and
9 removal of paper and all other waste from the Leased Premises.

10 5.9 **Security of Leased Premises.** Security for the Leased Premises will be the
11 responsibility of and will be provided by the Tenant. Landlord has no obligation to provide
12 security for the Leased Premises, and Landlord is not liable for any loss or damage suffered to
13 the Solar Garden (including, without limitation, any solar panels located within the Solar
14 Garden) or the Leased Premises from any cause, except the gross negligence or intentional
15 wrongful act of the Landlord, its officers, employees, or agents, or Landlord's breach of this
16 Lease.

17 5.10 **Signs.** Tenant will not post, place, affix, erect, or display any sign within or
18 outside of the Leased Premises without Landlord's prior approval, which approval may be
19 granted, withheld, or conditionally approved in Landlord's sole and absolute discretion. In
20 considering Tenant's request to place a sign within or outside of the Leased Premises, Landlord
21 acts in its capacity as landlord of the Leased Premises, and not in its governmental capacity.
22 Landlord may remove any sign placed within or outside of the Leased Premises in violation of
23 the portions of this Section. In addition to obtaining Landlord's discretionary permission as
24 described above, Tenant must also obtain any required sign permit from Landlord acting in its
25 governmental capacity. Tenant will maintain all signs located within or outside of the Leased
26 Premises in good, clean, and attractive condition. Tenant will remove all signs placed by it
27 within or outside of the Leased Premises at the expiration or earlier termination of this Lease,
28 and repair any damage or injury caused thereby. If not so removed by Tenant, the Landlord may
29 remove such sign(s) at Tenant's expense.

30 5.11 **Inspection And Entry.** Landlord and Landlord's authorized
31 representatives may enter the Leased Premises at all times during reasonable hours to inspect the
32 Leased Premises. Tenant further agrees that the Landlord may go upon the Leased Premises at all
33 times and:

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

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

1 (iii) otherwise protect any and all rights of Landlord,
2 all without any liability to Tenant for damages or any abatement of rent.

3
4 Nothing in this Section implies or creates any duty on the part of the Landlord to do any work
5 that under any provision of this Lease the Tenant may be required to do, nor will it constitute a
6 waiver of Tenant’s default in failing to do such work. No reasonable exercise by the Landlord of
7 any rights herein reserved will entitle the Tenant to any damage or compensation of any kind
8 from Landlord for any injury, loss, damage, or inconvenience occasioned thereby, or to any
9 abatement of rent.

10
11 **5.12 Compliance With Laws.**

12 (a) Tenant, at its sole cost and expense, will comply with all laws, ordinances,
13 orders, and regulations of all governmental authorities with respect to the use of the Leased
14 Premises, as amended from time to time throughout the Term. A judgment of any court or the
15 admission of Tenant in any action or proceeding against Tenant, whether Landlord is a party
16 thereto or not, that Tenant has violated any law, ordinance, requirement or order in the use of the
17 Leased Premises will be conclusive of the fact as between Landlord and Tenant.

18 (b) Without limiting the generality of subsection (a), Tenant will comply with all
19 applicable environmental laws that are applicable to Tenant’s use of the Leased Premises,
20 including, but not limited to:

21 (i) the federal Comprehensive Environmental Response, Compensation and
22 Liability Act (42 U.S.C. §§9601, et seq.) (“CERCLA”);

23 (ii) the federal Resource Conservation and Recovery Act (42 U.S.C. §§6901,
24 et seq.) (“RCRA”);

25 (iii) the federal Clean Water Act (“CWA”);

26 (iv) state and local environmental laws, rules, regulations;

27 (v) any state or local law, rule, regulation, or program implementing, similar
28 to, or equivalent to such federal statutes or programs;

29 (vi) all other local, state and federal environmental laws, rules and regulations.

30 Tenant’s obligation under this Section 5.12 does not extend to any noncompliance arising from
31 conditions that existed with regard to the Leased Premises at the commencement of the Lease.

32
33 **ARTICLE 6 □ TENANT’S NEGATIVE OBLIGATIONS**

34 6.1 **Assignment And Subletting.** Except as provided in Section 1.9 with
35 respect to Tenant’s right to mortgage, pledge, or collaterally assign this Lease if required to

1 obtain its financing to construct the Solar Garden, Tenant will not assign, sublet, license, pledge,
2 encumber, or allow any other person or entity to occupy or use any or all of the Leased Premises
3 without first obtaining Landlord's prior written consent, which consent may be granted, withheld
4 or conditionally approved in Landlord's sole, absolute and subjective discretion. Any
5 assignment, sublease, license, pledge or encumbrance without Landlord's prior written consent is
6 voidable by Landlord and, at Landlord's election, will constitute a default under this Lease. No
7 consent by Landlord to any of the above acts will constitute a further waiver of the provisions of
8 this Section. If Landlord consents to an assignment, sublease, or license Tenant may be required,
9 as a condition of granting consent, to pay Landlord's reasonable costs incurred in considering the
10 proposed assignment, sublease, or license including, but not limited to, legal fees and credit
11 checks.

12 **6.2 Assignment By Operation of Law.** Neither this Lease nor any interest in
13 this Lease is assignable or transferable by operation of law. If:

- 14 (i) any proceeding under the Bankruptcy Code, or any amendment thereto, is
15 commenced by or against Tenant;
- 16 (ii) Tenant is adjudged insolvent;
- 17 (iii) Tenant makes any assignment for the benefit of creditors;
- 18 (iv) a post-judgment writ of attachment or execution is levied on the leasehold
19 estate created by this Lease and not released or satisfied within thirty (30) days thereafter;
20 or
- 21 (v) a receiver is appointed for Tenant with authority to take possession or
22 control of the Leased Premises or the business conducted therein by Tenant

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

25 **6.3 No Waste or Nuisance.** Tenant will not commit or permit to be committed
26 on the Leased Premises any waste, public or private nuisance, or any other act or thing prohibited
27 by law.
28

29 **6.4 Mechanic's Liens.**

30 (a) In connection with the construction of any Tenant Site Improvements, the
31 Tenant will cause the payment of all proper and valid invoices and charges of all contractors,
32 subcontractors, suppliers, materialmen and similar parties who furnish services or materials in
33 connection with the construction process.

- 34 (i) In the event any person ever records a mechanic's lien to enforce any
35 claim for services or materials alleged to have been provided in connection with the

1 Leased Premises, the Tenant will cause the same to be released of record within sixty
2 (60) days after the recordation thereof, and the Tenant will be liable to satisfy and cause a
3 discharge of any such mechanic's lien claim. Notwithstanding the foregoing, the Tenant
4 may contest any such mechanic's lien claim, provided that the Tenant conducts such
5 contest in a timely manner and with due diligence, and that the Tenant provides the
6 Landlord with such security in connection therewith as the Landlord may reasonably
7 require. In connection with any such contest, the Landlord may join and participate in any
8 such contest, at the Tenant's expense (with participation to include, without limitation,
9 the execution and filing of pleadings and the provision and gathering of testimony and
10 other evidence). In the event the Tenant loses any such contest, with all further rights of
11 appeal having expired, the Tenant must satisfy the mechanic's lien claim in full prior to
12 any foreclosure sale or other disposition of the Leased Premises which is made for the
13 purpose of satisfying the claim.

14 (ii) In the event of any such mechanic's lien claim, Tenant may at its
15 discretion determine to provide a bond or other undertaking pursuant to C.R.S. 38-22-131
16 so that Leased Premises is no longer subject to such mechanic's lien claim. If such
17 substitution is made, then the provisions of subsection (i) above shall not apply with
18 regard to that mechanic's lien claim.

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

26 ARTICLE 7 □ INSURANCE

27 7.1 **Tenant's Required Insurance.** Tenant will procure and maintain the
28 minimum insurance coverages listed below. Such coverages will be procured and maintained
29 with forms and insurers acceptable to the Landlord. All coverages will be continuously
30 maintained to cover all liability, claims, demands, and other obligations assumed by Tenant
31 pursuant to this Lease. In the case of any claims-made policy, the necessary retroactive dates
32 and extended reporting periods will be procured to maintain such continuous coverage.

33 (a) worker's compensation insurance to cover liabilities imposed by applicable
34 laws for any employee of Tenant engaged in the performance of Work under this Lease.

35 (b) comprehensive automobile liability insurance with minimum combined single
36 limits for bodily injury and property damage of not less than ONE MILLION DOLLARS
37 (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate
38 with respect to each of Tenant's owned, hired or non-owned vehicles assigned to or used in
39 performance of this Lease.

1 (c) commercial general liability insurance with minimum combined single limits
2 of not less than TWO MILLION DOLLARS (\$2,000,000.00). The policy will be applicable to
3 all premises and operations. The policy will include coverage for bodily injury, broad form
4 property damage (including completed operations), personal injury (including coverage for
5 contractual and employee's acts), blanket contractual, products, and completed operations.

6 (d) builder's risk insurance with minimum limits of not less than the insurable
7 value of the Tenant Site Improvements for the Solar Garden to be installed at the Leased
8 Premises, less the value of the materials and equipment insured under installation floater
9 insurance. The policy must be written in completed value form and will protect the Tenant and
10 the Landlord against risks of damage to buildings, structures, and materials and equipment not
11 otherwise covered under Installation Floater insurance, from the perils of fire and lightning, the
12 perils included in the standard coverage endorsement, and the perils of vandalism and malicious
13 mischief. Equipment such as pumps, engine-generators, compressors, motors, switch-gear,
14 transformers, panelboards, control equipment, and other similar equipment will be insured under
15 Installation Floater insurance when the aggregate value of the equipment exceeds \$10,000. The
16 policy will contain a provision that in the event of payment for any loss under the coverage
17 provided, the insurance company will have no rights of recovery against the Tenant or the
18 Landlord.

19 (e) installation floater with minimum limits of not less than the insurable value of
20 the solar garden improvements to be installed at the Leased Premises. The policy will protect the
21 Tenant and the Landlord from all insurable risks of physical loss or damage to materials and
22 equipment not otherwise covered under Builder's Risk insurance, while in warehouses or storage
23 areas, during installation, during testing, and after the work under this Lease is completed. The
24 policy will be of the "all risks" type, with coverages designed for the circumstances which may
25 occur in the particular work to be performed under this Lease. The policy will provide for losses
26 to be payable to the Tenant and the Landlord as their interests may appear. The policy will
27 contain a provision that in the event of payment for any loss under the coverage provided, the
28 insurance company will have no rights of recovery against the Tenant or the Landlord.

29 **7.2 Tenant's Insurance Is Primary; Deductibles.** Every policy required
30 above will be primary insurance, and any insurance carried by the Landlord, its officers, or its
31 employees, or provided through a self-insurance pool of which Landlord is a member, will be
32 excess and not contributory insurance to that provided by Tenant. Tenant will be solely
33 responsible for any deductible amount under any policy required above,.

34 **7.3 Landlord As Additional Insured.** Tenant's commercial general liability
35 insurance policy described above will be endorsed to include the Landlord as an additional
36 insured.

37 **7.4 Insurance Criteria.** Insurance policies required by this Lease will:

38 (i) be issued by insurance companies licensed to do business in the State of
39 Colorado with general policyholder's ratings of at least A and a financial rating of at least
40

1 XI in the most current Best's Insurance Reports available at the time such insurance is to
2 be procured; and

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

6 **7.5 Evidence of Insurance.** Prior to the commencement of this Lease, and on
7 each subsequent renewal or replacement of the required insurance policies, Tenant will give to
8 Landlord a certificate of insurance evidencing compliance with the requirements of this Section.
9 All required insurance policies will be renewed or replaced and maintained by the Tenant
10 throughout the Term to assure continuous coverage. If Tenant fails to give the required insurance
11 certificate within ten (10) days after notice or demand for it, such action will constitute a default
12 under this Lease, and the Landlord may then proceed as provided in Article 1 of this Lease,
13 and/or Landlord may obtain and pay for that insurance and receive reimbursement from the
14 Tenant, together with interest thereon at the rate of 8% per annum.

15 **7.6 Use Of Insurance Proceeds.** Tenant will apply any insurance proceeds
16 payable by reason of loss or damage to the Solar Farm to the restoration of the improvements on
17 the Leased Premises and to any damage to the Leased Premises themselves. In the event of
18 damage due an insurable cause, so long as Tenant complies with the requirements of this Section
19 this Lease will continue in full force and effect.

20 **7.7 Tenant's Failure to Maintain Insurance.** Notwithstanding any other
21 portion of this Lease, failure on the part of Tenant to procure or maintain policies providing the
22 required coverages, conditions, and minimum limits will constitute a material breach of this
23 Lease for which the Landlord may immediately terminate this Lease, or, at its discretion, the
24 Landlord may procure or renew any such policy or any extended reporting period thereto and
25 may pay any and all premiums in connection therewith, and all monies so paid by Landlord will
26 be repaid by Tenant to the Landlord upon demand, together with interest thereon at the rate of
27 eight percent (8%) per annum, or the Landlord may offset the cost of the premiums against any
28 monies due to Tenant from the Landlord.”

29 **ARTICLE 8 □ INDEMNIFICATION**

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

1 expense, and bear all other costs and expenses related thereto, including court costs and attorney
2 fees.

3 **ARTICLE 9 □ EMINENT DOMAIN**

4 **9.1 Eminent Domain.**

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

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

16 (i) the date when title vests;

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

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

20 Rent will be paid to the date of the termination. If the taking of a part of the Leased Premises
21 does not materially interfere with Tenant’s ability to continue its business operations in
22 substantially the same manner, then this Lease will terminate only as to part of the Leased
23 Premises taken, and the rent will abate in proportion to the part of the Leased Premises taken.
24

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

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

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

32 **ARTICLE 10 □ COMPLAINT RESOLUTION**

1 10.1 **Informal Complaint Resolution.** Throughout the Term, Landlord’s
2 representative and Tenant’s representative will meet and confer informally and attempt to
3 satisfactorily resolve any informal complaint that may be made by any person with respect to any
4 aspect of Tenant’s operations at the Leased Premises. An “**informal complaint**” is any
5 complaint that is not a formal complaint as defined in Section 10.2. Both Landlord and Tenant
6 will act promptly and in good faith to attempt to resolve all informal complaints.

7 10.2 **Formal Complaint Resolution.**

8 (a) As used in this Section, a “**Formal Complaint**” is a written complaint filed by
9 any person concerning any aspect of Tenant’s operations at the Leased Premises, or a formal
10 written complaint made by the Landlord on its own initiative concerning any aspect of Tenant’s
11 operations at the Leased Premises.

12 (b) All Formal Complaints must be in writing.

13 (c) Any Formal Complaint by any person other than Landlord must be filed with
14 the Landlord.

15 (d) Tenant will be provided with a copy of the Formal Complaint within two (2)
16 business days of the Landlord’s receipt of the Formal Complaint if filed by any person other than
17 Landlord, or within two (2) business days of Landlord lodging of the Formal Complaint if the
18 Landlord files the Formal Complaint on its own initiative. No formal complaint will be
19 processed if the complaining party remains anonymous.

20 (e) Landlord and Tenant will attempt in good faith to resolve any Formal
21 Complaint promptly by negotiations between persons who have authority to settle the
22 controversy. Within ten (10) business days after the Formal Complaint has been delivered to
23 Tenant a representative of the Landlord and a representative of the Tenant will meet at a
24 mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to
25 exchange relevant information and to attempt to resolve the complaint in a mutually satisfactory
26 manner. Other interested parties, such as the person who filed the Formal Complaint, may be
27 invited to attend the meeting by either the Landlord or the Tenant. The ten (10) business day
28 deadline provided for in this Section may be extended by mutual agreement of the Landlord and
29 the Tenant.

30 (f) If the Formal Complaint has not been resolved by negotiation as provided
31 above within twenty (20) business days of the Landlord and Tenant’s meeting as described in
32 Subsection (e), the Formal Complaint will be brought to the attention of the Town Council of the
33 Town of Breckenridge (“**Town Council**”). Within thirty (30) business days of being advised of
34 the Formal Complaint, the Town Council will meet in a public meeting to review and help
35 resolve the Formal Complaint. The Town Council meeting may be continued if necessary to
36 properly consider the Formal Complaint; provided, however, that the Town Council will not
37 unduly delay its review or proposed resolution of the Formal Complaint.

1 (g) If the Tenant and the person who filed the Formal Complaint have not
2 resolved the Formal Complaint within twenty (20) days of the date the Town Council has
3 considered the Formal Complaint and proposed a resolution thereof, then the person filing the
4 Formal Complaint shall have the option to pursue such legal remedies as may be available to
5 such person in regard to the matter described by the Formal Complaint. The Town Council may
6 not alter the terms and conditions of this Lease when proposing a resolution of a Formal
7 Complaint, and no failure of the Tenant to agree in negotiation with the party filing the Formal
8 Complaint or to agree with the Town Council's proposed resolution shall constitute a default
9 under this Lease, provided however, that in the event the Landlord is the person bringing the
10 formal complaint, nothing in this Section shall prevent the Landlord from then proceeding as
11 provided in Article 10 of this Lease.

12 **ARTICLE 11 □ DEFAULT**

13 11.1 **Default By Tenant.** The occurrence of any one or more of the following
14 events will constitute a default and breach of the Lease by Tenant:

15 (a) Any termination for any reason of any solar power purchase agreement for
16 energy produced at the Leased Premises, with a continuous lapse of twelve (12) months or more
17 without Tenant entering into a subsequent solar power purchase agreement for the purchase of
18 such energy.

19 (b) The vacating or abandonment of the Leased Premises by Tenant.

20 (c) The failure by Tenant to make any payment of rent or any other payment
21 required to be made by Tenant hereunder, as and when due, when such failure will continue for a
22 period of ten (10) days after service of written notice thereof by Landlord to Tenant.

23 (d) The failure by Tenant to observe or perform any of the other covenants,
24 conditions, or provisions of this Lease to be observed or performed by the Tenant, or to obey
25 rules promulgated by Landlord, within ten (10) days after service of written notice thereof by the
26 Landlord to the Tenant. In the event of a non-monetary default that is not capable of being
27 corrected within ten (10) days, Tenant will not be default if it commences correcting the default
28 within ten (10) days of service of a demand for compliance notice and thereafter corrects the
29 default with due diligence.

30 (e) The making by Tenant of any general assignment or general arrangement for
31 the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged
32 bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy;
33 the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets
34 located at the Leased Premises or of Tenant's interest in this Lease; or the attachment, execution
35 or other judicial seizure of substantially all of Tenant's interest in this Lease.

36 11.2 **Landlord's Remedies Upon Default.** If the Tenant is in default under this
37 Lease, Landlord has all of the remedies provided for in such circumstances by Colorado law.

1 11.3 **Default By Landlord.** Landlord will be in default under this Lease if
2 Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within ten
3 (10) days following service of written notice thereof by Tenant. In the event of a non-monetary
4 default that is not capable of being corrected within ten (10) days, Landlord will not be default if
5 Landlord commences correcting the default within ten (10) days of receipt of notification thereof
6 and thereafter corrects the default with due diligence.

7 11.4 **Tenant’s Remedies Upon Default.** If the Landlord is in default under this
8 Lease, Tenant has all of the remedies provided for in such circumstances by Colorado law.

9 **ARTICLE 12 □ NONDISTURBANCE**

10 12.1 **Quiet Enjoyment.** Subject to the terms and conditions of this Lease,
11 Landlord covenants that so long as the rent for the Leased Premises is paid as and when due, and
12 there is no default in any of the other covenants, conditions, or provisions of this Lease to be
13 performed, observed or kept by Tenant, the Tenant will peaceably and quietly hold and enjoy the
14 Leased Premises for the entire Term. Landlord further covenants that Landlord during the Term
15 Landlord will not take any action which negatively and materially affects the receipt of solar
16 radiation at the Solar Garden, or Tenant’s ability to access the Solar Garden.

17 **ARTICLE 13 □ LANDLORD’S RULES**

18 13.1 **Rules.** Tenant will faithfully observe and comply with any rules and
19 regulations promulgated by Landlord with respect to the Leased Premises. Landlord’s rules and
20 regulations must be reasonable, and may not unilaterally change or significantly alter the
21 material terms and conditions of this Lease. The rules and regulations, and any amendments
22 thereto, will be binding upon the Tenant upon delivery to Tenant.

23 **ARTICLE 14 □ HAZARDOUS MATERIALS**

24 14.1 **Hazardous Materials □ Defined.** As used in this Section, the term
25 “**Hazardous Materials**” means any chemical, material, substance or waste:

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

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

1 14.2 **Hazardous Materials** □ **Prohibited.** Tenant will full comply with all
2 statutes, laws, ordinances, rules, regulations, and precautions now or hereafter mandated or
3 advised by any federal, state, local, or other governmental agency with respect to the use,
4 generation, storage, or disposal of Hazardous Materials. Tenant will not cause, or allow anyone
5 else to cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about
6 the Leased Premises without the prior written consent of Landlord, which consent may be
7 revoked at any time. Tenant’s indemnification of Landlord pursuant to this Lease extends to all
8 liability, including all foreseeable and unforeseeable consequential damages, directly or
9 indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials at the
10 Leased Premises by Tenant, or any person claiming under Tenant, including, without limitation,
11 the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any
12 closure or other required plans, whether such action is required or necessary prior to or following
13 the termination of this Lease, to the full extent that such action is attributable, directly or
14 indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any
15 person claiming under Tenant; provided, however, the written consent by Landlord to the use,
16 generation, storage, or disposal of Hazardous Materials will excuse Tenant from Tenant’s
17 obligation of indemnification, and, provided further, that Tenant’s indemnification obligation
18 under this Section 14.2 does not extend to any Hazardous Materials that were located on the
19 Leased Premises at the commencement of this Lease. In the event Tenant is in breach of the
20 covenants herein, after notice to Tenant and the expiration of the earlier of:

- 21 (i) the cure period provided in Section 11.1(c);
- 22 (ii) the cure period permitted under applicable law, regulation, or order,

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

27
28 **ARTICLE 15** □ **RIGHT TO RELOCATE LEASED PREMISES**

29
30 15.1 **Relocation Of Leased Premises.** At anytime throughout the Term of this
31 Lease the Landlord, in its sole and absolute discretion and at its sole cost, may relocate the
32 Leased Premises, so long as the relocated leased premises (“**Relocated Leased Premises**”) are
33 functionally comparable to the Leased Premises that existed immediately prior to the relocation.
34 If the Leased Premises are relocated by Landlord as provided in this Article 15, the Parties will
35 execute and record an appropriate amendment to this Lease describing and depicting the
36 Relocated Leased Premises in form and substance reasonably acceptable to each of the Parties.

37
38 **ARTICLE 16** □ **MISCELLANEOUS**

39 16.1 **Attorneys Fees/Costs.** If any action is brought in a court of law by either
40 Party to this Lease concerning the enforcement, interpretation, or construction of this Lease, the

1 prevailing Party, either at trial or upon appeal, is entitled to reasonable attorney's fees, as well as
2 costs, including expert witness' fees, incurred in the prosecution or defense of such action.

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

6 If intended for Town to:

7
8 Town of Breckenridge
9 P.O. Box 168
10 150 Ski Hill Road
11 Breckenridge, Colorado 80424
12 Attn: Financial Services Manager
13 Telecopier number: (970)547-4468
14 Telephone number: (970)453-3382
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 Tenant to:

27
28 Breck Solar1, LLC
29 Attn: Mark Boyer, Manager
30 401 Tree Farm Drive
31 Carbondale, Colorado 81623
32
33 Telecopier number: (800)646-0323
34 Telephone number: (970)692-2592
35

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

1 provided above, may change the address to which future notices may be sent. The provisions of
2 this Section will not apply to any notice or demand that is required to be served in a particular
3 manner by applicable law; and any such notice or demand will be served as required by law
4 notwithstanding the provisions of this Section. E-mail is not a valid way to give notice under this
5 Lease.

6
7 16.3 **“Day” Defined.** Unless otherwise indicated, the term “day” means a
8 calendar day (and not a business day).

9 16.4 **“Will” or “Will Not” Defined.** “Will” or “will not” indicates a mandatory
10 obligation to act or to refrain from acting as specifically indicated in the context of the sentence
11 in which such word is used.

12 16.5 **Complete Agreement.** This Lease contains the complete and final
13 expression of the agreement between the Parties, and there are no promises, representations, or
14 inducements except as are herein provided. All negotiations, considerations, representations, and
15 understandings between the Parties related to this Lease are contained herein.

16 16.6 **Amendment.** This Lease may not be modified except by a written Lease
17 signed by both the Landlord and Tenant. Oral modifications of this Lease are not permitted.

18 16.7 **Captions.** The headings of the sections and paragraphs contained in this
19 Lease are for convenience only and do not define, limit, or construe the contents of the articles,
20 sections and subsections.

21 16.8 **Waiver.** The failure of either Party to exercise any of such Party’s rights
22 under this Lease is not a waiver of those rights. A Party waives only those rights specified in
23 writing and signed by the Party waiving such rights.

24 16.9 **Severability.** If any provision of this Lease is held to be invalid, illegal, or
25 unenforceable in any respect, the validity, legality and enforceability of the remaining provisions
26 contained in this Lease and the application hereof will not in any way be affected or impaired
27 thereby.

28 16.10 **Force Majeure.** Neither Party will be liable to the other for any failure,
29 delay, or interruption in the performance of any of the terms, covenants, or conditions of this
30 Lease due to causes beyond the control of that Party including, without limitation, strikes,
31 boycotts, labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy,
32 acts of superior governmental authority, weather conditions, floods, riots, rebellion, terrorism,
33 sabotage or any other circumstance for which such Party is not responsible or that is not in its
34 power to control.

35 16.11 **Advances By Landlord For Tenant.** If Tenant fails to do anything
36 required to be done by it under the terms of this Lease (other than a failure to make the payments
37 to Landlord herein required) the Landlord may, at its sole option, but without any obligation to do

1 so, do or perform such act or thing on behalf of Tenant, and in doing so the Landlord will not be
2 deemed to be a volunteer; provided, however, that before exercising its rights under this Section
3 Landlord must give notice to Tenant as provided in Section 16.2, and afford the Tenant not less
4 than five (5) days from the giving of such notice within which to do or perform the act required
5 by Tenant. Upon notification to Tenant of the costs incurred by the Landlord Tenant will
6 promptly pay to Landlord the full amount of costs and/or expenses incurred by Landlord
7 pursuant to this Section, together with interest thereon at the rate of eight percent (8%) per
8 annum.

9 **16.12 Governmental Immunity.** In entering into this Lease the Landlord is
10 relying on, and does not waive or intend to waive by any provision of this Lease, the monetary
11 limitations or any other rights, immunities, and protections provided by the Act, as from time to
12 time amended, or any other limitation, right, immunity or protection otherwise available to
13 Landlord, its officers, or its employees.

14 **16.13 No Adverse Construction Based On Authorship.** Each of the Parties
15 stipulate and agree that it had the opportunity to participate in the drafting of this Lease. This
16 Lease is not to be construed against either Party by virtue of such Party having drafted this
17 Lease.

18 **16.14 Landlord's Consent.** Except as otherwise expressly provided to the
19 contrary in this Lease, wherever in this Lease it is provided that some act requires the Landlord's
20 prior consent, such consent will not be unreasonably withheld or delayed by Landlord.

21 **16.15 Authority.** The individual executing this Lease on behalf of the Tenant
22 represents and warrants to Landlord that he or she has all requisite power and authority to bind
23 the Tenant and to cause the Tenant to fully perform its obligations under this Lease.

24 **16.16 Third Parties.** There are no third party beneficiaries of this Lease.

25 **16.17 Recording of Lease.** This Lease, or a memorandum of lease acceptable to
26 both Landlord and Tenant may be recorded the Clerk and Recorder of Summit County,
27 Colorado.

28 **16.18 Time of Essence.** Time is of the essence of this Lease.

29 **16.19 Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of
30 Colorado, without regard to its conflict of laws rules, will govern the interpretation, validity,
31 performance, and enforcement of this Lease. Any litigation brought to interpret or enforce this
32 Lease will be commenced in Summit County, Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A**
33 **JURY TRIAL IN ACTION TO ENFORCE, INTERPRET, OR CONSTRUE THIS AGREEMENT.**

34 **16.20 Non-Discrimination; Compliance With Applicable Laws.** Tenant:

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

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

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

11 (d) will comply with all applicable federal, state, and local laws, rules and
12 regulations. Without limiting the generality of the foregoing, Tenant will comply with the
13 applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, et seq. (Public
14 Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory
15 agency.

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

18
19 16.21 **No Partnership.** The Landlord is not a partner, associate, or joint venturer
20 of the Tenant in the conduct of Tenant's business at the Leased Premises. Tenant is an
21 independent contractor without the right or authority to impose tort or contractual liability upon
22 the Landlord.

23 16.22 **Binding Effect.** The covenants, conditions, and obligations of this Lease
24 extend to, bind, and inure to the benefit of, not only the Parties, but their respective successors
25 and permitted assigns.

26 16.23 **Annual Appropriation.** Notwithstanding anything herein contained to the
27 contrary, the Landlord's financial obligations under this Lease are subject to an annual
28 appropriation being made by the Town Council of the Town of Breckenridge, Colorado in an
29 amount sufficient to allow Landlord to perform its obligations hereunder. If sufficient funds are
30 not appropriated, this Lease may be terminated by either Party without penalty. The Landlord's
31 obligations hereunder do not constitute a general obligation indebtedness or multiple year direct
32 or indirect debt or other financial obligation whatsoever within the meaning of the Constitution
33 or laws of the State of Colorado.

34 16.24 **Survival.** All indemnity obligations provided for in this Lease will survive
35 the expiration or termination of this Lease, and will be fully enforceable thereafter.

36 16.25 **Incorporation of Exhibits.** The attached **Exhibit "A"** and Exhibit
37 **B"**, together with all referenced subexhibits, are incorporated into this Lease by reference.

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LANDLORD:

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
Timothy J. Gagen, Town Manager

ATTEST:

Helen Cospolich
Town Clerk

TENANT:

BRECK SOLAR1, LLC, a Colorado limited
liability company

By: _____

Title: Manager

Exhibit "A"
LEGAL DESCRIPTION/DEPICTION OF LEASED PREMISES

See the attached **Exhibit A-1**

**Exhibit “B”
Site Conditions Map**

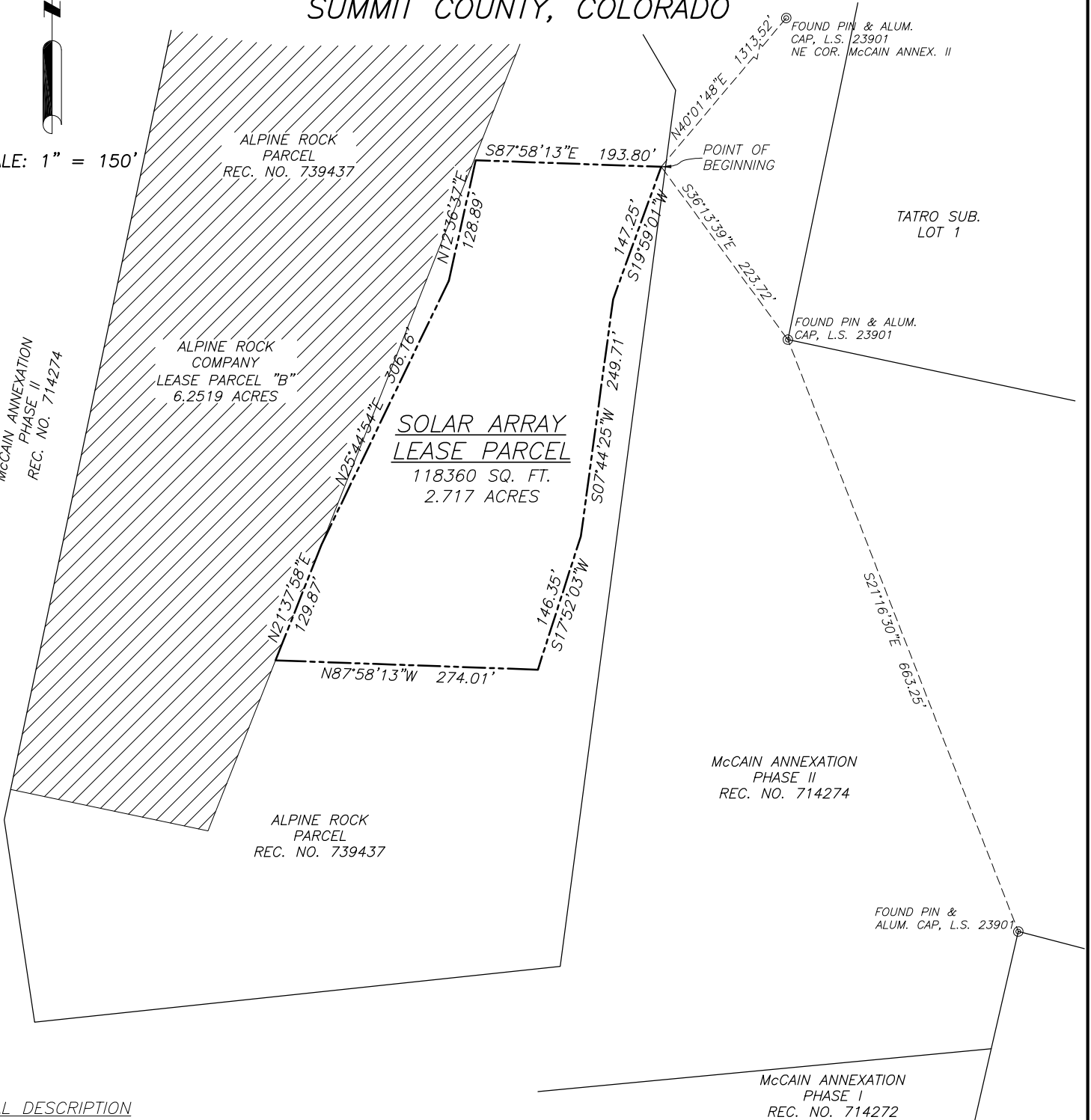
See the attached **Exhibit B-1**

LEGAL DESCRIPTION OF LEASE PARCEL
A PORTION OF THE ALPINE ROCK PARCEL,
TOWN OF BRECKENRIDGE
SUMMIT COUNTY, COLORADO



SCALE: 1" = 150'

McCain Annexation
Phase II
Rec. No. 714274



LEGAL DESCRIPTION

A Solar Array Lease Parcel on A PORTION OF THE ALPINE ROCK PARCEL, recorded at the Summit County Clerk and Recorders Office under Reception No. 739437, located in the Town of Breckenridge, County of Summit, State of Colorado, being more particularly described as follows:
 Beginning at a point whence the NE cor. of the McCain Annex. II, recorded at the Summit County Clerk and Recorders Office under Reception No. 714274, bears N40°01'48"E 1313.52' and the SW cor. of Lot 1, Tatro Sub., recorded at the Summit County Clerk and Recorders Office under Reception No. 669675, bears S36°13'39"E 223.72', thence S 19°59'01" W a distance of 147.25 feet; thence S 07°44'25" W a distance of 249.71 feet; thence S 17°52'03" W a distance of 146.35 feet; thence N 87°58'13" W a distance of 274.01 feet; thence N 21°37'58" E a distance of 129.87 feet; thence N 25°44'54" E a distance of 306.16 feet; thence N 12°36'37" E a distance of 128.89 feet; thence S 87°58'13" E a distance of 193.80 feet to the point of beginning. Described Lease Parcel contains 118360 square feet or 2.717 acres more or less.

I, MATTHEW J. WENTZ, A COLORADO REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND EXHIBIT DRAWING IS BASED ON A SURVEY MADE BY ME AND UNDER MY SUPERVISION, AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY.

—BOUNDARY DATA BASED ON "ANNEXATION MAP, McCain ANNEXATION PHASE II" RECORDED AT THE SUMMIT CO. CLERK AND RECORDERS OFFICE UNDER REC. NO. 714274 AND "ANNEXATION MAP, ALPINE ROCK PARCEL" RECORDED AT THE SUMMIT CO. CLERK AND RECORDERS OFFICE UNDER REC. NO. 739437.

MATTHEW J. WENTZ, P.L.S. 37719

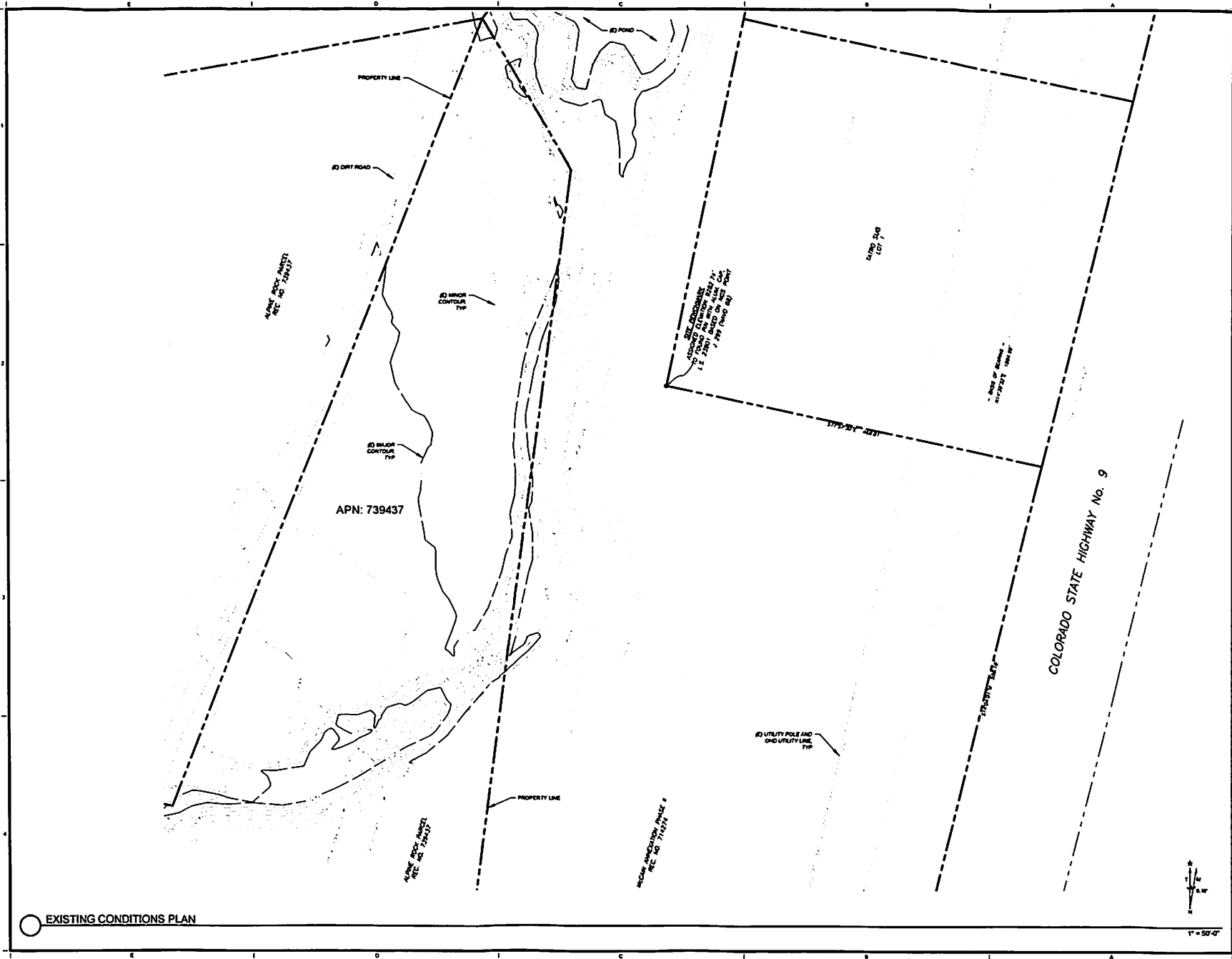
SUMMIT
LAND SURVEYING, INC.

P.O. BOX 24212
 SILVERTHORNE, CO 80497
 970-513-0156

NOTICE: According to 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 shown hereon.

SCALE: 1" = 150'	DATE: 05/20/13	JOB NO. 131043
DRAWN BY: MJW	CHECKED BY: MJW	DRAWING NO. 131043EX-43-

EXHIBIT "B-1"



REC SOLAR
 CONTRACTOR
 CO # EC-7060
REC SOLAR, INC.
 775 FIERO LANE, SUITE 200
 SAN LUIS OBISPO, CA 93401
 PH (805) 523-8705
 FX (805) 523-8701
 (888) OK SOLAR

The contractor shall be responsible for coordinating all construction with applicable local, state, and federal agencies and shall be responsible for obtaining all necessary permits for the project.

NOT FOR CONSTRUCTION

CLIENT
BRECK SOLAR 1 LLC
 401 TREE FARM DR
 CARBONDALE, CO 81623

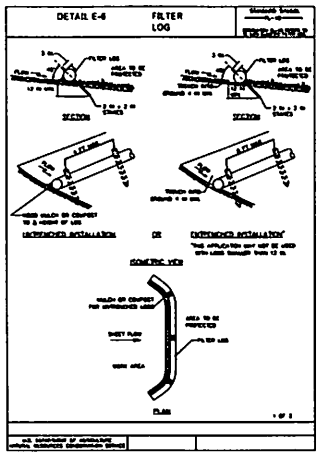
PROJECT
McCain COMMUNITY SOLAR ARRAY
 12920 COLORADO HIGHWAY 9
 BRECKENRIDGE, CO 80424

B	05/01/13	FOR CLIENT REVIEW
A	04/04/13	FOR CLIENT REVIEW
REV	DATE	DESCRIPTION
DATE	05/08/2013	
PROJECT NUMBER	TRC-625250R	
PROJECT MANAGER	BILL EDWARDS	
DESIGN ENGINEER	CHRIS MOSTI	
PV SYSTEM DESIGNER	ANDY SOPHARD	
DRAWING TECHNICIAN	KELLY OSBORN	
CHECKED BY		

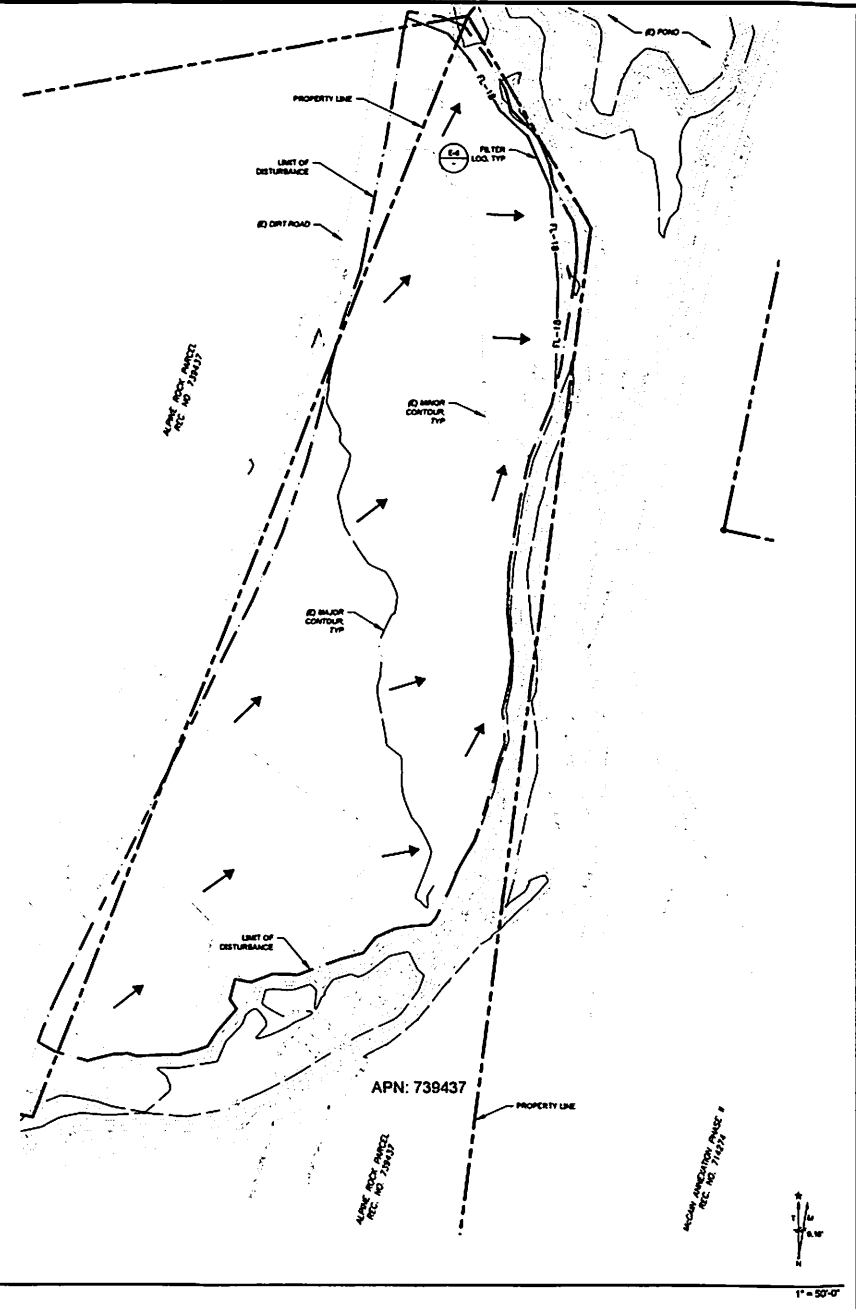
REVIEW SET

DRAWING TITLE
 EXISTING CONDITIONS PLAN

DRAWING NUMBER
G004



DETAIL E-4 FILTER LOG	Minimum Spacing (Minimum Spacing)
CONSTRUCTION SPECIFICATIONS:	1. FILTER LOGS SHALL BE... (text partially obscured)
	2. THE LOGS SHALL BE... (text partially obscured)
	3. FILTER LOGS SHALL BE... (text partially obscured)
	4. THE LOGS SHALL BE... (text partially obscured)
	5. THE LOGS SHALL BE... (text partially obscured)
	6. THE LOGS SHALL BE... (text partially obscured)
	7. THE LOGS SHALL BE... (text partially obscured)



REC SOLAR
CONTRACTOR
CO # EC-7000
REC SOLAR, INC.
775 PIERO LAKE, SUITE 200
SAN LEON OBSPKO, CA 93401
PH (805) 323-8705
FX (805) 323-8701
(888) OK SOLAR

**NOT FOR
CONSTRUCTION**

BRECK SOLAR 1 LLC
401 TREE FARM DR
CARBONDALE, CO 81623

**MCCAIN COMMUNITY
SOLAR ARRAY**
13920 COLORADO HIGHWAY 9
BRECKENRIDGE, CO 80424

REV	DATE	DESCRIPTION
B	05/08/13	FOR CLIENT REVIEW
A	04/16/13	FOR CLIENT REVIEW

DATE: 05/08/2013

PROJECT NUMBER	1980-65083R
PROJECT MANAGER	BILL EDWARDS
DISTRICT ENGINEER	CHRIS MOSE
PV SYSTEM DESIGNER	ANDY BOFRANK
DRAWING TECHNICIAN	KELLY OSBORN
CHECKED BY	

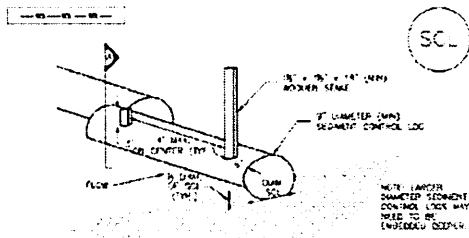
REVIEW SET
DREY TITLE
EROSION CONTROL PLAN
DREY NUMBER
G006

EROSION CONTROL PLAN

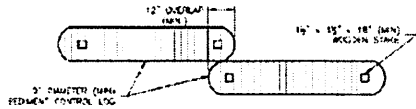
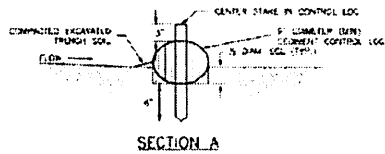
1" = 50'-0"

Sediment Control Log (SCL)

SC-2

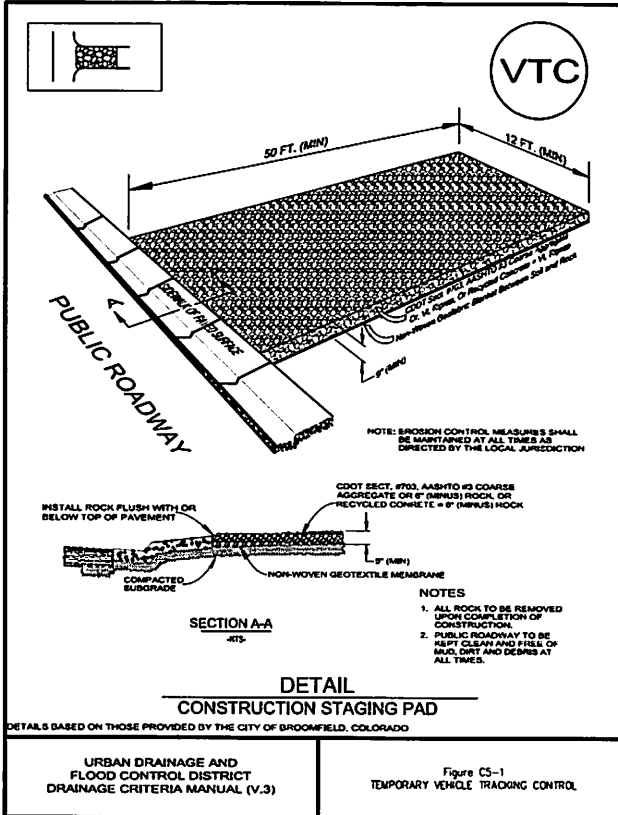


SEDIMENT CONTROL LOG



SEDIMENT CONTROL LOG JOINTS

SCL-1, SEDIMENT CONTROL LOG



NO.	DATE	BY	FOR	REVISION

ENERTIA
1437 LAUREL STREET
DENVER, COLORADO 80202
1-800-855-8000

Clean Energy
Construction Services, Inc.

SUMMIT SOLAR 1
STILLSON PROPERTY
BRECKENRIDGE, COLORADO
EROSION AND SEDIMENT CONTROL
DETAILS

NOT FOR CONSTRUCTION

VERIFY SCALE
BAR IS ONE INCH ON
ORIGINAL DRAWING.
9/11/2012

DATE: APRIL 2012
FILE:
DWG: STILLSON ESCP
SHEET: 3 OF 3

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: STILLSON SOLAR GARDEN LEASE
DATE: 5/31/13
CC: TIM GAGEN, RICK HOLMAN

Attached for your review and second reading is the Stillson Solar Garden Lease. Please note changes from first reading in sections 4.6, 5.4, and section 3 of the lease ordinance (which are the same changes that were made to the McCain lease). In addition, there is a change to section 1.3 of the lease addressing the access easement for this site. The changes are highlighted.

- Lease section 4.6 – Site access for Clean Energy Collective (CEC)
- Lease section 5.4 – Tenant (CEC) responsibility for any damages to site (vandalism etc.)
- Lease Ordinance section 3 – Facilitates utility easements required by Xcel

1 **FOR WORKSESSION/SECOND READING – JUNE 11**

2
3 **CHANGES TO LEASE ARE MARKED**

4
5 Additions To The Ordinance As Approved on First Reading Are
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 22

9
10 AN ORDINANCE APPROVING A LONG-TERM LEASE WITH SUMMIT SOLAR1, LLC, A
11 COLORADO LIMITED LIABILITY COMPANY
12 (Stillson Property Solar Garden)

13
14 WHEREAS, the Town of Breckenridge owns the real property commonly known as “the
15 Stillson Property”; and

16
17 WHEREAS, a portion of such real property is suitable for use by Summit Solar1, LLC, a
18 Colorado limited liability company (“**Summit Solar**”), as a community-owned, renewable solar
19 energy generating facility, also known as a “solar garden”; and

20
21 WHEREAS, the Town is willing to lease a portion of its Stillson Property to Summit
22 Solar; and

23
24 WHEREAS, a proposed Lease with Summit Solar has been prepared by the Town
25 Attorney and reviewed by the Town Council; and

26
27 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

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

32
33 and;

34
35 WHEREAS, the term of the proposed Lease with Summit Solar exceeds one year in
36 length; and

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

40
41 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
42 BRECKENRIDGE, COLORADO:

43

1 Section 1. The proposed Lease between the Town and Summit Solar1, LLC, a Colorado
2 limited liability company, a copy of which is marked **Exhibit "A"**, attached hereto, and
3 incorporated herein by reference, is approved, and the Town Manager is authorized to execute
4 such Lease for and on behalf of the Town of Breckenridge.

5
6 Section 2. Minor changes to or amendments of the approved Lease may be made by the
7 Town Manager if the Town Attorney certifies in writing that the proposed changes or
8 amendments do not substantially affect the consideration to be received or paid by the Town
9 pursuant to the approved Lease, or the essential elements of the approved Lease.

10
11 Section 3. **The Town Manager is authorized, empowered, and directed to execute,**
12 **acknowledge, and deliver to the appropriate utility providers such utility easements over**
13 **Town-owned real property as may be required for the installation and operation of the**
14 **solar garden described in the Lease that is approved by Section 1 of this ordinance. The**
15 **form of such easements shall be acceptable to the Town Attorney,**

16
17 Section 34. The Town Council finds, determines, and declares that it has the power to
18 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
19 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

20
21 Section 45. This ordinance shall be published and become effective as provided by
22 Section 5.9 of the Breckenridge Town Charter.

23
24 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
25 PUBLISHED IN FULL this ___ day of ____, 2013. A Public Hearing shall be held at the
26 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
27 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal
28 Building of the Town.

29
30 TOWN OF BRECKENRIDGE, a Colorado
31 municipal corporation

32
33
34
35 By: _____
36 John G. Warner, Mayor

37
38 ATTEST:

39
40
41
42 _____
43 Town Clerk

1 SOLAR GARDEN LEASE
2 (Stillson Property)
3

4 THIS SOLAR GARDEN LEASE (“Lease”) is dated [REDACTED], 2013,
5 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation
6 (“Landlord”) and SUMMIT SOLAR1, LLC, a Colorado limited liability company (“Tenant”).
7 The Landlord and the Tenant are each a “Party”, and are collectively the “Parties.”
8

9 **ARTICLE 1 □ BASIC LEASE PROVISIONS**

10 1.1 **Background and Purpose.** Landlord owns the land that is subject to this
11 Lease, and has agreed to lease it to Tenant for the construction and operation of a “solar garden”
12 as hereafter defined. Tenant has a contract to sell renewable energy produced at the solar garden
13 to Xcel Energy, and Tenant is willing to design, construct, and maintain the solar garden. The
14 purpose of this Lease is to provide land for the construction, operation, and maintenance of
15 Tenant’s solar garden as described and defined in this Lease, and to set forth the terms and
16 conditions under which Tenant will design, construct, and maintain the solar garden.

17 1.2 **Leased Premises.** In consideration of Tenant’s payment of rent and the
18 keeping of the promises, covenants, and conditions required of Tenant by this Lease, Landlord
19 leases to Tenant, and Tenant leases from Landlord, for the term and upon the conditions of this
20 Lease, the real property described and depicted on the attached **Exhibit “A”** (“Leased
21 Premises”). The Leased Premises are located at 12920 Colorado Highway 9, Breckenridge,
22 Colorado 80424. At the time of the commencement of this Lease the Leased Premises consist of
23 vacant, unimproved land.

24 1.3 **Access Easement.** Landlord grants to Tenant the “Access Easement”
25 (consisting of 14,872 square feet or 0.341 acres, more or less) as described and depicted on
26 **Exhibit “A”**. The Access Easement shall be used only to provide ingress and egress for the
27 Leased Premises. At the expiration or earlier termination of this Lease Tenant will reconvey the
28 Access Easement to Landlord without cost. The obligation to reconvey the Access Easement to
29 Landlord shall be specifically enforceable, and shall survive the expiration or termination of this
30 Lease.

31 1.4 **Use Of Leased Premises.**

32 (a) Tenant will construct, install, and operate on the Leased Premises a
33 community-owned, renewable solar energy generating facility under the terms of Xcel Energy’s
34 solar power purchase agreement, or its equivalent (“Solar Garden”), all in accordance with the
35 terms of this Lease. Tenant will not use the Leased Premises for any other purpose without
36 Landlord’s prior written consent.

37 (b) Tenant will initially investigate constructing and operating a 500kW Solar
38 Garden on the Leased Premises. If the construction and operation of a 500kW Solar Garden on

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1 the Leased Premises is not technically feasible or commercially reasonable, in Tenant’s sole
2 discretion, Landlord and Tenant will use their best efforts to select an alternative site on other
3 land owned by Landlord upon which a 500kW Solar Garden can be constructed and operated. If
4 Landlord and Tenant cannot agree upon an acceptable alternative site, this Lease may be
5 terminated by either Landlord or Tenant by notice given in accordance with Section 16.2 of this
6 Lease.

7 1.5 **Term; Extension Term.**

8 (a) The initial term of this Lease (“**Initial Term**”) begins at 12:01 A.M., local
9 time, on the date the Solar Garden is first placed in service and ends, unless sooner terminated as
10 hereafter provided, at 11:59 P.M., twenty five (25) years thereafter. Once the Solar Garden is
11 placed in service the Parties will execute an amendment to this Lease confirming the date of the
12 commencement of the Initial Term. The “**Term**” of this Lease includes both the Initial Term, and
13 the Extension Term described in Subsection (b) of this Section, if the Extension Term is
14 applicable.

15 (b) Upon the expiration of the Initial Term this Lease will automatically be
16 extended for an additional twenty five (25) years (“**Extension Term**”) upon the same terms and
17 conditions set forth in this Lease, and without the necessity of executing any written extension of
18 this Lease, unless the Tenant, in its sole discretion, notifies Landlord in the manner provided in
19 Section 16.2, not less than six months prior to the end of the Initial Term, that the Lease will not
20 be extended.

21 1.6 **Possible Further Extension of Lease.** Prior to the expiration of the Term
22 the Parties will meet and discuss the possible extension of this Lease beyond the fifty (50) year
23 time period provided in this Lease; provided, nothing in this Lease obligates either the Landlord
24 or the Tenant to extend this Lease beyond the fifty (50) year time period provided in this Lease,
25 or to enter into a new Lease for the Leased Premises when the Term of this Lease expires.

26 1.7 **Holdover.** If Tenant continues to hold possession of the Leased Premises
27 after the natural expiration of the Term of this Lease, then such holding over is not a renewal of
28 the Lease for the whole term, but Tenant will be a tenant from month to month only under the
29 same terms and conditions as are provided in this Lease; EXCEPT Landlord may, at Landlord’s
30 option, establish a new monthly rent for any holdover period upon thirty (30) days’ prior written
31 notice to Tenant.

32 1.8 **Redelivery of Leased Premises.** Except as otherwise provided in this
33 Lease, upon the expiration or earlier termination of this Lease the Tenant will redeliver the
34 Leased Premises to Landlord in good condition, ordinary wear and tear excepted.

35 1.9 **Obligation To Meet and Confer.** Throughout the Term of this Lease the
36 Parties will meet and confer at least annually for the purpose of determining whether changed
37 circumstances require the amendment to this Lease. The Parties will act reasonably and in good

1 faith to determine if changed circumstances require the amendment to this Lease and, if so, will
2 execute appropriate documentation amending this Lease.

3 **1.10 Tenant’s Right to Mortgage or Collaterally Assign Lease.**

4 Notwithstanding anything contained in this Lease to the contrary, Tenant may mortgage, pledge,
5 or collaterally assign this Lease if required to obtain its financing and development of the Solar
6 Garden. Upon request, Landlord will execute any required consent to the mortgage, pledge, or
7 collateral assignment of this Lease; provided, however, the form of the mortgage, pledge, or
8 collateral assignment is subject to the review and approval of Landlord’s attorney.

9
10 **1.11 Additional Consideration For Lease.** As additional consideration for this

11 Lease, Tenant covenants and agrees with Landlord that throughout the Term Tenant will offer to
12 all subscribers located within the corporate limits of the Town of Breckenridge, Colorado a
13 pricing discount equal to \$.10 (ten cents) per watt sold. The discount shall be off the retail price
14 offered at the time of purchase and may be in the form of a reduced sales price or rebate.

15 **ARTICLE 2 □ RENT AND SECURITY**

16 **2.1 Rent.** The total rent to be paid by the Tenant for the Term (including both
17 the Initial Term and, if applicable, the Extension Term) is \$10.00, the receipt and sufficiency of
18 which is acknowledged by the Landlord.

19 **2.2 “Additional Rent” Defined.** Any amount due to Landlord from Tenant
20 under this Lease that is not specifically identified as “rent” is additional rent.

21 **2.3 Interest On Past Due Amounts.** Tenant will pay interest to Landlord on
22 any sum due to Landlord under this Lease that is thirty (30) days or more past due at the rate of
23 eight percent (8%) per annum from the date due until the date such payment is fully paid.

24 **2.4 Place And Manner Of Payments.** All sums payable to Landlord under
25 this Lease will be made to:

26 Town of Breckenridge
27 Clerk & Finance Division
28 Attn: Accounts Receivable
29 P. O. Box 168
30 Breckenridge, CO 80424

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

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1
2 **2.5 Security Deposit.** Tenant has deposited with Landlord the sum of
3 \$10,000.00 as a security deposit (“**Security Deposit**”), the receipt of which is acknowledged by
4 Landlord. Landlord may (but is not be required to) use the Security Deposit for the payment or
5 reimbursement of any amount that Landlord may spend or become obligated to spend by reason
6 of Tenant’s default under this Lease; to compensate Landlord for any other loss, damage or
7 expense that Landlord may suffer by reason of Tenant’s default under this Lease; or to
8 compensate Landlord for damage to Town of Breckenridge streets or rights of way caused by
9 Tenant. If any portion of the Security Deposit is so used or applied, Tenant will within ten (10)
10 days after written demand deposit with Landlord cash in an amount sufficient to restore the
11 Security Deposit to its original amount, and Tenant’s failure to do so will be a breach of this
12 Lease. Landlord is not required to maintain the Security Deposit separately from Landlord’s
13 general funds, and Tenant is not entitled to interest on the Security Deposit. If Tenant fully and
14 faithfully performs all of its obligations under this Lease, the Security Deposit, or any balance
15 thereof, will be returned to Tenant within sixty (60) days of the expiration or earlier termination
16 of this Lease.

17 **ARTICLE 3 □ LANDLORD’S DISCLAIMERS AND EXCULPATORY PROVISIONS**

18 **3.1 “As Is” Condition of Leased Premises.** Tenant acknowledges that it had
19 adequate and fair opportunity to inspect the Leased Premises prior to taking possession. The
20 Leased Premises are leased by Landlord to Tenant, and accepted by Tenant, in “**AS IS**”
21 condition. Tenant’s act of taking possession of the Leased Premises is conclusive evidence that
22 Tenant accepted the Leased Premises in then “**AS IS**” condition, and that the Leased Premises
23 (including all leased personal property) were in satisfactory condition at the time of
24 commencement of Tenant’s possession.

25 **3.2 Landlord’s Non-liability.** As a material part of the consideration to be
26 received by Landlord under this Lease, Tenant assumes all risk of damage to property or injury
27 to persons in or upon the Leased Premises from any cause other than Landlord’s gross
28 negligence or intentional act, and Tenant waives all claims in respect thereof against Landlord.

29 **3.3 Limitation of Remedies.** **LANDLORD IS NOT LIABLE FOR ANY INDIRECT,**
30 **SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF**
31 **ANTICIPATED PROFITS, REVENUE OR SAVINGS, BUSINESS INTERRUPTION, OR ANY SIMILAR**
32 **CLAIM ARISING FROM THE LANDLORD’S BREACH OF THIS LEASE, EVEN IF LANDLORD HAS**
33 **BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES**
34 **NOTWITHSTANDING THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

35 **ARTICLE 4 □ TENANT’S SITE IMPROVEMENTS**

36 **4.1 Tenant to Pay Landlord For Initial Site Improvements.** Not later than
37 June 30, 2013 Tenant will pay the Landlord the sum of \$20,000.00, which funds will be used by

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1 Landlord to construct the initial site improvements upon the Leased Premise as defined in
2 Section 4.2, below.

3 4.2 **Landlord's Site Improvements- Defined.** The initial site improvements to
4 be constructed by Landlord upon the Leased Premises, include the following ("**Landlord's Site**
5 **Improvements**"):

- 6 (a) removal of spoils; and
- 7 (b) grading of land to meet Tenant's requirements as depicted on the attached
8 **Exhibit "B"**

9 Landlord commenced construction and installation of Landlord's Site Improvements on
10 approximately May 31, 2013 (prior to the execution of this Lease), and all of Landlord's Site
11 Improvements shall be completed by Landlord not later than June 30, 2013.

12
13 4.3 **Tenant's Site Improvements □ Defined.** The initial Solar Garden
14 improvements to be constructed by Tenant upon the Leased Premises, include, without
15 limitation:

- 16 (a) racking and foundations;
- 17 (b) inverters and transformers;
- 18 (c) necessary electrical interconnections and all improvements and connections
19 required to transfer and deliver electrical generation offsite, including, without limitation, 3
20 three-phase extension and powers boxes, a 200-400 square structure to house electrical and
21 maintenance equipment;
- 22 (d) security fencing and gating, with cameras, enclosing the Leased Premises; a
- 23 (e) safety signage; and
- 24 (f) solar photo voltaic ("PV") panels.

25 As used in this Article 4, "**Tenant's Site Improvement**" means the initial improvements to the
26 Leased Premises to be constructed by Tenant as described above, together with in any other
27 physical improvement made, or proposed to be made, to the Leased Premises.

28
29 4.4 **Procedure For Review and Approval of Tenant's Site Improvements.**
30 No Tenant Site Improvement may be made to the Leased Premises by the Tenant except under
31 the following conditions:

- 32 (a) No Tenant Site Improvement may be undertaken until the Tenant has obtained
33 approval of the plans and specifications for such Tenant Site Improvement from the Landlord,

1 acting in its capacity as owner of the Leased Premises (and not in its governmental capacity). In
2 connection therewith, the Landlord has the right to review and approve a proposed Tenant Site
3 Improvement in its sole and absolute discretion.

4 (b) The Tenant must also obtain a “Development Permit” from the Landlord,
5 acting in the Landlord’s governmental capacity.

6 4.5 **Construction of Tenant Site Improvements.** All work done in connection
7 with the construction of an Tenant Site Improvement must be done in a good and workmanlike
8 manner and in material conformity with the plans and specifications that are approved by the
9 Landlord. All Tenant Site Improvements must be constructed in accordance with any applicable
10 rule, regulation, code, ordinance, or administrative regulation of any governmental authority with
11 jurisdiction.

12 4.6 **Timeline for Construction of Tenant’s Site Improvements.** The
13 construction of an approved Tenant Site Improvement must be prosecuted with reasonable
14 dispatch, subject to delays caused by Force Majeure Events (See Section 16.10). The Solar
15 Garden shall be placed in service by Tenant not later than August 31, 2013. Once the Solar
16 Garden is placed in service, Tenant will operate the Solar Garden continuously and without
17 interruption throughout the Term, except when it is necessary to temporarily cease operations of
18 the Solar Garden to maintain, repair, or replace the Solar Garden equipment or the access road to
19 the Leased Premises (“**Access Road**”).

20 4.7 **Access to Leased Premises.**

21 (a) If the Access Road crosses other land owned by Landlord, Landlord will
22 provide Tenant with legal access to the Leased Premises over such land.

23 (b) Tenant, and its employees, guests, contractors, agents, representatives, and
24 invitees may access the Leased Premises only via the Access Road. No other access to the
25 Leased Premises is permitted without the prior, written consent of the Town Manager.

26 (c) At any time during the Term, Landlord, at its expense, may relocate the
27 Access Road so long as Tenant is provided commercially reasonable access to the Leased
28 Premises over the relocated Access Road.

29 (d) To the extent required, Landlord will assist Tenant in obtaining any required
30 permit or authorization to access the Leased Premises from Colorado Highway 9.

31 4.8 **Additional Land Required By Tenant During Construction of Tenant’s**
32 **Site Improvements.** Tenant is not permitted to use any land other than the Leased Premises for
33 the staging, storage, and construction of the Tenant Site Improvements; provided, however, that
34 if Tenant reasonably requires additional land for staging, storage, and related activities for its
35 construction of the Tenant Site Improvements Landlord will provide, on a temporary basis (until

1 the Tenant Site Improvements are completed, but not to exceed six (6) months) up to one acre of
2 Landlord-owned real property adjacent to the Leased Premises for Tenant’s use in connection
3 with the construction of the Tenant’s Site Improvements. Tenant’s interest in such one acre tract
4 is a license, and is not a leasehold. Upon the completion of the Tenant Site Improvements,
5 Tenant will return the one acre tract to its condition as existed when it began its use of the land,
6 normal wear and tear excepted.

7 4.9 **Title to the Tenant Site Improvements.** Except as otherwise provided in
8 this Lease, title to the Tenant Site Improvements belongs to the Tenant; however, Landlord
9 understands that the some of the Tenant Site Improvements will be subject to one or more
10 agreement between the Tenant and third parties. Upon the expiration or earlier termination of
11 this Lease, title to the Tenant Site Improvements will be subject to the provisions of Section 4.9
12 of this Lease.

13 4.10 **Disposition of Tenant Site Improvements Upon Termination or**
14 **Expiration of this Lease.**

15 (a) Not later than the last day of the Term Tenant will remove the Tenant Site
16 Improvements from the Leased Premises, and dispose of them in accordance with any
17 contractual relationship then existing between Tenant and any third party. The cost of such
18 removal will be borne by Tenant, and Tenant will repair all injury or damage done to the Leased
19 Premises in connection with the removal of the Tenant Site Improvements.

20 (b) Landlord may retain or dispose of any personal property, fixtures (including,
21 but not limited to, trade fixtures), alterations or improvements, including, without limitation, any
22 Tenant Site Improvement, left remaining by Tenant at or upon the Leased Premises following the
23 expiration or earlier termination of this Lease, and Landlord is not accountable to Tenant for any
24 damages for the loss or destruction thereof, or for any part of the proceeds of sale, if any,
25 realized by Landlord. Tenant waives all claims against Landlord for any damages suffered by
26 Tenant resulting from Landlord’s retention or disposition of such personal property, fixtures
27 (including, but not limited to, trade fixtures), alterations or improvements, including, without
28 limitation, any Tenant Site Improvement. Tenant is liable to Landlord for Landlord’s costs for
29 storing, removing and disposing of any such personal property, fixtures (including trade
30 fixtures), alterations, or any Tenant Site Improvement.

31 **ARTICLE 5 □ TENANT’S AFFIRMATIVE OBLIGATIONS**

32 5.1 **Required License.** Throughout the Term Tenant will obtain and maintain
33 in full force and effect a Town of Breckenridge Business and Occupational License Tax license.

34 5.2 **Utilities.** Tenant will initiate, contract for, and obtain in its name, all utility
35 services required for the operation of the Solar Garden on the Leased Premises, including, but
36 not limited to, electricity and telephone, and Tenant will pay all charges for such services as they
37 become due. Any construction work done to extend or provide utility service to the Leased

1 Premises will be done in a good and workmanlike manner by Tenant, and Tenant will promptly
2 repair any damage caused by the construction and installation of utility service to the Leased
3 Premises. With respect to electrical service only, Landlord grants permission and a non-exclusive
4 right to Tenant to install any required electrical service for the Leased Premises.

5 **5.3 Taxes.**

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

9 (b) Pursuant to Section 39-3-105, C.R.S., all real or personal property owned by
10 Landlord is exempt from taxation. However, the Parties acknowledge that Tenant’s occupancy
11 and use of the Leased Premises pursuant to this Lease may be deemed to be a “taxable
12 possessory interest” pursuant to Section 39-1-103(17)(a), C.R.S.

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

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

29 **5.4 Maintenance.** The Solar Gardens and the Leased Premises will be
30 maintained by Tenant at its sole expense. Tenant will maintain, protect, and preserve the Leased
31 Premises and the Solar Garden in a safe, neat, and attractive condition and in good and
32 serviceable condition at its sole cost. Tenant will repair all damage to the Leased Premises and
33 the Solar Garden regardless of cause; provided, however, Landlord (and not Tenant) will repair
34 all damage to the Leased Premises and the Solar Garden caused by Landlord, its employees,
35 contractors, agents, and representatives.

36 **5.5 Snow Plowing.** Tenant, at its sole expense, will provide all required snow
37 plowing and removal necessary to allow the Premises to be used by Tenant for the uses described

1 in Section 1.4. This obligation includes, without limitation, providing all required snow plowing
2 and removal with respect to the Access Road. Tenant's snow plowing and removal operations
3 will be done in a manner that minimizes damage to the existing surface of the Access Road, and
4 Tenant will promptly repair and damage to the surface of the Access Road caused by its snow
5 plowing and removal operations.

6 **5.6 Landscaping.** No landscaping may be installed by the Tenant at the
7 Leased Premises without the Landlord's prior, written consent. Once installed, all landscaping
8 will be maintained by the Tenant in accordance with the approved landscaping plan for the
9 Leased Premises. Tenant will provide weed management and protect against any noxious weed
10 on the Leased Premises.

11 **5.7 Damage to Leased Premises.** If any damage occurs to the Leased
12 Premises, or any other real or personal property-owner by Landlord and used by Tenant, Tenant,
13 at its sole cost, shall promptly repair or restore the damaged property to its previous condition at
14 Landlord's option.

15 **5.8 Trash and Rubbish.** Tenant's use of the Leased Premises pursuant to this
16 Lease may not create any industrial waste or hazardous material. Tenant, at its sole cost, shall
17 provide any required off-site disposal of any waste connected with its use of the Leased
18 Premises pursuant to this Lease, including, without limitation, the collection, storage, and
19 removal of paper and all other waste from the Leased Premises.

20 **5.9 Security of Leased Premises.** Security for the Leased Premises will be the
21 responsibility of and will be provided by the Tenant. Landlord has no obligation to provide
22 security for the Leased Premises, and Landlord is not liable for any loss or damage suffered to
23 the Solar Garden (including, without limitation, any solar panels located within the Solar
24 Garden) or the Leased Premises from any cause, except the gross negligence or intentional
25 wrongful act of the Landlord, its officers, employees, or agents, or Landlord's breach of this
26 Lease.

27 **5.10 Signs.** Tenant will not post, place, affix, erect, or display any sign within or
28 outside of the Leased Premises without Landlord's prior approval, which approval may be
29 granted, withheld, or conditionally approved in Landlord's sole and absolute discretion. In
30 considering Tenant's request to place a sign within or outside of the Leased Premises, Landlord
31 acts in its capacity as landlord of the Leased Premises, and not in its governmental capacity.
32 Landlord may remove any sign placed within or outside of the Leased Premises in violation of
33 the portions of this Section. In addition to obtaining Landlord's discretionary permission as
34 described above, Tenant must also obtain any required sign permit from Landlord acting in its
35 governmental capacity. Tenant will maintain all signs located within or outside of the Leased
36 Premises in good, clean, and attractive condition. Tenant will remove all signs placed by it
37 within or outside of the Leased Premises at the expiration or earlier termination of this Lease,
38 and repair any damage or injury caused thereby. If not so removed by Tenant, the Landlord may
39 remove such sign(s) at Tenant's expense.

1 **5.11 Inspection And Entry.** Landlord and Landlord’s authorized
2 representatives may enter the Leased Premises at all times during reasonable hours to inspect the
3 Leased Premises. Tenant further agrees that the Landlord may go upon the Leased Premises at all
4 times and:

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

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

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

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

12
13 Nothing in this Section implies or creates any duty on the part of the Landlord to do any work
14 that under any provision of this Lease the Tenant may be required to do, nor will it constitute a
15 waiver of Tenant’s default in failing to do such work. No reasonable exercise by the Landlord of
16 any rights herein reserved will entitle the Tenant to any damage or compensation of any kind
17 from Landlord for any injury, loss, damage, or inconvenience occasioned thereby, or to any
18 abatement of rent.

19
20 **5.12 Compliance With Laws.**

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

27 (b) Without limiting the generality of subsection (a), Tenant will comply with all
28 applicable environmental laws that are applicable to Tenant’s use of the Leased Premises,
29 including, but not limited to:

30 (i) the federal Comprehensive Environmental Response, Compensation and
31 Liability Act (42 U.S.C. §§9601, et seq.) (“CERCLA”);

32 (ii) the federal Resource Conservation and Recovery Act (42 U.S.C. §§6901,
33 et seq.) (“RCRA”);

34 (iii) the federal Clean Water Act (“CWA”);

- 1 (iv) state and local environmental laws, rules, regulations;
- 2 (v) any state or local law, rule, regulation, or program implementing, similar
- 3 to, or equivalent to such federal statutes or programs;
- 4 (vi) all other local, state and federal environmental laws, rules and regulations.

5 Tenant's obligation under this Section 5.12 does not extend to any noncompliance arising from
6 conditions that existed with regard to the Leased Premises at the commencement of the Lease.

7
8

ARTICLE 6 □ TENANT'S NEGATIVE OBLIGATIONS

9 6.1 **Assignment And Subletting.** Except as provided in Section 1.9 with
10 respect to Tenant's right to mortgage, pledge, or collaterally assign this Lease if required to
11 obtain its financing to construct the Solar Garden, Tenant will not assign, sublet, license, pledge,
12 encumber, or allow any other person or entity to occupy or use any or all of the Leased Premises
13 without first obtaining Landlord's prior written consent, which consent may be granted, withheld
14 or conditionally approved in Landlord's sole, absolute and subjective discretion. Any
15 assignment, sublease, license, pledge or encumbrance without Landlord's prior written consent is
16 voidable by Landlord and, at Landlord's election, will constitute a default under this Lease. No
17 consent by Landlord to any of the above acts will constitute a further waiver of the provisions of
18 this Section. If Landlord consents to an assignment, sublease, or license Tenant may be required,
19 as a condition of granting consent, to pay Landlord's reasonable costs incurred in considering the
20 proposed assignment, sublease, or license including, but not limited to, legal fees and credit
21 checks.

22 6.2 **Assignment By Operation of Law.** Neither this Lease nor any interest in
23 this Lease is assignable or transferable by operation of law. If:

- 24 (i) any proceeding under the Bankruptcy Code, or any amendment thereto, is
- 25 commenced by or against Tenant;
- 26 (ii) Tenant is adjudged insolvent;
- 27 (iii) Tenant makes any assignment for the benefit of creditors;
- 28 (iv) a post-judgment writ of attachment or execution is levied on the leasehold
- 29 estate created by this Lease and not released or satisfied within thirty (30) days thereafter;
- 30 or
- 31 (v) a receiver is appointed for Tenant with authority to take possession or
- 32 control of the Leased Premises or the business conducted therein by Tenant

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

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6.3 No Waste or Nuisance. Tenant will not commit or permit to be committed on the Leased Premises any waste, public or private nuisance, or any other act or thing prohibited by law.

6.4 Mechanic’s Liens.

(a) In connection with the construction of any Tenant Site Improvements, the Tenant will cause the payment of all proper and valid invoices and charges of all contractors, subcontractors, suppliers, materialmen and similar parties who furnish services or materials in connection with the construction process.

(i) In the event any person ever records a mechanic’s lien to enforce any claim for services or materials alleged to have been provided in connection with the Leased Premises, the Tenant will cause the same to be released of record within sixty (60) days after the recordation thereof, and the Tenant will be liable to satisfy and cause a discharge of any such mechanic’s lien claim. Notwithstanding the foregoing, the Tenant may contest any such mechanic’s lien claim, provided that the Tenant conducts such contest in a timely manner and with due diligence, and that the Tenant provides the Landlord with such security in connection therewith as the Landlord may reasonably require. In connection with any such contest, the Landlord may join and participate in any such contest, at the Tenant’s expense (with participation to include, without limitation, the execution and filing of pleadings and the provision and gathering of testimony and other evidence). In the event the Tenant loses any such contest, with all further rights of appeal having expired, the Tenant must satisfy the mechanic’s lien claim in full prior to any foreclosure sale or other disposition of the Leased Premises which is made for the purpose of satisfying the claim.

(ii) In the event of any such mechanic’s lien claim, Tenant may at its discretion determine to provide a bond or other undertaking pursuant to C.R.S. 38-22-131 so that Leased Premises is no longer subject to such mechanic’s lien claim. If such substitution is made, then the provisions of subsection (i) above shall not apply with regard to that mechanic’s lien claim.

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

ARTICLE 7 □ INSURANCE

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1 7.1 **Tenant's Required Insurance.** Tenant will procure and maintain the
2 minimum insurance coverages listed below. Such coverages will be procured and maintained
3 with forms and insurers acceptable to the Landlord. All coverages will be continuously
4 maintained to cover all liability, claims, demands, and other obligations assumed by Tenant
5 pursuant to this Lease. In the case of any claims-made policy, the necessary retroactive dates
6 and extended reporting periods will be procured to maintain such continuous coverage.

7 (a) worker's compensation insurance to cover liabilities imposed by applicable
8 laws for any employee of Tenant engaged in the performance of Work under this Lease.

9 (b) comprehensive automobile liability insurance with minimum combined single
10 limits for bodily injury and property damage of not less than ONE MILLION DOLLARS
11 (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate
12 with respect to each of Tenant's owned, hired or non-owned vehicles assigned to or used in
13 performance of this Lease.

14 (c) commercial general liability insurance with minimum combined single limits
15 of not less than TWO MILLION DOLLARS (\$2,000,000.00). The policy will be applicable to
16 all premises and operations. The policy will include coverage for bodily injury, broad form
17 property damage (including completed operations), personal injury (including coverage for
18 contractual and employee's acts), blanket contractual, products, and completed operations.

19 (d) builder's risk insurance with minimum limits of not less than the insurable
20 value of the Tenant Site Improvements for the Solar Garden to be installed at the Leased
21 Premises, less the value of the materials and equipment insured under installation floater
22 insurance. The policy must be written in completed value form and will protect the Tenant and
23 the Landlord against risks of damage to buildings, structures, and materials and equipment not
24 otherwise covered under Installation Floater insurance, from the perils of fire and lightning, the
25 perils included in the standard coverage endorsement, and the perils of vandalism and malicious
26 mischief. Equipment such as pumps, engine-generators, compressors, motors, switch-gear,
27 transformers, panelboards, control equipment, and other similar equipment will be insured under
28 Installation Floater insurance when the aggregate value of the equipment exceeds \$10,000. The
29 policy will contain a provision that in the event of payment for any loss under the coverage
30 provided, the insurance company will have no rights of recovery against the Tenant or the
31 Landlord.

32 (e) installation floater with minimum limits of not less than the insurable value of
33 the solar garden improvements to be installed at the Leased Premises. The policy will protect the
34 Tenant and the Landlord from all insurable risks of physical loss or damage to materials and
35 equipment not otherwise covered under Builder's Risk insurance, while in warehouses or storage
36 areas, during installation, during testing, and after the work under this Lease is completed. The
37 policy will be of the "all risks" type, with coverages designed for the circumstances which may
38 occur in the particular work to be performed under this Lease. The policy will provide for losses
39 to be payable to the Tenant and the Landlord as their interests may appear. The policy will

1 contain a provision that in the event of payment for any loss under the coverage provided, the
2 insurance company will have no rights of recovery against the Tenant or the Landlord.

3 **7.2 Tenant's Insurance Is Primary; Deductibles.** Every policy required
4 above will be primary insurance, and any insurance carried by the Landlord, its officers, or its
5 employees, or provided through a self-insurance pool of which Landlord is a member, will be
6 excess and not contributory insurance to that provided by Tenant. Tenant will be solely
7 responsible for any deductible amount under any policy required above,.

8 **7.3 Landlord As Additional Insured.** Tenant's commercial general liability
9 insurance policy described above will be endorsed to include the Landlord as an additional
10 insured.

11 **7.4 Insurance Criteria.** Insurance policies required by this Lease will:

12
13 (i) be issued by insurance companies licensed to do business in the State of
14 Colorado with general policyholder's ratings of at least A and a financial rating of at least
15 XI in the most current Best's Insurance Reports available at the time such insurance is to
16 be procured; and

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

20 **7.5 Evidence of Insurance.** Prior to the commencement of this Lease, and on
21 each subsequent renewal or replacement of the required insurance policies, Tenant will give to
22 Landlord a certificate of insurance evidencing compliance with the requirements of this Section.
23 All required insurance policies will be renewed or replaced and maintained by the Tenant
24 throughout the Term to assure continuous coverage. If Tenant fails to give the required insurance
25 certificate within ten (10) days after notice or demand for it, such action will constitute a default
26 under this Lease, and the Landlord may then proceed as provided in Article 1 of this Lease,
27 and/or Landlord may obtain and pay for that insurance and receive reimbursement from the
28 Tenant, together with interest thereon at the rate of 8% per annum.

29 **7.6 Use Of Insurance Proceeds.** Tenant will apply any insurance proceeds
30 payable by reason of loss or damage to the Solar Farm to the restoration of the improvements on
31 the Leased Premises and to any damage to the Leased Premises themselves. In the event of
32 damage due an insurable cause, so long as Tenant complies with the requirements of this Section
33 this Lease will continue in full force and effect.

34 **7.7 Tenant's Failure to Maintain Insurance.** Notwithstanding any other
35 portion of this Lease, failure on the part of Tenant to procure or maintain policies providing the
36 required coverages, conditions, and minimum limits will constitute a material breach of this
37 Lease for which the Landlord may immediately terminate this Lease, or, at its discretion, the

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1 Landlord may procure or renew any such policy or any extended reporting period thereto and
2 may pay any and all premiums in connection therewith, and all monies so paid by Landlord will
3 be repaid by Tenant to the Landlord upon demand, together with interest thereon at the rate of
4 eight percent (8%) per annum, or the Landlord may offset the cost of the premiums against any
5 monies due to Tenant from the Landlord.”

6 **ARTICLE 8 □ INDEMNIFICATION**

7 8.1 **Indemnification By Tenant.** Tenant will indemnify and defend the
8 Landlord, its officers, employees, insurers, and self-insurance pool, from all liability, claims, and
9 demands, on account of injury, loss, or damage, including, without limitation, claims arising
10 from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any
11 other loss of any kind whatsoever, arising out of or in any manner connected with this Lease or
12 Tenant’s use or possession of the Leased Premises pursuant to this Lease, except to the extent
13 that such liability, claim, or demand arises through the gross negligence, the intentional
14 wrongful act of the Landlord, its officers, employees, or agents, or Landlord’s breach of this
15 Lease. If indemnification is required under this Section, Tenant will investigate, handle, respond
16 to, and to provide defense for and defend against, any such liability, claims, or demands at its
17 expense, and bear all other costs and expenses related thereto, including court costs and attorney
18 fees.

19 **ARTICLE 9 □ EMINENT DOMAIN**

20 9.1 **Eminent Domain.**

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

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

27 (i) the date title vests; or

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

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

32 (i) the date when title vests;

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

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1 (iii) sixty (60) days following notice to Tenant of the date when vesting or
2 dispossession is to occur.

3 Rent will be paid to the date of the termination. If the taking of a part of the Leased Premises
4 does not materially interfere with Tenant's ability to continue its business operations in
5 substantially the same manner, then this Lease will terminate only as part of the Leased
6 Premises taken, and the rent will abate in proportion to the part of the Leased Premises taken.
7

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

10 (i) Tenant is entitled to that portion of the compensation or damages that
11 represents the amount of Tenant's moving expenses, business dislocation damages,
12 Tenant's personal property and fixtures, and the unamortized costs of leasehold
13 improvements paid for by Tenant; and

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

15 **ARTICLE 10 □ COMPLAINT RESOLUTION**

16 10.1 **Informal Complaint Resolution.** Throughout the Term, Landlord's
17 representative and Tenant's representative will meet and confer informally and attempt to
18 satisfactorily resolve any informal complaint that may be made by any person with respect to any
19 aspect of Tenant's operations at the Leased Premises. An "**informal complaint**" is any
20 complaint that is not a formal complaint as defined in Section 10.2. Both Landlord and Tenant
21 will act promptly and in good faith to attempt to resolve all informal complaints.

22 10.2 **Formal Complaint Resolution.**

23 (a) As used in this Section, a "**Formal Complaint**" is a written complaint filed by
24 any person concerning any aspect of Tenant's operations at the Leased Premises, or a formal
25 written complaint made by the Landlord on its own initiative concerning any aspect of Tenant's
26 operations at the Leased Premises.

27 (b) All Formal Complaints must be in writing.

28 (c) Any Formal Complaint by any person other than Landlord must be filed with
29 the Landlord.

30 (d) Tenant will be provided with a copy of the Formal Complaint within two (2)
31 business days of the Landlord's receipt of the Formal Complaint if filed by any person other than
32 Landlord, or within two (2) business days of Landlord lodging of the Formal Complaint if the
33 Landlord files the Formal Complaint on its own initiative. No formal complaint will be
34 processed if the complaining party remains anonymous.

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1 (e) Landlord and Tenant will attempt in good faith to resolve any Formal
2 Complaint promptly by negotiations between persons who have authority to settle the
3 controversy. Within ten (10) business days after the Formal Complaint has been delivered to
4 Tenant a representative of the Landlord and a representative of the Tenant will meet at a
5 mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to
6 exchange relevant information and to attempt to resolve the complaint in a mutually satisfactory
7 manner. Other interested parties, such as the person who filed the Formal Complaint, may be
8 invited to attend the meeting by either the Landlord or the Tenant. The ten (10) business day
9 deadline provided for in this Section may be extended by mutual agreement of the Landlord and
10 the Tenant.

11 (f) If the Formal Complaint has not been resolved by negotiation as provided
12 above within twenty (20) business days of the Landlord and Tenant’s meeting as described in
13 Subsection (e), the Formal Complaint will be brought to the attention of the Town Council of the
14 Town of Breckenridge (“**Town Council**”). Within thirty (30) business days of being advised of
15 the Formal Complaint, the Town Council will meet in a public meeting to review and help
16 resolve the Formal Complaint. The Town Council meeting may be continued if necessary to
17 properly consider the Formal Complaint; provided, however, that the Town Council will not
18 unduly delay its review or proposed resolution of the Formal Complaint.

19 (g) If the Tenant and the person who filed the Formal Complaint have not
20 resolved the Formal Complaint within twenty (20) days of the date the Town Council has
21 considered the Formal Complaint and proposed a resolution thereof, then the person filing the
22 Formal Complaint shall have the option to pursue such legal remedies as may be available to
23 such person in regard to the matter described by the Formal Complaint. The Town Council may
24 not alter the terms and conditions of this Lease when proposing a resolution of a Formal
25 Complaint, and no failure of the Tenant to agree in negotiation with the party filing the Formal
26 Complaint or to agree with the Town Council’s proposed resolution shall constitute a default
27 under this Lease, provided however, that in the event the Landlord is the person bringing the
28 formal complaint, nothing in this Section shall prevent the Landlord from then proceeding as
29 provided in Article 10 of this Lease.

30 **ARTICLE 11 □ DEFAULT**

31 11.1 **Default By Tenant.** The occurrence of any one or more of the following
32 events will constitute a default and breach of the Lease by Tenant:

33 (a) Any termination for any reason of any solar power purchase agreement for
34 energy produced at the Leased Premises, with a continuous lapse of twelve (12) months or more
35 without Tenant entering into a subsequent solar power purchase agreement for the purchase of
36 such energy.

37 (b) The vacating or abandonment of the Leased Premises by Tenant.

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

4 (d) The failure by 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 Landlord, within ten (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 ten (10) days, Tenant will not be default if it commences correcting the default
9 within ten (10) days of service of a demand for compliance notice and thereafter corrects the
10 default with due diligence.

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

17 11.2 **Landlord's Remedies Upon Default.** If the Tenant is in default under this
18 Lease, Landlord has all of the remedies provided for in such circumstances by Colorado law.

19 11.3 **Default By Landlord.** Landlord will be in default under this Lease if
20 Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within ten
21 (10) days following service of written notice thereof by Tenant. In the event of a non-monetary
22 default that is not capable of being corrected within ten (10) days, Landlord will not be default if
23 Landlord commences correcting the default within ten (10) days of receipt of notification thereof
24 and thereafter corrects the default with due diligence.

25 11.4 **Tenant's Remedies Upon Default.** If the Landlord is in default under this
26 Lease, Tenant has all of the remedies provided for in such circumstances by Colorado law.

27 **ARTICLE 12 □ NONDISTURBANCE**

28 12.1 **Quiet Enjoyment.** Subject to the terms and conditions of this Lease,
29 Landlord covenants that so long as the rent for the Leased Premises is paid as and when due, and
30 there is no default in any of the other covenants, conditions, or provisions of this Lease to be
31 performed, observed or kept by Tenant, the Tenant will peaceably and quietly hold and enjoy the
32 Leased Premises for the entire Term. Landlord further covenants that Landlord during the Term
33 Landlord will not take any action which negatively and materially affects the receipt of solar
34 radiation at the Solar Garden, or Tenant's ability to access the Solar Garden.

35 **ARTICLE 13 □ LANDLORD'S RULES**

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1 13.1 **Rules.** Tenant will faithfully observe and comply with any rules and
2 regulations promulgated by Landlord with respect to the Leased Premises. Landlord’s rules and
3 regulations must be reasonable, and may not unilaterally change or significantly alter the
4 material terms and conditions of this Lease. The rules and regulations, and any amendments
5 thereto, will be binding upon the Tenant upon delivery to Tenant.

6 **ARTICLE 14 □ HAZARDOUS MATERIALS**

7 14.1 **Hazardous Materials □ Defined.** As used in this Section, the term
8 **“Hazardous Materials”** means any chemical, material, substance or waste:

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

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

19 14.2 **Hazardous Materials □ Prohibited.** Tenant will full comply with all
20 statutes, laws, ordinances, rules, regulations, and precautions now or hereafter mandated or
21 advised by any federal, state, local, or other governmental agency with respect to the use,
22 generation, storage, or disposal of Hazardous Materials. Tenant will not cause, or allow anyone
23 else to cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about
24 the Leased Premises without the prior written consent of Landlord, which consent may be
25 revoked at any time. Tenant’s indemnification of Landlord pursuant to this Lease extends to all
26 liability, including all foreseeable and unforeseeable consequential damages, directly or
27 indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials at the
28 Leased Premises by Tenant, or any person claiming under Tenant, including, without limitation,
29 the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any
30 closure or other required plans, whether such action is required or necessary prior to or following
31 the termination of this Lease, to the full extent that such action is attributable, directly or
32 indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any
33 person claiming under Tenant; provided, however, the written consent by Landlord to the use,
34 generation, storage, or disposal of Hazardous Materials will excuse Tenant from Tenant’s
35 obligation of indemnification, and, provided further, that Tenant’s indemnification obligation
36 under this Section 14.2 does not extend to any Hazardous Materials that were located on the
37 Leased Premises at the commencement of this Lease. In the event Tenant is in breach of the
38 covenants herein, after notice to Tenant and the expiration of the earlier of:

- 1 (i) the cure period provided in Section 11.1(c);
2 (ii) the cure period permitted under applicable law, regulation, or order,

3 then Landlord may, in its sole discretion, declare a default under this Lease and/or cause the
4 Leased Premises to be freed from the Hazardous Material and the cost thereof will be deemed
5 additional rent hereunder and will immediately be due and payable from Tenant. The obligations
6 of Tenant under this Section will survive the expiration or termination of this Lease.
7

8 **ARTICLE 15 □ RIGHT TO RELOCATE LEASED PREMISES**
9

10 15.1 **Relocation Of Leased Premises.** At anytime throughout the Term of this
11 Lease the Landlord, in its sole and absolute discretion and at its sole cost, may relocate the
12 Leased Premises, so long as the relocated leased premises (“**Relocated Leased Premises**”) are
13 functionally comparable to the Leased Premises that existed immediately prior to the relocation.
14 If the Leased Premises are relocated by Landlord as provided in this Article 15, the Parties will
15 execute and record an appropriate amendment to this Lease describing and depicting the
16 Relocated Leased Premises in form and substance reasonably acceptable to each of the Parties.
17

18 **ARTICLE 16 □ MISCELLANEOUS**

19 16.1 **Attorneys Fees/Costs.** If any action is brought in a court of law by either
20 Party to this Lease concerning the enforcement, interpretation, or construction of this Lease, the
21 prevailing Party, either at trial or upon appeal, is entitled to reasonable attorney’s fees, as well as
22 costs, including expert witness’ fees, incurred in the prosecution or defense of such action.

23 16.2 **Notices.** All notices required or permitted under this Lease must be given
24 by registered or certified mail, return receipt requested, postage prepaid, or by hand or
25 commercial carrier delivery, or by telecopies, directed as follows:

26 If intended for Town to:

27
28 Town of Breckenridge
29 P.O. Box 168
30 150 Ski Hill Road
31 Breckenridge, Colorado 80424
32 Attn: Financial Services Manager
33 Telecopier number: (970)547-4468
34 Telephone number: (970)453-3382
35

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

37
38 Timothy H. Berry, Esq.
39 Timothy H. Berry, P.C.

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1 131 West 5th Street
2 P. O. Box 2
3 Leadville, Colorado 80461
4 Telecopier number: (719)486-3039
5 Telephone number: (719)486-1889
6

7 If intended for Tenant to:

8
9 Summit Solar1, LLC
10 Attn: Mark Boyer, Manager
11 401 Tree Farm Drive
12 Carbondale, Colorado 81623
13

14 Telecopier number: (800)646-0323
15 Telephone number: (970)692-2592
16

17 Any notice delivered by mail in accordance with this Section will be effective on the third
18 business day after the same is deposited in any post office or postal box regularly maintained by
19 the United States postal service. Any notice delivered by telecopier in accordance with this
20 Section will be effective upon receipt if concurrently with sending by telecopier receipt is
21 confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt
22 requested, on the same day to the intended recipient. Any notice delivered by hand or
23 commercial carrier will be effective upon actual receipt. Either Party, by notice given as
24 provided above, may change the address to which future notices may be sent. The provisions of
25 this Section will not apply to any notice or demand that is required to be served in a particular
26 manner by applicable law; and any such notice or demand will be served as required by law
27 notwithstanding the provisions of this Section. E-mail is not a valid way to give notice under this
28 Lease.
29

30 16.3 **“Day” Defined.** Unless otherwise indicated, the term “day” means a
31 calendar day (and not a business day).

32 16.4 **“Will” or “Will Not” Defined.** “Will” or “will not” indicates a mandatory
33 obligation to act or to refrain from acting as specifically indicated in the context of the sentence
34 in which such word is used.

35 16.5 **Complete Agreement.** This Lease contains the complete and final
36 expression of the agreement between the Parties, and there are no promises, representations, or
37 inducements except as are herein provided. All negotiations, considerations, representations, and
38 understandings between the Parties related to this Lease are contained herein.

39 16.6 **Amendment.** This Lease may not be modified except by a written Lease
40 signed by both the Landlord and Tenant. Oral modifications of this Lease are not permitted.

SOLAR GARDEN LEASE (STILLSON PROPERTY)

1 16.7 **Captions.** The headings of the sections and paragraphs contained in this
2 Lease are for convenience only and do not define, limit, or construe the contents of the articles,
3 sections and subsections.

4 16.8 **Waiver.** The failure of either Party to exercise any of such Party's rights
5 under this Lease is not a waiver of those rights. A Party waives only those rights specified in
6 writing and signed by the Party waiving such rights.

7 16.9 **Severability.** If any provision of this Lease is held to be invalid, illegal, or
8 unenforceable in any respect, the validity, legality and enforceability of the remaining provisions
9 contained in this Lease and the application hereof will not in any way be affected or impaired
10 thereby.

11 16.10 **Force Majeure.** Neither Party will be liable to the other for any failure,
12 delay, or interruption in the performance of any of the terms, covenants, or conditions of this
13 Lease due to causes beyond the control of that Party including, without limitation, strikes,
14 boycotts, labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy,
15 acts of superior governmental authority, weather conditions, floods, riots, rebellion, terrorism,
16 sabotage or any other circumstance for which such Party is not responsible or that is not in its
17 power to control.

18 16.11 **Advances By Landlord For Tenant.** If Tenant fails to do anything
19 required to be done by it under the terms of this Lease (other than a failure to make the payments
20 to Landlord herein required) the Landlord may, at its sole option, but without any obligation to do
21 so, do or perform such act or thing on behalf of Tenant, and in doing so the Landlord will not be
22 deemed to be a volunteer; provided, however, that before exercising its rights under this Section
23 Landlord must give notice to Tenant as provided in Section 16.2, and afford the Tenant not less
24 than five (5) days from the giving of such notice within which to do or perform the act required
25 by Tenant. Upon notification to Tenant of the costs incurred by the Landlord Tenant will
26 promptly pay to Landlord the full amount of costs and/or expenses incurred by Landlord
27 pursuant to this Section, together with interest thereon at the rate of eight percent (8%) per
28 annum.

29 16.12 **Governmental Immunity.** In entering into this Lease the Landlord is
30 relying on, and does not waive or intend to waive by any provision of this Lease, the monetary
31 limitations or any other rights, immunities, and protections provided by the Act, as from time to
32 time amended, or any other limitation, right, immunity or protection otherwise available to
33 Landlord, its officers, or its employees.

34 16.13 **No Adverse Construction Based On Authorship.** Each of the Parties
35 stipulate and agree that it had the opportunity to participate in the drafting of this Lease. This
36 Lease is not to be construed against either Party by virtue of such Party having drafted this
37 Lease.

1 16.14 **Landlord’s Consent.** Except as otherwise expressly provided to the
2 contrary in this Lease, wherever in this Lease it is provided that some act requires the Landlord’s
3 prior consent, such consent will not be unreasonably withheld or delayed by Landlord.

4 16.15 **Authority.** The individual executing this Lease on behalf of the Tenant
5 represents and warrants to Landlord that he or she has all requisite power and authority to bind
6 the Tenant and to cause the Tenant to fully perform its obligations under this Lease.

7 16.16 **Third Parties.** There are no third party beneficiaries of this Lease.

8 16.17 **Recording of Lease.** This Lease, or a memorandum of lease acceptable to
9 both Landlord and Tenant may be recorded the Clerk and Recorder of Summit County,
10 Colorado.

11 16.18 **Time of Essence.** Time is of the essence of this Lease.

12 16.19 **Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of
13 Colorado, without regard to its conflict of laws rules, will govern the interpretation, validity,
14 performance, and enforcement of this Lease. Any litigation brought to interpret or enforce this
15 Lease will be commenced in Summit County, Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A**
16 **JURY TRIAL IN ACTION TO ENFORCE, INTERPRET, OR CONSTRUE THIS AGREEMENT.**

17 16.20 **Non-Discrimination; Compliance With Applicable Laws.** Tenant:

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

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

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

28 (d) will comply with all applicable federal, state, and local laws, rules and
29 regulations. Without limiting the generality of the foregoing, Tenant will comply with the
30 applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, et seq. (Public
31 Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory
32 agency.

33 The indemnification and termination provisions of this Lease apply to Tenant’s failure to comply
34 with all applicable laws or regulations.

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1
2 16.21 **No Partnership.** The Landlord is not a partner, associate, or joint venturer
3 of the Tenant in the conduct of Tenant’s business at the Leased Premises. Tenant is an
4 independent contractor without the right or authority to impose tort or contractual liability upon
5 the Landlord.

6 16.22 **Binding Effect.** The covenants, conditions, and obligations of this Lease
7 extend to, bind, and inure to the benefit of, not only the Parties, but their respective successors
8 and permitted assigns.

9 16.23 **Annual Appropriation.** Notwithstanding anything herein contained to the
10 contrary, the Landlord’s financial obligations under this Lease are subject to an annual
11 appropriation being made by the Town Council of the Town of Breckenridge, Colorado in an
12 amount sufficient to allow Landlord to perform its obligations hereunder. If sufficient funds are
13 not appropriated, this Lease may be terminated by either Party without penalty. The Landlord’s
14 obligations hereunder do not constitute a general obligation indebtedness or multiple year direct
15 or indirect debt or other financial obligation whatsoever within the meaning of the Constitution
16 or laws of the State of Colorado.

17 16.24 **Survival.** All indemnity obligations provided for in this Lease will survive
18 the expiration or termination of this Lease, and will be fully enforceable thereafter.

19 16.25 **Incorporation of Exhibits.** The attached Exhibit “A” and Exhibit
20 B” , together with all referenced subexhibits, are incorporated into this Lease by reference.

21 LANDLORD:

22
23 TOWN OF BRECKENRIDGE, a Colorado
24 municipal corporation
25
26

27
28 By _____
29 Timothy J. Gagen, Town Manager
30

31 ATTEST:

32
33
34 _____
35 Helen Cospolich
36 Town Clerk
37

38 TENANT:
39

1
2
3
4
5
6
7
8
9
10

SUMMIT SOLAR1, LLC, a Colorado limited liability company

By: _____

Title: Manager

1500-77 Solar Gardens Lease_4 (06-04-13)

SOLAR GARDEN LEASE (STILLSON PROPERTY)

Exhibit "A"
LEGAL DESCRIPTION/DEPICTION OF LEASED PREMISES

See the attached **Exhibit A-1**

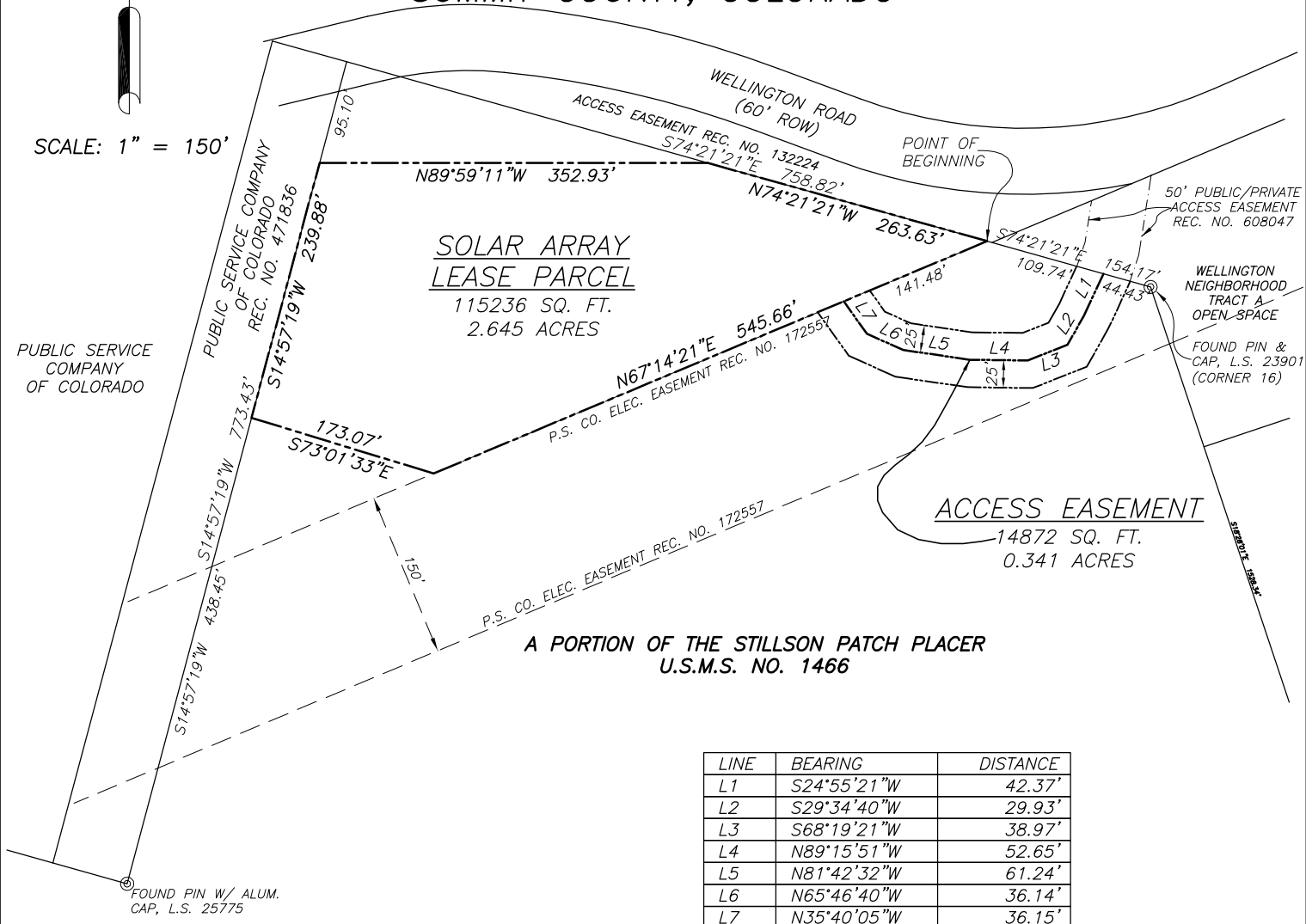
**Exhibit “B”
Site Conditions Map**

See the attached **Exhibit B-1**

**LEGAL DESCRIPTION OF LEASE
PARCEL AND ACCESS EASEMENT
A PORTION OF THE STILLSON PATCH PLACER
U.S.M.S. NO. 1466, TOWN OF BRECKENRIDGE
SUMMIT COUNTY, COLORADO**



SCALE: 1" = 150'



LINE	BEARING	DISTANCE
L1	S24°55'21"W	42.37'
L2	S29°34'40"W	29.93'
L3	S68°19'21"W	38.97'
L4	N89°15'51"W	52.65'
L5	N81°42'32"W	61.24'
L6	N65°46'40"W	36.14'
L7	N35°40'05"W	36.15'

LEGAL DESCRIPTION

A Solar Array Lease Parcel on A PORTION OF THE STILLSON PATCH PLACER U.S.M.S. NO. 1466, recorded at the Summit County Clerk and Records Office under Reception No. 544205, located in the Town of Breckenridge, County of Summit, State of Colorado, being more particularly described as follows:
Beginning at a point on the north line of said Stillson Patch Placer, whence corner 16 of said Stillson Patch Placer bears S74°21'21"E 154.17' thence along the said north line of said Stillson Patch Placer, N 74°21'21" W a distance of 263.63 feet; thence N 89°59'11" W a distance of 352.93 feet to a point on the west line of said Stillson Patch Placer; thence along the west line of said Stillson Patch Placer, S 14°57'19" W a distance of 239.88 feet, whence the west angle point of said Stillson Patch Placer bears S14°57'19"W 438.45'; thence S 73°01'33" E a distance of 173.07 feet to a point on the north line of P.S. CO. Elec. Easement Rec. No. 172557; thence along the north line of said P.S. CO. Elec. Easement, N 67°14'21" E a distance of 545.66 feet to the point of beginning. Described Lease Parcel contains 115236 square feet or 2.645 acres more or less.

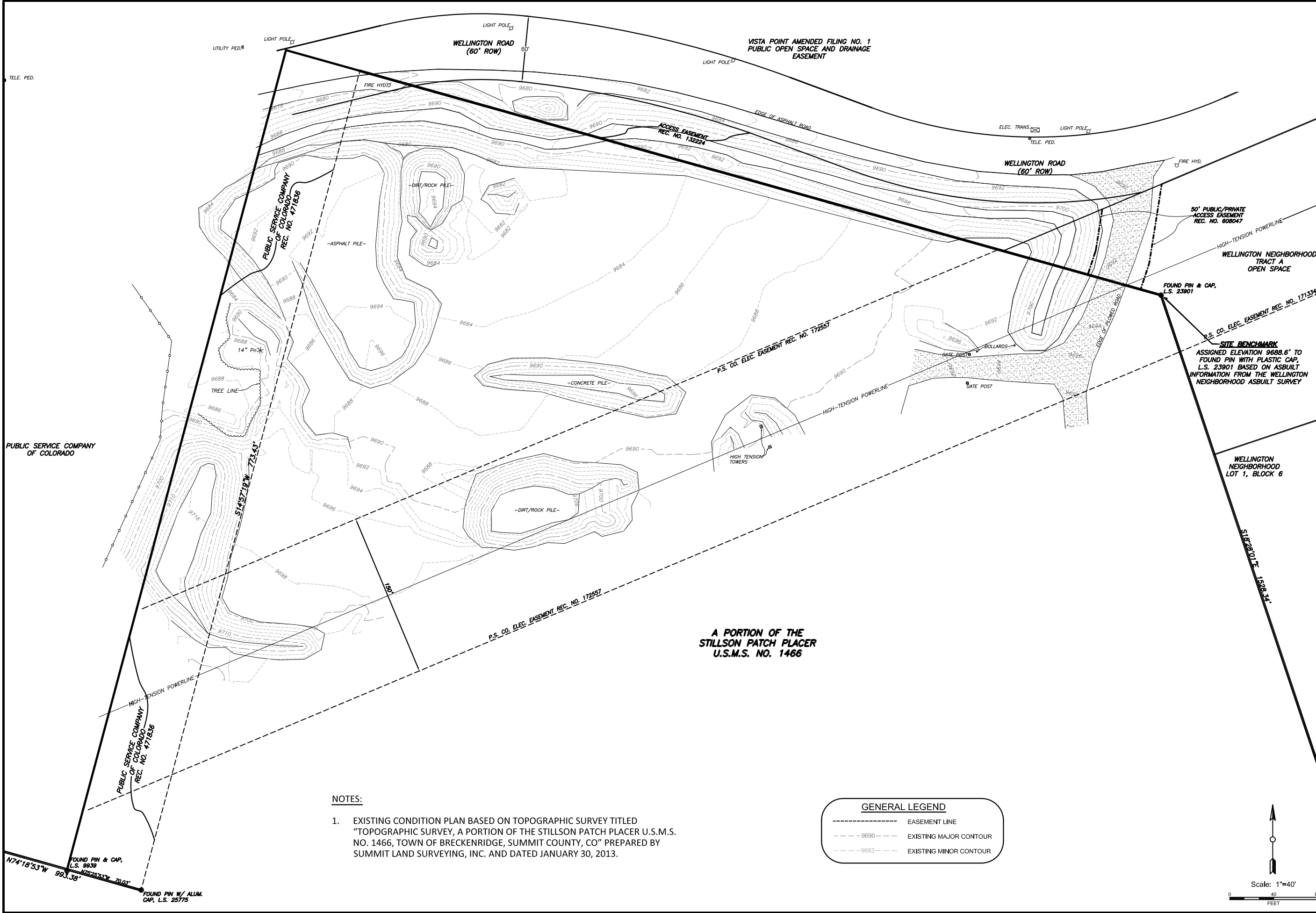
A 50' Access Easement across A PORTION OF THE STILLSON PATCH PLACER U.S.M.S. NO. 1466, recorded at the Summit County Clerk and Records Office under Reception No. 544205, located in the Town of Breckenridge, County of Summit, State of Colorado, being more particularly described as follows:
Beginning at a point on the north line of said Stillson Patch Placer, whence corner 16 of said Stillson Patch Placer bears S74°21'21"E 44.43'; thence along the centerline of the 50' Access Easement S 24°55'21" W a distance of 42.37 feet; thence S 29°34'40" W a distance of 29.93 feet; thence S 68°19'21" W a distance of 38.97 feet; thence N 89°15'51" W a distance of 52.65 feet; thence N 81°42'32" W a distance of 61.24 feet; thence N 65°46'40" W a distance of 36.14 feet; thence N 35°40'05" W a distance of 36.15 feet to a point on the south line of the Solar Array Lease Parcel, being the point of termination. The sidelines of said easement are to be shortened or lengthened to terminate on the boundaries of said Solar Array Lease Parcel and the north line of Stillson Patch Placer. Described Access Easement contains 14872 square feet or 0.341 acres more or less.

I, MATTHEW J. WENTZ, A COLORADO REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND EXHIBIT DRAWING IS BASED ON A SURVEY MADE BY ME AND UNDER MY SUPERVISION, AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY. BOUNDARY DATA BASED ON "ANNEXATION MAP OF A PORTION OF THE STILLSON PATCH PLACER" RECORDED AT THE SUMMIT CO. CLERK AND RECORDERS OFFICE UNDER REC. NO. 544205.

MATTHEW J. WENTZ, P.L.S. 37719

SUMMIT LAND SURVEYING, INC.		P.O. BOX 24212 SILVERTHORNE, CO 80497 970-513-0156
SCALE: 1" = 150'	DATE: 05/22/13	JOB NO. 131042
DRAWN BY: MJW	CHECKED BY: MJW	DRAWING NO. 131042EX-77-

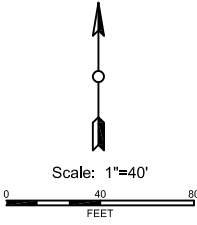
NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.



NOTES:

- EXISTING CONDITION PLAN BASED ON TOPOGRAPHIC SURVEY TITLED "TOPOGRAPHIC SURVEY, A PORTION OF THE STILLSON PATCH PLACER U.S.M.S. NO. 1466, TOWN OF BRECKENRIDGE, SUMMIT COUNTY, CO" PREPARED BY SUMMIT LAND SURVEYING, INC. AND DATED JANUARY 30, 2013.

GENERAL LEGEND	
-----	EASEMENT LINE
- - - 9690 - - -	EXISTING MAJOR CONTOUR
- - - 9683 - - -	EXISTING MINOR CONTOUR



NO.	DATE	DR	CHK	REVISION
		JSO	JEL	
				APVD JSO

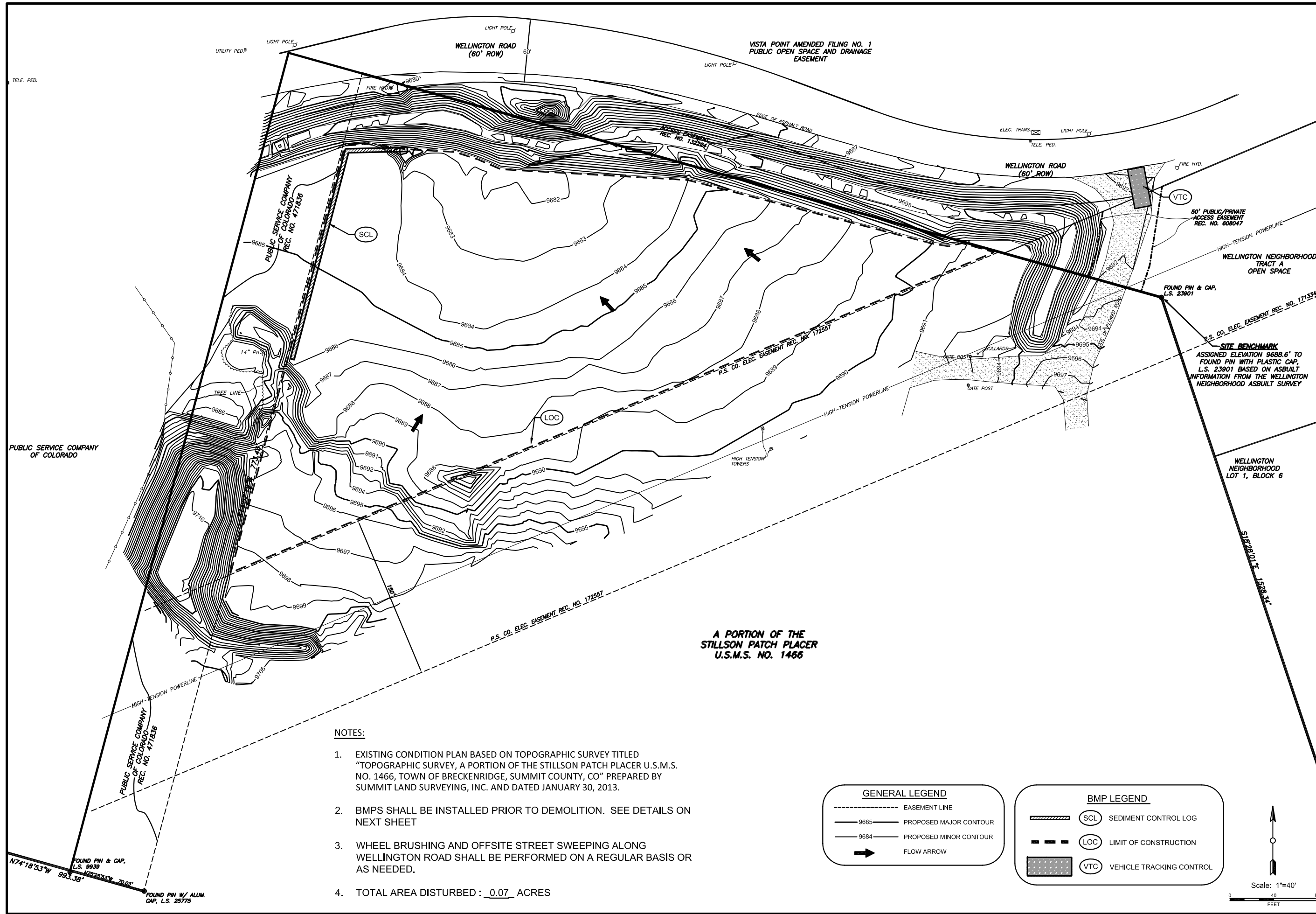
ENERTIA CONSULTING GROUP
 1437 LARIMER STREET
 DENVER, COLORADO 80202



SUMMIT SOLAR 1
 STILLSON PROPERTY
 BRECKENRIDGE, COLORADO

EXISTING CONDITIONS PLAN

NOT FOR CONSTRUCTION	
DATE	APRIL 2013
FILE	
DWG	STILLSON ESCP
SHEET	ESCP 1



A PORTION OF THE
STILLSON PATCH PLACER
U.S.M.S. NO. 1466

NOTES:

1. EXISTING CONDITION PLAN BASED ON TOPOGRAPHIC SURVEY TITLED "TOPOGRAPHIC SURVEY, A PORTION OF THE STILLSON PATCH PLACER U.S.M.S. NO. 1466, TOWN OF BRECKENRIDGE, SUMMIT COUNTY, CO" PREPARED BY SUMMIT LAND SURVEYING, INC. AND DATED JANUARY 30, 2013.
2. BMPS SHALL BE INSTALLED PRIOR TO DEMOLITION. SEE DETAILS ON NEXT SHEET
3. WHEEL BRUSHING AND OFFSITE STREET SWEEPING ALONG WELLINGTON ROAD SHALL BE PERFORMED ON A REGULAR BASIS OR AS NEEDED.
4. TOTAL AREA DISTURBED : 0.07 ACRES

GENERAL LEGEND

----- EASEMENT LINE

— 9685 — PROPOSED MAJOR CONTOUR

— 9684 — PROPOSED MINOR CONTOUR

➔ FLOW ARROW

BMP LEGEND

▨ SCL SEDIMENT CONTROL LOG

--- LOC LIMIT OF CONSTRUCTION

▣ VTC VEHICLE TRACKING CONTROL

Scale: 1"=40'

0 40 80 FEET

↑

NO.	DATE	CHG	CHK	JEL	APVD	JSO

ENERTIA CONSULTING GROUP

1437 LARIMER STREET
DENVER, COLORADO 80202

Clean Energy COLLECTIVE
Community-owned Solar

SUMMIT SOLAR 1
STILLSON PROPERTY
BRECKENRIDGE, COLORADO

PROPOSED CONDITIONS

EROSION AND SEDIMENT CONTROL PLAN

NOT FOR CONSTRUCTION

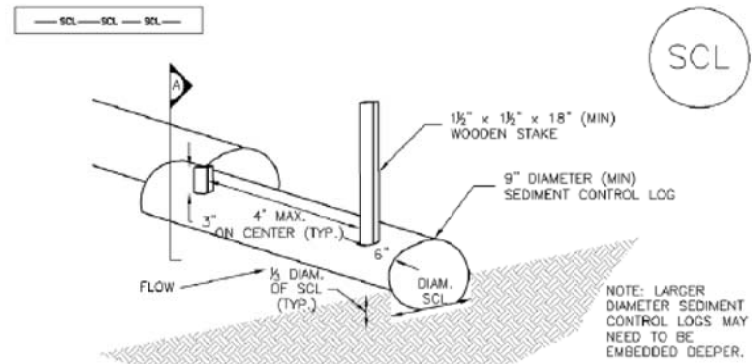
VERIFY SCALE BAR IS ONE INCH ON ORIGINAL DRAWING.

DATE	APRIL 2013
FILE	
DWG	STILLSON ESCP
SHEET	2 OF 3

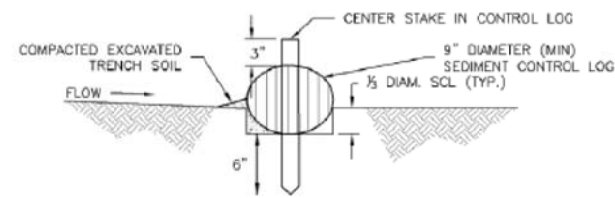
REUSE OF DOCUMENTS: THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF ENERTIA CONSULTING GROUP AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF ENERTIA CONSULTING GROUP.

Sediment Control Log (SCL)

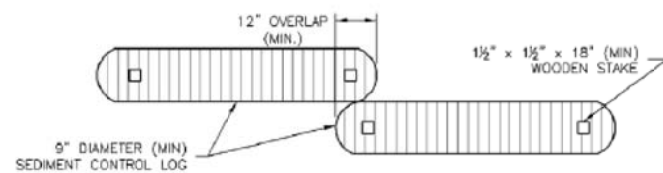
SC-2



SEDIMENT CONTROL LOG

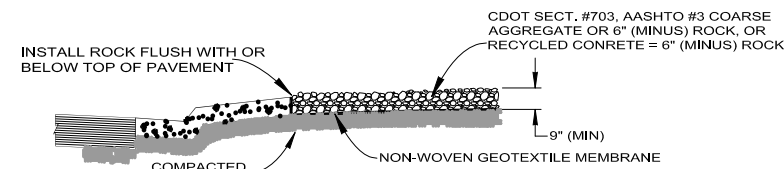
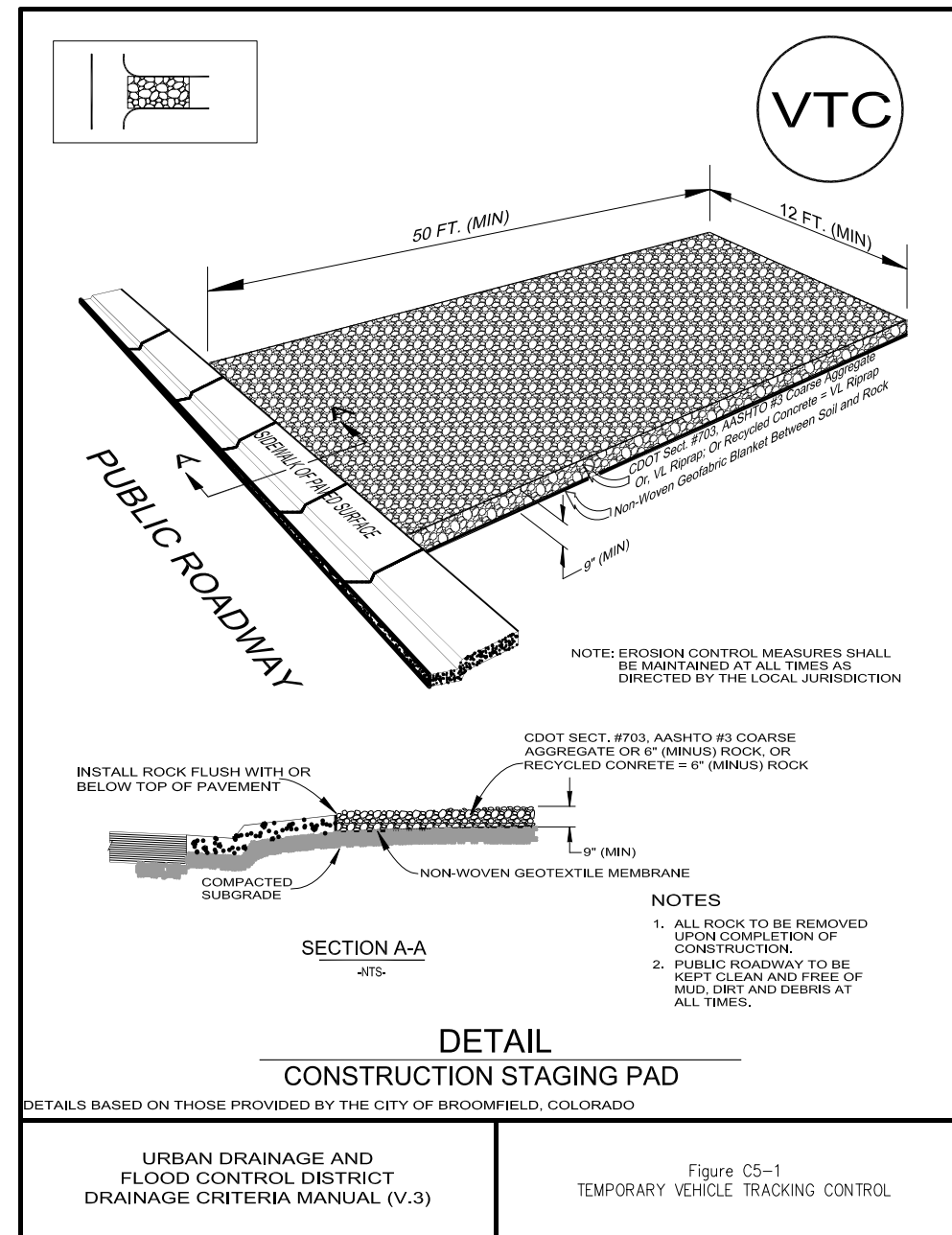


SECTION A



SEDIMENT CONTROL LOG JOINTS

SCL-1. SEDIMENT CONTROL LOG



SECTION A-A

- NOTES**
1. ALL ROCK TO BE REMOVED UPON COMPLETION OF CONSTRUCTION.
 2. PUBLIC ROADWAY TO BE KEPT CLEAN AND FREE OF MUD, DIRT AND DEBRIS AT ALL TIMES.

**DETAIL
CONSTRUCTION STAGING PAD**

DETAILS BASED ON THOSE PROVIDED BY THE CITY OF BROOMFIELD, COLORADO

URBAN DRAINAGE AND FLOOD CONTROL DISTRICT DRAINAGE CRITERIA MANUAL (V.3)

Figure C5-1
TEMPORARY VEHICLE TRACKING CONTROL

NO.	DATE	CHK	JEL	APVD	JSO

ENERTIA CONSULTING GROUP
 1437 LARIMER STREET
 DENVER, COLORADO 80202

Clean Energy COLLECTIVE
 Community-owned Solar

SUMMIT SOLAR 1
 STILLSON PROPERTY
 BRECKENRIDGE, COLORADO

EROSION AND SEDIMENT CONTROL
 DETAILS

NOT FOR CONSTRUCTION

VERIFY SCALE
 BAR IS ONE INCH ON
 ORIGINAL DRAWING.

DATE	APRIL 2013
FILE	
DWG	STILLSON ESCP
SHEET	3 OF 3

MEMORANDUM



TO: Town Council
FROM: Sherilyn Gourley, HR Manager
DATE: June 3, 2013
SUBJECT: Amendments to Town Code – Retirement Plan

Human Resources staff recently reviewed the Town Code language as it relates to the Employee Retirement Plan. This memorandum summarizes the amendments to the Code that are necessary to bring it up to date and to permit greater flexibility in the event future changes to the various plans are made.

I. Background

The Town currently maintains three (3) retirement plans, administered through the International City Management Association (ICMA) Retirement Corporation (RC). *These plans include:*

- a. 401a – Employees (Employer contribution, amount depending on years of service)
- b. 457 – Employees (Deferred compensation – no employer contribution)
- c. 401a – Town Manager (Separate plan - Employer & town manager may contribute)

II. Issues with the Current Town Code Language

The following issues exist with respect to the current language:

- **Eligibility:** The current code indicates that “regular full-time” employees are eligible. In fact, all “regular” employees are eligible, including $\frac{3}{4}$ “regular” employees.
- **401a Employee Plan:** The current code reflects an outdated 7% employer contribution to individual accounts. Changes to the employee 401a plan document were made several years ago that enable the employee to receive an additional 2% employer contribution after six (6) years in a benefit-eligible position, for a total 9% employer contribution. In addition, the employee must defer 1% to qualify for the 9%.
- **401a Town Manager Plan:** The current code language is not flexible and is specific to the current contract and current plan document only. Changes to the Town Manager 401 could feasibly occur in any new contract drafted for this individual or future individuals in this position.

III. Staff Recommendation

HR staff recommends that the language in the code be amended so that future code revisions are not required with each retirement plan change. Benefit plan changes would be reflected in separate retirement plan documents with ICMA-RC that are approved by the Town’s management and approved by Council as part of the budget approval. *Staff recommends general content in Chapter 10 to address the following:*

- **Plan Provisions:** A general statement that eligibility; plan requirements; amount of employee and employer contributions; and other provisions as necessary may be outlined specifically in plan documents
- **Council Authority:** A general statement that indicates council will budget, appropriate, and authorize the payment of contributions required by the town
- **Town Manager Authority:** A general statement that indicates the Town manager or other Town officer has authority within their scope of duties to take action

Question: *Does Council concur with the language amending the code as it relates to Retirement benefits?*

Please let me know what additional questions you have regarding these requested changes to the Town Code.

1 ***FOR WORKSESSION/FIRST READING – JUNE 11***

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2013

9
10 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 10 OF
11 TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOWN EMPLOYEE
12 RETIREMENT PLANS

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

16
17 Section 1. Chapter 10 of Title 1 of the Breckenridge Town Code, entitled “Employee’s
18 Retirement Plan”, is repealed and readopted with changes so as to read in its entirety as follows:

19
20 **CHAPTER 10**

21
22 **EMPLOYEE’S RETIREMENT PLANS**

23
24 **SECTION:**

25
26 **1-10-1: Employee Retirement Plans Authorized**

27 **1-10-2: Town Manager Retirement Plan**

28 **1-10-3: Required Plan Provisions**

29 **1-10-4: Employer Contributions**

30 **1-10-5: Ratification Of Prior Acts:**

31
32 **1-10-1: EMPLOYEE RETIREMENT PLANS AUTHORIZED: The Town**
33 **Manager is authorized to enter into one or more retirement plans for the**
34 **Town’s regular employees.**

35
36 **1-10-2: TOWN MANAGER RETIREMENT PLAN: In addition to other**
37 **employee retirement plans entered into on behalf of the Town pursuant to**
38 **Section 1-10-1, the Town may agree as part of an employment contract to**
39 **enter into a separate retirement plan for the use and benefit of the Town**
40 **Manager.**

41
42 **1-10-3: REQUIRED PLAN PROVISIONS: Any employee retirement plan**
43 **entered into on behalf of the Town pursuant to this Chapter shall describe,**
44 **without limitation, those Town employees who are eligible to participate in**
45 **the plan; the requirements for an employee to participate in the plan; the**
46 **vesting of benefits under the plan; the amount of any contributions required**

1 by the employee and the Town; the factors to be considered in determining
2 the amount of the Town's contribution to the plan; and other provisions
3 determined to be necessary or desirable by the Town.

4
5 1-10-4: EMPLOYER CONTRIBUTIONS: The Town Council shall annually
6 budget, appropriate, and authorize the payment of any contribution required
7 of the Town under an employee retirement plan entered into on behalf of the
8 Town pursuant to this Chapter.

9
10 1-10-5: RATIFICATION OF PRIOR ACTS: All actions taken by the Town
11 Manager or any other Town officer or employee acting within the course and
12 scope of their employment with respect to any retirement plan for Town
13 employees or officers is ratified, confirmed, and approved.

14
15 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
16 various secondary codes adopted by reference therein, shall continue in full force and effect.

17
18 Section 3. The Town Council hereby finds, determines and declares that it has the power
19 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
20 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

21
22 Section 4. This ordinance shall be published and become effective as provided by
23 Section 5.9 of the Breckenridge Town Charter.

24
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:

40
41
42
43 _____
44 Helen Cospolich
45 Town Clerk

46
47 500-337\Employee Retirement Plan Ordinance_4 (05-28-13)

1 **CURRENT TOWN CODE PROVISIONS REGARDING EMPLOYEE RETIREMENT**
2 **PLANS**

3 **Chapter 10**
4 **EMPLOYEE'S RETIREMENT PLAN**

- 5 1-10-1: TITLE:
6 1-10-2: COVERAGE:
7 1-10-3: ELIGIBILITY:
8 1-10-4: SERVICE:
9 1-10-5: VESTING SERVICE:
10 1-10-6: EMPLOYER CONTRIBUTIONS:
11 1-10-7: WHEN BENEFITS FROM TOWN CONTRIBUTIONS ARE PAYABLE:
12 1-10-8: METHODS OF PAYMENT:
13 1-10-9: SOCIAL SECURITY BENEFITS:
14 1-10-10: ADMINISTRATION OF THE PLAN:
15 1-10-11: PLAN ASSETS:
16 1-10-12: OPTIONAL OR ADDITIONAL PLANS:

17 **1-10-1: TITLE:**

18 This chapter and its exhibits shall be known as the *TOWN OF BRECKENRIDGE EMPLOYEE'S RETIREMENT PLAN* and shall hereinafter
19 be referred to as the plan. (Ord. 12, Series 1986)

20 **1-10-2: COVERAGE:**

21 All eligible employees of the town as hereinafter defined shall automatically be covered by the plan hereby established, which amends the
22 plan adopted by ordinance 21, series 1982. (Ord. 12, Series 1986)

23 **1-10-3: ELIGIBILITY:**

24 The plan shall cover all regular full time employees of the town, including police officers. Coverage is retroactive to January 1, 1986, for any
25 employee having six (6) consecutive months of employment service with the town as of January 1, 1986. Any regular full time employee not
26 employed with the town for six (6) consecutive months as of January 1, 1986, will be considered to be a member of the plan upon completion
27 of six (6) months of regular full time employment with the town. Each employee satisfying the above criteria shall be an "eligible employee"
28 under the plan. (Ord. 12, Series 1986)

29 **1-10-4: SERVICE:**

30 Service is the period of employment with the town calculated from the six (6) month anniversary date of an employee's appointment to a
31 regular full time position to the date the employment is terminated. (Ord. 12, Series 1986)

32 **1-10-5: VESTING SERVICE:**

33 Vesting service is the period of service with the town, calculated on the basis of one-twelfth ($1/12$) of a year for each month or portion of a
34 month (portion of a month is defined as at least $1/2$ a month) in the period from an employee's appointment to a regular full time position to
35 the date of the employee's termination. (Ord. 14, Series 1992)

36 **1-10-6: EMPLOYER CONTRIBUTIONS:**

37 As of each pay date, the town shall contribute to the plan seven percent (7%) of eligible employee's base salary excluding overtime and
38 benefits received during the pay period ending on the pay date for those employees participating in the plan. The seven percent (7%)
39 contribution rate shall be effective beginning January 2, 1988, and shall be the contribution rate from that date forward. (Ord. 39, Series
40 1987)

41 **1-10-7: WHEN BENEFITS FROM TOWN CONTRIBUTIONS ARE PAYABLE:**

42 Vesting schedule for determination of benefits:

<u>Years Of Vesting</u>	<u>Percent Of Town Contribution Account Vested</u>
Less than 3 years	0

3 years to 3 years, 364 days	50
4 years to 4 years, 364 days	65
5 years to 5 years, 364 days	80
6 years or more	100

Benefits are payable at separation of service or may be deferred until retirement. (Ord. 12, Series 1986)

1-10-8: METHODS OF PAYMENT:

A single lump sum payment equal to an employee's vested portion of the account balance following termination. In lieu of the lump sum payment, an employee may request any other payment permitted by the plan. (Ord. 12, Series 1986)

1-10-9: SOCIAL SECURITY BENEFITS:

The benefits employees receive under the plan are in addition to the benefits they may be entitled to under the federal social security program, if any. (Ord. 12, Series 1986)

1-10-10: ADMINISTRATION OF THE PLAN:

The plan will be administered by the International City Management Association Retirement Corporation. The cost of administration of the plan will be established by contract with the ICMA-RC. (Ord. 12, Series 1986)

1-10-11: PLAN ASSETS:

The funding vehicle which is to be utilized for the investment of plan assets shall be the ICMA retirement plan and trust. (Ord. 12, Series 1986)

1-10-12: OPTIONAL OR ADDITIONAL PLANS:

By specific discretionary contracts, the assistant town manager and department heads may elect to participate in the ICMA-RC deferred compensation plan in lieu of or in addition to the money purchase plan. (Ord. 12, Series 1986)

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MEMORANDUM



TO: Town Council
FROM: Sherilyn Gourley, HR Manager
DATE: June 3, 2013
SUBJECT: Amendments to Town Code – Planning Commission, Open Space Commission and Council Benefits

The Breckenridge Town Council recently recommended changes to the benefit programs for the Planning Commission (PC), Breckenridge Open Space Advisory Commission (BOSAC) and Elected Officials. This memorandum summarizes the amendments to Town Code that are necessary to support these changes.

I. Elected Official Insurance – Cost of Coverage

Background: During the recent spring retreat, staff presented Council with survey data and information related to the cost of insurance coverage – or rates – for elected officials. Comparison entity insurance rates charged to elected officials were compared to the Town’s. Following that presentation, Council determined that the rates charged to Town elected officials should be consistent with the rates charged active/current/eligible Town employees. Direction was given to staff the new insurance rates should only be available to members elected at the Town’s regular election April 2014 and in subsequent elections.

Staff Recommendation: Section 1 in the attached ordinance describes the change requested by the Council.

Question: Does Council concur with the language amending the code as it relates to the costs that will be charged to future elected council members for insurance coverage?

II. PC and BOSAC Benefits

Background: During the budget retreat in the fall of 2012, the Council authorized a \$500 annual recreation benefit for PC and BOSAC appointees. However, such benefits for PC and BOSAC are not referenced in the Town Code, and should be addressed in some manner.

Staff Recommendation: As recreation benefit programs can change from time to time, HR Staff recommends greater flexibility in the Code language for PC and BOSAC appointees. These amendments will enable the Town to alter recreation or similar benefits for these two commissions without further changes to Town Code. The actual benefits provided will be reflected in the Town’s policies, practices or plans as authorized by the amended code change. Section 2 in the attached ordinance applies to the Planning Commission and Section 3 applies to BOSAC.

Question: Does Council concur with the language amending the code as it relates to PC and BOSAC benefits?

Please let me know what additional questions you have regarding these changes to the Town Code.

1 ***FOR WORKSESSION/FIRST READING – JUNE 11***

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2013

9
10 AN ORDINANCE CONCERNING BENEFITS PROVIDED TO MEMBERS OF THE TOWN
11 COUNCIL, THE PLANNING COMMISSION, AND THE OPEN SPACE ADVISORY
12 COMMISSION

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

16
17 Section 1. Section 1-7-1(A) of the Breckenridge Town Code is amended by the addition
18 of a new subsection (6), which shall read in its entirety as follows:

19
20 **6. Insurance: For those members of the Town Council elected at the Town's**
21 **regular election to be held April 1, 2014, and for all members of the Town**
22 **Council and the Mayor elected or appointed to office thereafter, the cost of**
23 **participating in the Town's health insurance plans shall be the same as the**
24 **cost paid by the active/current/eligible Town employees who participate in**
25 **such plans.**

26
27 Section 2. The Breckenridge Town Code is amended by the addition of a new Section
28 2-2-10, which shall read in its entirety as follows:

29
30 **2-2-10: BENEFITS: In addition to the compensation described in Section**
31 **2-2-9, planning commission members shall receive such benefits from the**
32 **Town as may be provided by from time to time by Town policies, practices,**
33 **or plans.**

34
35 Section 3. The Breckenridge Town Code is amended by the addition of a new Section
36 2-4-4-1, which shall read in its entirety as follows:

37
38 **2-4-4-1: BENEFITS: In addition to the compensation described in Section**
39 **2-4-4, commission members shall receive such benefits from the Town as may**
40 **be provided by from time to time by Town policies, practices, or plans.**

41
42 Section 4. Except as specifically amended hereby, the Breckenridge Town Code, and the
43 various secondary codes adopted by reference therein, shall continue in full force and effect.
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Section 5. The Town Council hereby 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 6. 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:

Helen Cospolich
Town Clerk

MEMORANDUM

To: Mayor and Town Council
From: Clerk & Finance Division
Date: June 4, 2013
Subject: Administrative Rules and Regulations Ordinance / Administrative License
Administrative Rules and Regulations

The attached Ordinance is being provided for Council's review. This Ordinance is provided in order to create and administrative business license and allow the Financial Services Manager the power to adopt Administrative Rules and Regulations.

Staff expects that the clarification and guidance provided in this Ordinance will facilitate an improved and more transparent process for the public. The guidelines are also intended to prevent potential disputes related to any misinterpretations of the Code.

We ask that Council review the attached ordinance and regulations. Staff will be present during the June 11, 2013 Work Session to respond to any questions that Council may have.

1 **FOR WORKSESSION/FIRST READING – JUNE 11**

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By ; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2013

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN
11 CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE “BUSINESS AND
12 OCCUPATIONAL LICENSES AND TAX ORDINANCE”, BY AUTHORIZING THE
13 FINANCIAL SERVICES MANAGER TO ISSUE AN ADMINISTRATIVE BUSINESS AND
14 OCCUPATIONAL LICENSE; ESTABLISHING THE REQUIREMENTS FOR AN
15 ADMINISTRATIVE BUSINESS AND OCCUPATIONAL LICENSE; AND MAKING
16 ADDITIONAL MISCELLANEOUS AMENDMENTS TO SUCH ORDINANCE

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

20
21 Section 1. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of the
22 following definitions:
23

ADMINISTRATIVE LICENSE:

**A license issued by the Financial Services
Manager pursuant to Section 4-1-8-2 of this
Chapter.**

**FINANCIAL SERVICES
MANAGER:**

**The Financial Services Manager of the
Town, or such person’s designee.**

24 Section 2. The definition of “Licensee” in Section 4-1-2 of the Breckenridge Town Code is
25 amended to read as follows:
26

LICENSE:

A license issued by the ~~town clerk~~**financial
services manager** pursuant to this chapter.

27 Section 3. The definition of “Licensed Premises” in Section 4-1-2 of the Breckenridge
28 Town Code is amended to read as follows:
29

LICENSED PREMISES:

A premises for which a license has been issued
by the ~~town clerk~~**financial services manager**
pursuant to this chapter.

1 Section 4. The definition of “Licensee” in Section 4-1-2 of the Breckenridge Town Code is
2 amended to read as follows:
3

 LICENSEE: A person to whom a license has been issued by
 the ~~town clerk~~ **financial services manager**
 pursuant to this chapter.

4 Section 5. Section 4-1-5(A) of the Breckenridge Town Code is amended to read as
5 follows:
6

7 A. The ~~town clerk~~ **financial services manager** shall issue a license under this
8 chapter upon presentation of a completed application therefor and payment of the
9 fee required by section 4-1-4 of this chapter.

10 1. The ~~town clerk~~ **financial services manager** shall issue a license for a
11 single-family accommodation unit under this chapter only to the owner of such
12 single-family accommodation unit.
13

14 Section 6. Section 4-1-7 of the Breckenridge Town Code is amended to read as follows:
15

16 4-1-7: DENIAL OF LICENSE:
17

18 A. An application for the initial issuance or renewal of an annual business license
19 shall be denied by the ~~town clerk~~ **financial services manager**:
20

- 21 1. If the business for which the license is sought is an unlawful business;
22
23 2. If the applicant is not qualified to engage in such business under applicable
24 federal, state or local law; or
25
26 3. If the applicant or, in the event of an applicant which is other than a natural
27 person, if any principal of the applicants, owes to the town any unpaid and
28 delinquent tax of any kind. As used in this subsection, the term “principal” means:
29 a) as to a corporation, any officer, director, or shareholder owning fifty percent
30 (50%) or more of the issued and outstanding capital stock of the corporation, b) as
31 to any general partnership, any partner, c) as to any limited partnership, any general
32 partner, and d) as to any limited liability company, any manager or member owning
33 more than fifty percent (50%) interest in the entity. The term “delinquent” means
34 the nonpayment of any tax obligation owed to the town within sixty (60) days of
35 the date such obligation is due.
36

37 B. Before denying an application the ~~town clerk~~ **financial services manager** shall
38 cause a hearing to be held using the general procedures provided for the revocation
39 of a license in section 4-1-10-1 of this chapter. In the event an application is denied,
40

1 the ~~town clerk~~ **financial services manager** shall deliver to the applicant a written
2 order of denial stating the reason for denial, together with a refund of the license fee
3 submitted with the application.
4

5 Section 7. Section 4-1-8(A) of the Breckenridge Town Code is amended to read as
6 follows:
7

8 A. Public Streets And Rights Of Way: It shall be unlawful to conduct any business
9 on the public streets or public rights of way in the town **without a permit issued**
10 **pursuant to chapter 15 of this title, or as otherwise authorized by applicable**
11 **law.**
12

13 Section 8. Section 4-1-8-1 of the Breckenridge Town Code is amended to read as follows:
14

15 4-1-8-1: SPECIAL CONDITIONS OF LICENSE; SINGLE-FAMILY
16 ACCOMMODATION UNITS:
17

18 A. Special Conditions: In addition to the other requirements of this chapter, the
19 owner of a single-family accommodation unit licensed pursuant to this chapter
20 shall, as a condition of such license, be subject to the following requirements:
21

22 1. The motor vehicles of all occupants of the single-family accommodation unit
23 shall be parked only on the site of the single-family accommodation unit, or in a
24 town designated parking area located off of the site of the single-family
25 accommodation unit. No motor vehicles shall be parked on the lawn or landscaped
26 areas of a single-family accommodation unit, or in the public street or right of way
27 adjacent to the single-family accommodation unit. No person shall be permitted to
28 stay overnight in any motor vehicle which is parked at a single-family
29 accommodation unit. Further, all motor vehicles parked at a single-family
30 accommodation unit shall comply with the requirements and be subject to the
31 limitations of section 9-3-11 of this code.
32

33 2. No privately owned, nongovernmental vehicle with a passenger capacity of
34 sixteen (16) persons or more shall be used to transport persons to or from a
35 single-family accommodation unit, or parked upon the premises of a single-family
36 accommodation unit.
37

38 3. The storage and disposal of all trash and garbage from a single-family
39 accommodation unit shall comply with the requirements of title 5, chapter 2 of this
40 code.
41

42 4. While occupying a single-family accommodation unit, no person shall: a) make,
43 cause or control unreasonable noise upon the single-family accommodation unit
44 which is audible upon a private premises that such occupant has no right to occupy

1 in violation of subsection 6-3C-1A2 of this code, or b) violate title 5, chapter 8 of
2 this code.

3
4 5. No single-family accommodation unit shall be operated in such a manner as to
5 constitute a nuisance pursuant to title 5, chapter 1 of this code.

6
7 6. The licensee shall provide to the ~~town clerk~~ **financial services manager** the
8 name, address and telephone number of any current management company, rental
9 agency or other person employed or engaged by the licensee to manage, rent or
10 supervise the single-family accommodation unit. It shall be the duty of the licensee
11 to update such information throughout the term of the license so that the ~~town~~
12 ~~clerk~~ **financial services manager** always has the correct and current information.

13
14 7. At the time of the issuance of the license the licensee shall provide to the ~~town~~
15 ~~clerk~~ **financial services manager** the name, address and telephone number of a
16 local contact person who is authorized by the licensee to receive communications
17 from the town concerning the single-family accommodation unit. The local contact
18 person may be a management company, rental agent or other person employed or
19 engaged by the licensee to manage, rent or supervise the single-family
20 accommodation unit. The local contact person shall maintain a residence or
21 permanent place of business within the town. The designated local contact person
22 may be changed by the licensee from time to time throughout the term of the
23 license. To effect such change, the licensee shall notify the ~~town clerk~~ **financial**
24 **services manager** of the change in writing and shall, at the same time, provide the
25 ~~town clerk~~ **financial services manager** with the name, address and telephone
26 number of the licensee's replacement contact person. Any replacement contact
27 person shall meet the requirements of this subsection A7.

28
29 B. Owner Liable: Compliance with the special conditions set forth in subsection A
30 of this section shall be the nondelegable responsibility of the owner of a
31 single-family accommodation unit; and each owner of a single-family
32 accommodation unit shall be strictly liable for complying with the conditions set
33 forth in subsection A of this section.

34
35 C. Licensee To Receive Special Conditions: At the time of the issuance of a license,
36 the ~~town clerk~~ **financial services manager** shall provide the licensee with a copy of
37 the special conditions set forth in subsection A of this section.

38
39 D. Licensee To Post License And Special Conditions: The licensee shall post a
40 copy of the license and the special conditions set forth in subsection A of this
41 section in a conspicuous location in the single-family accommodation unit. The
42 license and the special conditions shall remain continuously posted in the
43 single-family accommodation unit throughout the term of the license.

1 E. Licensee To Provide Management Company With Special Conditions: The
2 licensee shall provide any management company, rental agency or other person
3 employed or engaged by the licensee to manage, rent or supervise the single-family
4 accommodation unit with a copy of the special conditions set forth in subsection A
5 of this section.
6

7 F. Revocation Or Suspension Of License: The failure of the licensee of a
8 single-family accommodation unit to comply with the special conditions set forth
9 in subsection A of this section shall constitute grounds for the suspension or
10 revocation of the license. Any action to suspend or revoke the license shall be
11 conducted by the ~~town clerk~~ **financial services manager** in accordance with
12 section 4-1-10-1 of this chapter.
13

14 Before an action is commenced to suspend or revoke a license for a single-family
15 accommodation unit, the ~~town clerk~~ **financial services manager** shall first provide
16 the licensee with a written warning that an apparent violation of the special
17 conditions of subsection A of this section has occurred, and the licensee shall be
18 given a reasonable opportunity to cure such apparent violation. A copy of such
19 warning notice shall also be sent to any management company, rental agency or
20 other person employed or engaged by the licensee to manage, rent or supervise the
21 licensed premises who has been properly identified by the licensee pursuant to
22 subsection A6 of this section and to the local contact person identified by the
23 licensee pursuant to subsection A7 of this section. Not more than one written
24 warning shall be required to be sent during the term of each license.
25

26 Section 9. Chapter 1 of Title 4 of the Breckenridge Town Code is amended by the addition
27 of a new Section 4-1-8-2, to be entitled “Administrative License”, which shall read in its entirety
28 as follows:
29

30 **4-1-8-2: ADMINISTRATIVE LICENSE: The Financial Services Manager may**
31 **issue an administrative business and occupational license to an applicant if doing so**
32 **would be in the best interest of the Town because either: (1) the Town is the**
33 **applicant’s only customer within the Town limits; or (2) the only location within**
34 **the Town limits at which the applicant does business is a Town-owned facility.**
35 **All provisions of this Chapter shall apply to an administrative business and**
36 **occupational license issued pursuant to this Chapter unless the Financial Services**
37 **Manager determines otherwise; provided, however, there shall be no license fee**
38 **required in connection with such license. The Financial Services Manager may issue**
39 **administrative regulations governing administrative business and occupational**
40 **licenses issued pursuant to this Section.**

41
42 Section 10. Section 4-1-10 of the Breckenridge Town Code is amended to read as follows:
43

1 4-1-10: ADMINISTRATION AND ENFORCEMENT:
2

3 A. Administration: The administration of the annual business licenses required by
4 this chapter shall be vested in the ~~town clerk~~**financial services manager** who is
5 authorized to do the following:
6

7 1. Collect license fees;
8

9 2. Adopt all forms and prescribe the information to be given therein;
10

11 3. Promulgate and enforce all reasonable rules and regulations necessary to the
12 operations and enforcement of this chapter. **Such administrative rules and**
13 **regulations shall be adopted in accordance with the procedures established by**
14 **Chapter 18 of Title 1 of this Code;**
15

16 4. Investigate and determine the eligibility of each applicant for an annual business
17 license;

18 5. Investigate, determine and order the revocation or suspension of an annual
19 business license for violation by the licensee of a provision of this chapter;
20

21 6. Examine at any time those records of each licensee which the ~~town~~
22 ~~clerk~~**financial services manager** determines are necessary to verify license
23 requirements provided the contents of such records shall remain confidential and
24 not a part of the public records. (Ord. 38, Series 1986)

25 B. Enforcement: The town may seek an injunction pursuant to section 1-8-10 of
26 this code, or other applicable law, to restrain a person from engaging in business on
27 premises within the town who has not obtained an annual business license under
28 this chapter or whose license is revoked or suspended, and this remedy shall be in
29 addition to all other remedies prescribed in this chapter by law.
30

31 C. Presumption Of Continued Use: With respect to a license issued under this
32 chapter to the owner of an accommodation unit, the ~~town clerk~~**financial services**
33 **manager** shall be entitled to presume that such unit will continue to be rented as an
34 accommodation unit in the next license year, thereby obligating such person to
35 obtain a license for such unit under this chapter, until such time as the owner of
36 such unit submits information to the ~~town clerk~~**financial services manager**, under
37 oath, which demonstrates that such unit will not be rented as an accommodation
38 unit.
39

40 D. Obligation To Provide Information: It shall be unlawful for any owner of real
41 property within the town to fail or refuse to provide to the ~~town clerk~~**financial**
42 **services manager** upon request information sufficient to permit the ~~town~~
43 ~~clerk~~**financial services manager** to determine if such person is required to obtain a

1 license pursuant to this chapter. Any person convicted of violating the provisions of
2 this subsection shall be punished as provided in subsection 4-1-11B of this chapter.

3
4 Section 11. Section 4-1-10-1 of the Breckenridge Town Code is amended to read as
5 follows:

6
7 4-1-10-1: SUSPENSION OR REVOCATION OF LICENSES; PAYMENT OF
8 FINE IN LIEU OF SUSPENSION:

9
10 A. A license issued pursuant to this chapter may be revoked by the ~~town~~
11 clerk**financial services manager** after hearing for the following reasons:

- 12
13 1. Fraud, misrepresentation or a false statement of material fact contained in the
14 license application;
15
16 2. Any violation of the provisions of this chapter; or
17
18 3. As to any person required to have a town sales tax license pursuant to title 3,
19 chapter 1 of this code, proof that such license has been revoked by the finance
20 director in accordance with section 3-1-23 of this code.

21
22 In connection with the suspension of a license, the ~~town clerk~~**financial services**
23 **manager** may impose reasonable conditions.

24
25 B. Notice of a hearing to be held pursuant to this chapter shall be given by the ~~town~~
26 clerk**financial services manager** in writing to the licensee at the address shown on
27 the license application, the management company, rental agency or other person
28 employed or engaged by the licensee to manage, rent or supervise the licensed
29 premises who has been properly identified by the licensee pursuant to subsection
30 4-1-8-1A6 of this chapter, and to the local contact person identified by the licensee
31 pursuant to subsection 4-1-8-1A7 of this chapter. Such notice shall set forth the
32 grounds for the hearing, and the time and place of the hearing. Such notice shall be
33 mailed to the licensee, the management company, rental agency or other person
34 employed or engaged by the licensee to manage, rent or supervise the licensed
35 premises who has been properly identified by the licensee pursuant to subsection
36 4-1-8-1A6 of this chapter, and to the local contact person identified by the licensee
37 pursuant to subsection 4-1-8-1A7 of this chapter, postage prepaid, at least twenty
38 (20) days prior to the date set for the hearing. At the hearing the licensee may
39 appear with or without counsel and present such evidence as may be relevant.

40
41 C. In deciding whether a license should be suspended or revoked in accordance
42 with this section, and in deciding what conditions to impose in the event of a
43 suspension, if any, the ~~town clerk~~**financial services manager** shall consider: 1) the
44 nature and seriousness of the violation; 2) corrective action, if any, taken by the

1 licensee; 3) prior violation(s), if any, at the licensed premises by the licensee and
2 the effectiveness of prior corrective action, if any; 4) the likelihood of recurrence;
3 5) all circumstances surrounding the violation; 6) whether the violation was willful;
4 7) the length of time the license has been held by the licensee; 8) the number of
5 violations by the licensee within the applicable twelve (12) month period; 9)
6 previous sanctions, if any, imposed against the licensee; and 10) other factors
7 making the situation with respect to the licensee or the licensed premises unique.
8

9 D. If the ~~town clerk~~**financial services manager** determines after a hearing that
10 cause exists for the imposition of a sanction against a licensee of a single-family
11 accommodation unit pursuant to section 4-1-8-1 of this chapter, the ~~town~~
12 ~~clerk~~**financial services manager** shall impose the following sanction against the
13 licensee:
14

First violation within 12 months:

Suspension of license for 30 days. Licensee may pay administrative fine of \$200.00 within 3 days of entry of suspension order in lieu of serving suspension.

Second violation within 12 months:

Suspension of license for 60 days. Licensee may pay administrative fine of \$500.00 within 3 days of entry of suspension order in lieu of serving suspension.

Third violation within 12 months:

Suspension of license for 90 days. Licensee may pay administrative fine of \$999.00 within 3 days of entry of suspension order in lieu of serving suspension.

Fourth and each subsequent violation within 12 months:

Suspension for such period of time as ~~town clerk~~**financial services manager** may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the ~~town clerk~~**financial services manager** shall consider the factors set forth in subsection

C of this section. For a fourth and each subsequent violation occurring within a 12 month period, no administrative fine may be accepted by the ~~town clerk~~ **financial services manager** in lieu of the licensee serving a suspension or revocation.

1 E. If a license is suspended by the ~~town clerk~~ **financial services manager**, upon the
2 timely payment of the optional administrative fine as set forth above, the
3 suspension order shall be deemed to have been satisfied. If a licensee shall elect not
4 to pay the optional administrative fine as set forth above, the order of suspension
5 shall become effective immediately, and no business shall be conducted by the
6 licensee at the licensed premises during the period of suspension.
7

8 F. If the ~~town clerk~~ **financial services manager** suspends or revokes a business and
9 occupational tax license, the aggrieved licensee may appeal said suspension or
10 revocation to the town council by filing a letter of appeal with the town manager
11 within twenty (20) days after the date of mailing of the ~~town clerk~~ **financial**
12 **services manager**'s order of suspension or revocation. The clerk's suspension or
13 revocation of the license shall be stayed until the appeal has been determined by the
14 town council. The town council shall conduct a de novo hearing on the appeal at a
15 regular or special town council meeting held within thirty (30) days of date of the
16 filing of the letter of appeal, unless the licensee agrees to a longer time. Notice of
17 the de novo hearing shall be given to the licensee by the ~~town clerk~~ **financial**
18 **services manager** at least twenty (20) days before the hearing. The burden of proof
19 in the appeal shall be on the town. At the appeal, the licensee may appear with or
20 without counsel and present such evidence as may be relevant. The strict rules of
21 evidence shall not apply to the de novo hearing. If the town council finds by a
22 preponderance of the evidence that grounds for suspension or revocation of the
23 license exist as specified in this chapter, the town council may order the license
24 suspended or revoked; provided, however, that if the license is for a single-family
25 accommodation unit, the town council shall adhere to the provisions of subsection
26 D of this section. If the town council finds by a preponderance of the evidence that
27 no grounds exist for the suspension or revocation of the license, the appeal shall be
28 sustained, and the ~~town clerk~~ **financial services manager**'s order of suspension or
29 revocation shall be set aside. The town council's decision shall be final, subject to
30 the right of the licensee to contest the matter in an appropriate court action
31 commenced under rule 106(a)(4) of the Colorado rules of civil procedure. For
32 purposes of determining the time limit for the commencement of an action under
33 rule 106(a)(4) of the Colorado rules of civil procedure, the town council's decision

1 shall be deemed to be final upon the council's issuance of a written order of
2 suspension or revocation of a license.

3
4 G. A person whose license has been revoked under this section may not apply for a
5 new license for the same premises a period of one year from the date the revocation
6 took effect.

7
8 H. No portion of a license fee previously paid by a licensee shall be refunded if
9 such license is suspended or revoked.

10
11 Section 12. Based upon the information provided to it in connection with the adoption of
12 this ordinance by the Financial Services Manager of the Town, the Town Council finds,
13 determines, and declares that the adoption of this ordinance will not result in a net tax revenue gain
14 to the Town within the meaning of Article X, Section 20 of the Colorado Constitution, also known
15 as the "TABOR Amendment."

16
17 Section 13. Except as specifically amended hereby, the Breckenridge Town Code, and the
18 various secondary codes adopted by reference therein, shall continue in full force and effect.

19
20 Section 14. The Town Council finds, determines, and declares that it has the power to
21 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of
22 the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

23
24 Section 15. This ordinance shall be published and become effective as provided by Section
25 5.9 of the Breckenridge Town Charter.

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

31
32 TOWN OF BRECKENRIDGE, a Colorado
33 municipal corporation

34
35 By _____
36 John G. Warner, Mayor

37
38 ATTEST:

39 _____
40 Helen Cospolich
41 Town Clerk

42
43
44
45 400-3-0\BOLT Ordinance Re Administrative License_3 (06-04-13)(First Reading)

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein, Assistant Town Engineer
DATE: June 5, 2013
RE: Public Projects Update

2013 Main Street Improvements

The work on the Main Street improvements has transitioned this week from the east side of Main Street to the west. Work this week will include demolition of the existing sidewalk on the west side followed in the next two weeks with installation of surface curb & gutter and sidewalk improvements. Asphalt paving of the west side of Main through Adams and Jefferson is scheduled for early in the week of June 24th with the goal of completion by June 27th. No additional closures of Main Street are expected unless there are unusual weather delays.

CDOT Highway 9 Project

Work on State highway 9 north of Tiger Road began this week by CDOT. We understand from information received from CDOT that they will concentrate efforts this season on work north of Tiger Road. The work on the portion of SH 9 south of Tiger Road and the roundabout at Fairview will happen in 2014.

Arts District

Staff is working with the design team to complete the final construction documents for the build out project. The first phase of work, which includes deep and shallow utilities, grading, and realignment of the sidewalk on Washington Avenue, is scheduled to begin in mid-July.

Proposals for the Abby Hall programming and building assessment project will be received by the Town on June 14th. Staff will evaluate the proposals and hope to have a design team under contract by mid July. The building assessment, programming level design, and initial cost estimates for the rehabilitation project are planned to be completed by the end of September.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: June 6, 2013
SUBJECT: Committee Reports for 06-11-2013 Council Packet

The following committee reports were submitted by Town Employees and/or the Town Manager:

No reports were submitted this month.

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissions Meeting	Mayor Warner	Verbal Report
Summit Leadership Forum	Tim Gagen	No Meeting/Report
Liquor Licensing Authority*	Helen Cospolich	No Meeting/Report
Wildfire Council	Matt Thompson	No Meeting/Report
Public Art Commission*	Jenn Cram	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	No Meeting/Report
Police Advisory Committee	Chief Haynes	No Meeting/Report
Housing/Childcare Committee	Laurie Best	Verbal Report
CMC Advisory Committee	Tim Gagen	No Meeting/Report

***Note:** Reports provided by the Mayor and Council Members are listed in the council agenda.*

** Minutes to some meetings are provided in the Manager's Newsletter.*

2012 BRECKENRIDGE RECREATION DEPARTMENT ANNUAL REPORT





Insights from the Recreation Director

Dear Recreation Department Stakeholders,

It is truly my pleasure to present this annual report to all of you and share the tremendous successes that we achieved, the positive impacts we had, and the challenges that we overcame in 2012. Financially, the Recreation Department experienced another impressive year. Expenses were maintained just below levels achieved in 2006, which was established as a target during the budget reset in 2008 due to economic conditions at the time. Revenues remained strong in 2012 as well at just over \$2.7M, just below 2011 revenues which were an all-time high for the department. The department required a total subsidy that was \$333,182 less than what was provided in 2006. Total cost recovery for the department was over 65%.

While the financials are very important and a constant focus for us staff as an indicator of our fiscal performance, there are many other indicators that are equally important in assessing our performance and the impact we are able to have on our community and visitors. One standard measure that we use, which reflects how our customers perceive us, is the Net Promoter Score. Utilized by companies large and small across the country, the measure indicates the percentage of customers who would refer another individual to use a company's services. Our Net Promoter Score of 79 is very favorable and is higher than the scores of companies such as Costco, Amazon, and Apple. Another important measure is the number of people that we served during the year, and in 2012, it was the highest ever at over 267,000. A final measure or indicator that I will share is the reduction in energy use that the department realized in 2012. In line with our commitment to sustainability, the department pursued energy saving measures which resulted in energy expenses that were equivalent to 2002 levels.

In 2012, the Golf Course Maintenance Division was integrated into the Recreation Department and I am happy to report that the transition has gone extremely well and created better efficiencies and communication for our Gold Run Nordic Center operations. We look forward to continuing what has become a great relationship.

As we continue into 2013, the department will be focused on opening a new family based recreation amenity on the outdoor ice rink to be open during the summer months, continuing to work with local non-profits to improve the quality of life for Breckenridge residents and visitors, and engaging with our customers to ensure that we are meeting their needs through the management of our public facilities, facilitation of programming and services, and continuing enhancement of recreational opportunities and resources. Thanks for all of your continued support!

Cheers,

Mike Barney
Director of Recreation, Town of Breckenridge

Acknowledgements

2011 Breckenridge Town Council



(Pictured left to right: Ben Brewer, Mike Dudick, Jen McAtamney, John Warner, Wendy Wolfe, Mark Burke, Gary Gallagher)

Recreation Department Management



Mike Barney
Director of Recreation



Jenise Jensen
Administrative Manager



Kevin Zygulski
Rec Facility Operations Manager



Bree Hare
Recreation Programs Manager



Jim Byers
Golf Course Superintendent

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Vision, Mission & Values



VISION

Breckenridge Recreation Department, leading Colorado's most active and healthy community!



MISSION

The Breckenridge Recreation team offers quality programs, facilities, and services that encourage community participation and promote fun, physical activity, and growth.



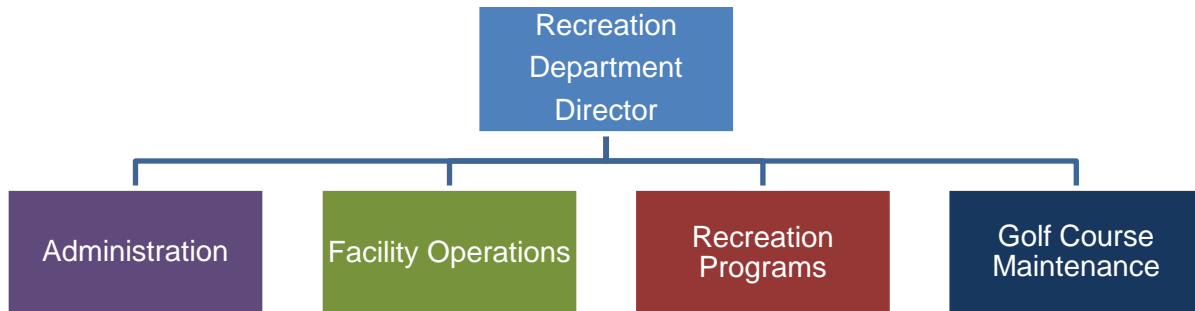
VALUES

Influence • Relationships • Adaptability
Knowledge • Communication

Department Overview

Recreation Department Divisions

The Recreation Department is separated into four separate operating divisions. Those divisions are: Administration, Facility Operations, Recreation Programs, and Golf Course Maintenance.



The **Administrative Division** of the Town of Breckenridge Recreation Department consists of the following:

- Personnel administration and support for the department, including approximately 28 full time and over 200 part-time and/or seasonal employees.
- Software systems, processes and support for the Active software, which handles facility reservations, program registration, membership sales, and POS transactions for all financial transactions throughout the department.
- Finances, including reconciliations, record keeping, budgeting and reporting.
- Marketing and advertising, including website and social media development.
- Business development, strategic partnerships, grant administration and public relations

The **Facilities Operations Division** of the Town of Breckenridge Recreation Department consists of the following:

- Operational management of the Rec Center
- Operational management of the Stephen C. West Ice Arena, including indoor and outdoor ice sheets, pro shop, meeting rooms, guest services, and facility rentals and events.
- Permitting of Carter Park and Kingdom Park Amenities, and tennis court reservations.
- Fitness, wellness programs, and personal training programs.
- Aquatics programs and operations.

The **Recreation Programs Division** of the Town of Breckenridge Recreation Department consists of the following:

- General programming for programs offered at the Recreation Center and at various locations throughout Town, including adult sports, youth sports, sports camps, special events, and race series that accompany Town events
- Climbing wall and climbing programs and outdoor recreation programming
- Bearly Big childcare, toddler programs, preschool programs, home-school programs, licensed childcare including afterschool and summer day camp, and teen programs
- Ice Arena programming, including curling, broom ball, hockey leagues, tournaments, learn to skate, freestyle, ice shows, and special events
- Operations and facility management for Gold Run Nordic Center, including guest services, pro shop, lessons, clinics, skier services, and special events

The **Golf Course Maintenance Division** of the Town of Breckenridge Recreation Department consists of the following:

- Maintenance and stewardship of the 27-hole Jack Nicklaus Signature golf course, practice areas, clubhouse grounds and Rounds Park
- Maintenance of all golf and Nordic equipment and vehicles
- Protection and enhancement of wetlands, native areas, and wildlife habitat on the golf course property
- Maintenance/grooming of the trail system of the Gold Run Nordic Center

Partnerships

The Recreation Department is committed to providing recreational opportunities for the community. To that end, the Department partners with a number of organizations and businesses by providing facilities, services and fundraisers that support many community organizations and activities. Some of the more significant partnerships include:

- Breckenridge Ski Resort – In 2012, the Programs Division and Breckenridge Ski Resort teamed up to bring the community the 3rd Annual Breck Ascent Series. The series features 5 different courses over the winter that gives racers of varying abilities and ages the chance to come out and experience the mountain in a different way. The 2012 Breck Ascent Series encompassed a total of 249 racers, both local and visitors. Total revenue of \$3,579 was split evenly between the Town of Breckenridge & Breckenridge Ski Resort.
- The Programs Division and The North Face teamed up to bring the community the 11th Annual Summit Trail Running Series (STRS). The series features 6 different race courses over the summer that gives runners of varying abilities and ages the chance to come out and really see how special and great the trail system is around the Breckenridge community. The 2012 STRS recorded a total of 1,047 racers, both local and visitors and accounted for \$14,235 in race fees. Races had a mix of both paid staff and volunteer members to assist with the running of the events.
- In 2012, Gold Run Nordic Center hosted the Bill Koch Youth Ski League with 64 participants. Named after an Olympic Nordic skier, this nationally recognized program focuses on teaching kids aged 5-14 fundamentals of the sport while having fun. Kids were able to participate in Thursday night social races where the emphasis was on camaraderie and improvement, rather than speed. The Summit Nordic Ski Club provided a stipend to pay coaches for practices. The Wellington and Peak One Neighborhoods provided snacks, social media marketing and pictures to promote and enhance the program.



- In July 2012 the Breckenridge Mountain Camp partnered with the American Cancer Society to raise funding and awareness about cancer prevention. Campers logged over 200 miles hiking and obtained sponsorship for each mile. Campers and their families raised \$800. Due to the success of this partnership, staff plans to participate again next year.
- The Hockey Classic, a fundraiser for Summit Youth Hockey Association, raised over \$28,195 on March 30-31. The event is annually played on a Friday and Saturday, with local adult league players as well as celebrity players. Four teams play a round robin format and the teams were sponsored by Peak One Surgery Center, Vail Summit Orthopedics, Beaver Run Resort, and Copper Mountain.
- On October 12-14th, the annual Kingdom Kup Hockey Tournament was hosted at the Ice Arena as another fundraiser for Summit Youth Hockey Association. The tournament included 11 teams for Midget aged players (15-17 yrs old), raising \$11,521.
- The Ice Arena hosted 6 Domus Pacis Family's this year. Domus Pacis Respite encourages cancer patients, their families and friends to escape to the beauty of the mountains and experience the peace that comes from creating joyful memories with the people they most cherish. The Ice Arena welcomed these families with free admission to Public Skating sessions and pictures on the Olympia Ice Resurfacer as a keepsake.
- The Outdoor Programs area continues to have a solid partnership with the Bedker family. The Bentley Bedker Climbing Scholarship continued in 2012 with a refinement in the application and selection processes. Donations totaled \$4,500 with a total of \$1,100 in scholarships awarded.



The Recreation Department provides support to over 25 local non-profit organizations with donations or in-kind services, including the Summit Foundation, the Summit Nordic Ski Club, Summit Youth Hockey Association, Carriage House, Advocates for Victims of Assault, Team Breck, the Family Intercultural Resource Center, Keystone Science School, Little Red, the BOEC, Mountain Top Children's Museum, Breckenridge Elementary School, Upper Blue Elementary School, Summit High School, the National Repertory Orchestra and the Breckenridge Music Festival, Breckenridge Film Festival, LAPS, and the Lake Dillon Foundation for the Performing Arts.

Recreation Center Operations



Highlights for the Recreation Center in 2012 included the following:

- Finances:
 - Achieved 106% of the revenue projections for the year
 - Spent 89% of expense budget
 - Cost recovery was 96%, budgeted cost recovery 81%
 - Subsidy was \$62,633
- In October, the Rec Center undertook several internal projects during the annual facility shut down. During this week, new partitions were installed in both the men's and women's lobby restrooms, along with eight new 42 inch TVs in the cardio area. Annual maintenance was performed on the pools and equipment, a facility deep clean was completed, touching up paint, having carpets, stairs, and floors (weight room, tennis court, and track) deep cleaned, and resurfacing the gymnasium, racquetball, and upper studio floors. The cable crossover, one of the original equipment pieces from the weight room, was replaced with a new Hoist model.
- One of the larger projects undertaken was the re-plumbing of the Rec Center hot water lines by the PW Facilities Division. Over the years there had been several patches, Band-Aids, unnecessary water lines, valves, etc. and these were redone and newly plumbed using latest technology PVC piping.
- A promotion was conducted from October 9-November 9 - any guest who purchased or renewed a six month or annual pass had the option for a free personal training session. Approximately 50% of purchasers intended to redeem the coupon; in the end, only about 30 did, and five converted to immediate personal training clients, with several others purchasing at a later date.

- Tennis Lessons came in \$5,525 above the 2012 budget, generating \$85,528 in revenue. This is due to the continued success of both youth and adult private lessons and the growth of tennis clinics during 2012.
- A new reflective ceiling was installed in the indoor tennis courts, increasing the quality of lighting. The ceiling also makes a perfect background so players can see the ball in flight much easier than before.
- Private swim lesson passes accounted for \$8,531 of revenue in 2012. This was the highest revenue total of private swim lesson passes on record, an improvement of nearly 39% over the previous best year which was 2011 with sales of \$6,156.
- In 2012, there were two new successful improvements made in products and services. The first was the addition of a daily family admission rate, geared towards out of town families. This included 2 adult and 2 youth admissions for \$32. The second addressed a guest issue and brought in additional revenue, with a padlock rental system for the locker rooms. The locks have a minimal initial cost and have since generated an average of \$60 per month since inception in November 2012.
- In 2012, the Breckenridge Recreation Tennis program became part of the Colorado Cup Series of Tennis tournaments. This change makes the tournament one of ten in the state that players can acquire points to win awards and prizes from a variety of sponsors. There were a record number of entries (130) and staff anticipates future tournaments to become even larger.
- 2012 is the second year in a row that the Recreation Center revenue surpassed \$1.5M. In addition, expenses were lower than they have been since the end of 2004. Cost recovery is also higher than it has been since 2003.
- Gas and Electric expense for 2012 was lower than it has been since 2002. This is due to the addition of solar panels, improved efficiency lighting, and actions by staff to conserve energy.
- The Department scholarship program continues to be a success, with \$11,072 granted in scholarships to those in need. Individuals interested in applying must complete a scholarship application and show proof of need to the department's scholarship committee, who meet monthly to review all applications. Scholarships are provided in the form of fee waivers and ensure that all Breckenridge residents have access to facilities and programming, regardless of their ability to pay.

Recreation Programs

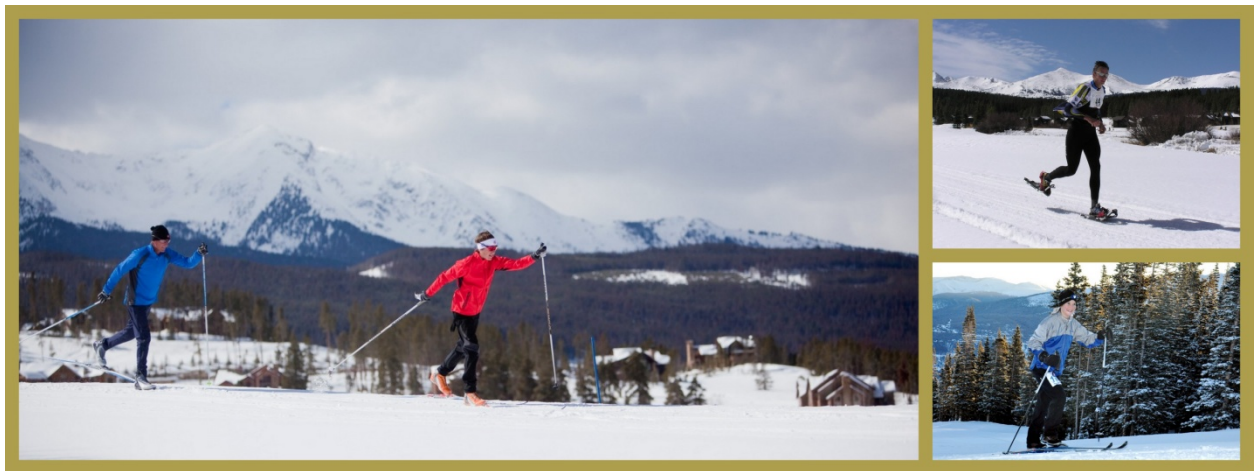


Highlights for Recreation Programs in 2012 included the following:

- Finances:
 - Achieved 106% of revenue budget for the year
 - Spent 100% of the expense budget
 - Cost recovery was 59%, budgeted cost recovery was 56%.
 - Subsidy was \$287,381.
- The Breckenridge Mountain Camp (BMC) youth programs include the BMC Afterschool Program, the BMC Mini Camps that are offered on Summit County School District days off, and the Summer Camp program. All of these saw record participation and revenues in 2012. The Afterschool program exceeded revenue projections by \$7,115, the Mini Camps exceeded by \$12,102 and the Summer Camp program also exceeded revenue projections by \$18,322. The BMC Summer Camp program increased its state licensing from 75 to a maximum capacity of 100 campers/day and 88 campers was the largest day, with 10 days including over 80 participants
- The BMC Summer Camp was particularly successful. Revenue was up compared to 2011, (a previous all-time high), coming in at 115% of budget at \$138,322. Participation increased as BMC saw the largest participation numbers yet. Staff worked with FIRC & CCAP to provide opportunities to low income families and awarded TOB Recreation Department scholarships to 4 families.
- Taekwondo continues to be a popular choice for afterschool participants, which resulted in the program exceeding revenue projections by \$8,872. This is a contracted program, run by Sahn Taekwondo and Master Cavins, which provides the department with 20% of all gross revenues.
- Youth climbing programs exceeded revenue projections by 31% at \$23,572. This is due to the continued success and growth of participation numbers for Cliffhangers (our afterschool climbing program), the summer climbing and Advanced Climbing Camps, and the Junior Climbing Team.

- The Sports & Special Events area hosted the inaugural Imperial 4-on-4 Flag Football Tournament. The event took place in November and the tournament filled with 8 teams. Players from all over the county came to the Breckenridge Recreation Center Multi-Pitch Field for a day filled with exciting flag football action. Eight competitive teams battled on the field in this day long double elimination tournament sponsored by Coors & North Side Pizza. By the end of the day, players were very pleased and excited about the idea of a flag football league returning to Breckenridge in the fall of 2013 & this tournament continuing into the future.
- Lifetime Activities accounted for \$7,562 in revenue, approximately 69% under projected revenues for 2012. This was due to the lack of interest in several lifetime activity offerings such as guitar lessons, drum lessons, Kookin' Kids and a summer music camp. These programs are not being offered in 2013 and the Lifetime Activities budget has been adjusted accordingly.
- The Bearly Big Child Care program continues to struggle, coming in under budget by \$5,533 for 2012. In hopes of increasing revenue in this line item for 2013, several Bearly Big Ski Days will be offered so that parents can drop their children off, leave the facility and ski for a half day on a variety of Saturdays occurring throughout the season.
- A majority of the Programs Division expenses were below the budgeted amount, thus accounting for the programs division coming in slightly above budgeted cost recovery.

Nordic



Highlights for Gold Run Nordic Center in 2012 included the following:

- Finances:
 - Achieved 95% of revenue projections for the year
 - Spent 89% of the expense budget
 - Cost recovery for Nordic Operations was 68%, budgeted cost recovery for Nordic was 64%
 - Subsidy for Nordic was \$71,271.

- Across all of 2012, snow conditions were a continuous challenge, pushing the 2012 winter season opening day back 9 days and causing the cancellation of the National Ranking List Race. Despite the challenges with the lack of snow, Nordic participation remained fairly consistent with 2011 participation numbers, attracting a total of 7,180 visits in 2012. It is important to note that this is only a 6% decrease in overall participation compared to the record numbers set in 2011.
- Nordic programs and lessons came in \$3,804 under projected revenues. This can be attributed to the previously mentioned snow challenges. Due to the early season warm weather in March 2012, Gold Run saw fewer participants in a variety of programs as Nordic skiers chose to utilize their bikes and put away their skis early for the season.
- The Nordic punch passes were a popular product, generating \$11,543 in revenue and coming in 28% or \$2,543 over projections. Due to the increase in the daily trail fees for the 2012-2013 season, the punch pass product became an attractive option for visitors who were in town for multiple days.
- As in the past, GRNC continued to partner with Frisco Nordic Center and Breckenridge Nordic Center with Season Pass Sales/Revenue as well as Punch Passes. For GRNC, the Season Pass sign-ins accounted for 2,797 visits. Joint Area Punch Passes grew in popularity due to the 'multi-day' discount appeal. These are offered in 3, 6 and 10 punch options for Youth/Seniors and Adults. During 2012, 657 Nordic visits were accounted for through punch passes.
- Breckenridge Gold Run Nordic Center provided a warm, dry place for middle and high school teams to wax skis and meet for practices throughout the season. In January, a CHSAA race was moved from another venue to GRNC due to lack of snow. The event drew over 300 racers, plus family and coaches. One athlete, Tucker McCreary, built a 'Hot-Box' as a Senior project during a previous Nordic season. Now, this Hot Box provides the club and school athletes a way to prepare skis. GRNC now uses it throughout the seasons as a service to customers.
- Due to several unforeseen expenses in 2012, Nordic came in \$9,443 over budget in Other Repair/Maintenance Services. Some of the additional expenses in this area include additional end of season cleaning costs and the replacement of the ice machine for the restaurant.

Stephen C. West Ice Arena Operations



Highlights for the Ice Arena in 2012 included the following:

- Finances:
 - Achieved 89% of revenue projections
 - Spent 94% of expense budget
 - Cost recovery was 58%, budgeted cost recovery was 61%
 - Subsidy for the Ice Arena was \$419,972
- The Ice Arena was selected to host the Serving the American Rinks (STAR) training for the second year in a row. STAR cited the Ice Arena and the Town of Breckenridge as being very desirable locations to host this training. Star has 3 one-week courses that provide the participants with the Certified Ice Technician (CIT) Certificate upon completion. This is a significant trade certification and by hosting the event there is the opportunity for staff to attend complimentary trainings, as well as economic impact for the Town from other participants.
- The ice arena installed 12 new long-term lockers for customers of the local hockey community. The lockers are used for participants to store their hockey gear, so that they do not have to transport it back and forth to the arena. These additional lockers will generate an additional \$2,700 annually into the locker rental program. The lockers require no maintenance and have a life expectancy of 15 years.
- The Ice Arena hosted The Dwight Brill Fundraiser Hockey Event on April 2nd, pitting teams from the Keystone and Breckenridge ski patrols and ski & ride schools in a mini round-robin tournament. The foundation raised just over \$2,000 from this event. The funds benefit underinsured ski patrollers and their families in need.

- Arcade machines were added to the indoor lobby (fully funded by a private concessionaire) to improve vending income. There is currently one multi-game video machine and a very popular bubble hockey game. The concessionaire services and cleans the machines once per week and there is a 50/50 gross revenue split of proceeds. To date, the Ice Arena is averaging \$125 per month in revenue.
- For the second year in a row, the Stephen C. West Ice Arena hosted a sled hockey and curling event for those with disabilities as part of the Hartford Ski Classic. This event drew over 100 participants in one day. There was also local Denver news coverage on the event through Channel 9 News.
- Ice Arena general admission and skate rental was down \$22,502, or 17%, in 2012. Nearly \$15,000 of this occurred in March and the balance occurred in December. The lack of visitation during these two months is directly related to the less than normal snowfall.
- Figure skating lessons came in \$9,349 under budget for 2012, generating a total of \$6,651 in revenue. This is due to fewer participants in the Breck Skating School classes and the elimination of the Winter Activities program offered by the Summit County School District in years past. With the transition of new skating coaches and programming staff into the figure skating program during the fall of 2012, the participation numbers have started to rebound, which is anticipated to carry into 2013 as well.
- Overall, the Ice Arena had a tough year on the revenue side of the financials. Realizing this early on in the year, the staff worked hard to control expenses and minimize the necessary subsidy. However, continued poor snowfall leading to decreased visitor appeal for the start of the '12-'13 season did not help to finish the year as strong as we would have liked.
- The Ice Arena had the best expense year for gas and electric since 2002. Total expense for this line item in 2012 was \$100,346. In the previous 9 years, the lowest expense for gas and electric was \$115,116. This is attributed to efficiency measures taken by staff, as well as the addition of the solar panels in 2011.

Golf Course Maintenance Operations



Highlights for Golf Course Maintenance in 2012 included the following:

- Finances:

Cost Center	2012 Budget	2012 Actual	Difference
Golf Course Administration Program	\$161,537	\$127,170	-\$34,367
Golf Course Equipment Maintenance Program	\$143,682	\$136,710	-\$6,972
Golf Course Maintenance Program	\$658,358	\$669,849	\$11,491
Golf Course Capital Project Program	\$252,000	\$177,809	-\$74,191
Golf Course Debt Service Program	\$658,478	\$658,764	\$286
Totals	\$1,874,055	\$1,770,302	-\$103,753

* Over expense budget on wages due to longer golf season (opened in April)

** Spent 91% of expense budget

- Golf Course Superintendent, Tim Walsh, retired in May, and Jim Byers was subsequently promoted to the position of Golf Course Superintendent. At this time, Golf Course Maintenance became a division of the Recreation Department.
- Grant Johnson was hired as Assistant Superintendent in August. Grant grew up in Breckenridge and earned a Master of Science Degree in Horticulture from Colorado State University. Grant was previously the Assistant Superintendent at The California Golf Club of San Francisco for seven years.
- The winter of 2011/12 was very hard on the greens at golf courses throughout the Colorado high country. The Breckenridge Golf Club was no exception. Little or no snow cover, combined with very high winds and cold temperatures injured the annual bluegrass (poa annua), which accounts for a significant percentage of the turf on the greens. No precipitation and unseasonably warm temperatures in March and April made it necessary to start-up the

irrigation system earlier than ever before. A consequence of the early start-up was several frozen pipes, which made it difficult to get water to all of the greens. These factors had a negative impact on ball roll and the appearance of the greens when the golf course opened. Staff's strategy for restoring the greens included the use of turf covers, vertical mowing, seeding, increased nitrogen fertilization, additional sand top dressing, and hand watering. The strategy proved very successful and the greens recovered dramatically. Numerous people who travel here each year for the Member/Guest tournament commented that the greens were the best they had ever been for that event.

- Three separate extreme wind events (>100 MPH) occurred during the winter of 2012. Many trees were blown over on the golf course property. Most noticeable to golfers is the loss of large pine trees behind 3 Bear green and on the driving range.
- An important drainage project on the tee end of 8 Elk fairway was completed. When a home was built uphill of this area, the flow of ground water was altered. This caused large volumes of water to come to the surface, which made this area unplayable and very difficult to mow at times. The purpose of this project was to capture this water and pipe it to the adjacent wetland before it could rise to the surface. The scope of this project was very large. Some of the ditches were 4 feet wide and 10 feet deep. Irrigation piping and wiring had to be rerouted. This project was a great success. The area is now dry and firm and can be mowed normally. Staff will again be able to mow this area as fairway, which is consistent with the design of the hole. Golf Course Maintenance is fortunate to have the equipment and skilled staff required to take on a project of this magnitude. Many golf courses would have needed to use an outside contractor for this type of work.
- Club tees (green tee markers) were added for 2012. These markers are intended to play shorter than blue and longer than silver. The addition of this set of tees made it necessary to build one new tee box and expand an existing tee box. A tee box on 8 Elk was expanded so that it could accommodate both the blue and green markers. A new tee box was constructed on 4 Elk as well.
- Several bunker renovations were done in 2012. The bottom of the greenside bunker on 8 Beaver was raised by 2 feet and new drainage was installed. The bottom of the left greenside bunker on 1 Bear was also raised and enlarged. The area around the bunker was also re-shaped. It was difficult to climb in and out of these bunkers, especially for some of our senior golfers. These projects have made these bunkers more accessible and easier to maintain. Bunker faces on three other holes were stripped and re-shaped. This was done to restore them to the original shape and to repair damage done by ground squirrels.
- In June, GolfWeek Magazine ranked the Breckenridge Golf Club the 35th best municipal golf course in the United States.

- Golf Course Maintenance acquired two new snowmobiles in 2012. These are used for transportation for the Snow Technicians and for grooming the trails until there is sufficient snow depth for cat grooming.
- There were more incidents of motor vehicles driving on the Peabody and Preston Loop trails in late 2012 than ever before. This was due to a lack of snow in November and December which kept these routes accessible to motor vehicles well into the winter season. Many of these motorists stated that they were directed to this area by their GPS navigation system. Motor vehicles rut the trails, ruining the surface for skiing. This issue caused Open Space/Trails, Nordic Operations, and Golf Course Maintenance to work together on strategies for solving the problem. Additional signage, snow piles, bamboo and ropes were utilized to discourage motor vehicles from driving on the ski trails.
- During the summer, tree work was completed to create a new alignment of the Peabody trail. This change moves the ski trail off of the county road from the Trailhead to Jessie Mill. The purpose of this change was to encourage non pass-holders to use the county road and stay off of the groomed ski trail. This new trail is rockier and rougher than the county road and requires more snow to open. There was not enough snow to groom this new trail until late February 2013.

Administration



Highlights for the Administrative Division in 2012 included the following:

ACTIVENET SOFTWARE: The department utilizes the Active software system to conduct all business transactions, including point-of-sale, membership sales, activity and program registration and facility scheduling. During 2012, the department continued to guide our customers to online program registration and online membership purchases.

- Total online revenue for the year was \$485,616. Not all items, such as facility reservations, pro shop purchases, daily admission, etc., are available to be purchased online. Of those items that are available, online purchases accounted for approximately 24% of the department's revenue, and online sales increased by 85% over 2011 sales.
- Significant increases in online sales occurred in Breckenridge Mountain Camp mini-days, Breckenridge Mountain Camp, Recreation Resident Passes, and Monthly passes. Online sales for BMC mini-camp days were up 65%, BMC summer camp was up 77%, recreation resident passes were up 85%, and monthly passes were up 51% over 2011 sales.
- In 2012, Active worked with department administration to improve the look and feel of the Active interface with the Town's website. These changes have improved the ease and ability to find programs, passes and tennis court rentals, along with the ability to purchase and reserve online.

Staff routinely uses the electronic messaging components of the software system and e-blasts on upcoming programs, activities and special events are now sent monthly to all users.

HUMAN RESOURCES: As part of personnel support, the administrative division processes all personnel paperwork (hiring, separations, evaluations and status changes) from the department to Human Resources.

- During 2012, paperwork was processed for approximately 439 separate employee actions.

- Administration provides support, guidance and training to supervisors and managers throughout the department on performance coaching, counseling and training for department employees.

GUEST FEEDBACK: The Customer Comment Card database, established in August 2011, tracked 406 guest comments in 2012. Guest comments fell into the following categories:

- Feedback about the guest’s experience.
- Feedback about recreation staff.
- Notifications about the condition of the facility and equipment.
- Questions and recommendations about classes, programs and offerings.
- Questions and comments about fees and hours.

The database provides an invaluable opportunity to communicate with guests about not only feedback, but also explain processes, standards and opportunities to improve the guest’s experience. For incidents requiring a long-term solution, it keeps the public informed of the timetable, and helps staff monitor its impact. As in any guest service situation, it provides a means for the guest to bring up concerns that s/he may not feel comfortable bringing to a staff member in person.

WEBSITE: The Administrative division maintains the Recreation Department’s web pages on the Town of Breckenridge’s website. For 2012, administrative staff continued to improve functionality and search optimization of recreation web pages by updating web pages and web page titles and content to improve search results and to better reflect page content. Linking throughout recreation pages directly to program content in the ActiveNet system was also increased to improve registration and sales conversion.

In 2012, there were seven Recreation Department pages that were ranked in the top 20 for the Town’s overall website. Five of the seven pages improved over their 2011 ranking. The top ranking page for 2012 was again “Breckenridge Recreation Center”, ranking 3rd overall (up from 5th in 2011). The page had 40,989 visits in 2012 (up 52%) and 50,748 page views (up 53%). The next highest ranking recreation page was “Recreation” which ranked 7th (unchanged from last year). 2012 page visits for “Recreation” were 17,72 down 4% from last year. Page views were also down 4% from 2011 at 22,357. While ads and marketing feature the URL BreckenridgeRecreation.com which lands on the “Recreation” page, embedded links in email communications brought recipients directly to the specific ActiveNet pages.

The other Recreation Department web pages in the top 20 for 2012 were:

- “Recreation Center Daily Admission Rates/Passes/Membership” ranking 8th overall with 17,263 visits (up 18% over 2011) and 21,516 page views (up 15%),
- “Stephen C. West Ice Arena” was ranked 10th overall with 15,749 visits (up 31% over 2011) and 18,665 page views (up 31%),
- “Fun Things to Do” ranked 13th overall with 13,249 visits (down 4% from 2011) and 16,382 page views (also down 4%),
- “Pool and Aquatics Area” was ranked 16th overall with 9,928 visits (up 39% over 2011) and 12,001 page views (up 40%),

- “Public Skate & Schedule” for the Stephen C. West Ice Arena ranked 18th overall with 9,440 visits (up 23% over 2011) and 10,879 page views (up 22%).

ANALYTICS: The Recreation Department set up a Google Analytics account in mid-April 2012 to monitor traffic to the “Recreation” page on the Town of Breckenridge website. Through the end of 2012, the page had over 85,000 visitors (approximately 36,500 unique visitors) with about 58% returning visitors and 42% new visitors. Over time, the goal is to increase the number of new visitors. The average visit duration for 2012 was 2:01 minutes which is average, as is the bounce rate of nearly 45%.*

In reviewing referral websites, nearly 69% visitors are referred by a search engine (89% from Google), 15% is referral from other sites and 16% is direct. A standard metric* is one-third in each category, but search will generally run high as most web users use a search engine out of habit even when they know the URL they want. As a metric over time, direct referral should increase. Pages viewed per visit is 2.79 which is above average* and shows both that visitors are engaged with our content, but also that they are finding what they want on the site.

(*Sources for standards and averages: bbrmarketing.com, cosemindspring.com, wwwmetrics.com, fellspres.com)

Marketing Initiatives and Successes



PROMOTIONS: The Recreation Department held several promotions geared toward specific objectives. In February, a “Winter Blues” promotion for Buddy Training was launch targeting current facility users to try Personal Training services with a discounted price-point for buddy training sessions packaged with a one-month Recreation Center Pass. In April, in an effort to bridge the gap between the hugely popular winter season pass and an upcoming summer season pass product, a “Locals Appreciation May Recreation Center Pass” was offered. The outcome was 136 passes sold, for an additional \$6,150 in

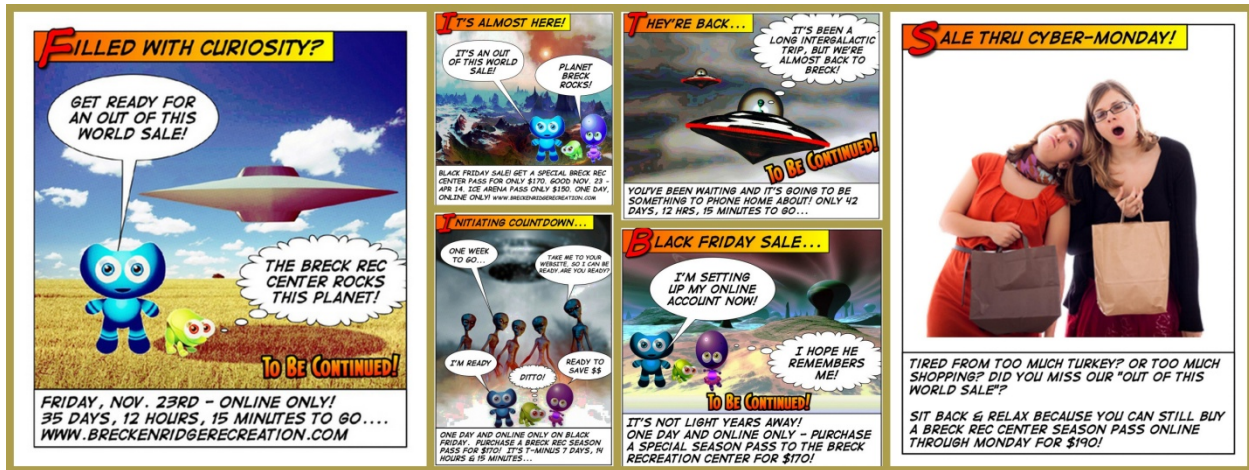
revenue. In May, the “Hip & Hop Summer Pass” was offered to convert winter season pass holders into a summer pass product. The Pass was also marketed with a “Summer Teen Pass,” created to provide a summer activity option for teens at an affordable cost. In September, a pre-season Nordic Pass sale ran to front-load Gold Run Nordic Center pass sales before the facility opened. In December, the department ran a daily giveaway promotion across the Recreation Center, Ice Arena and Nordic Center over the peak holiday period. Guests could enter to win a daily prize drawing at the Recreation Center, Ice Arena or Gold Run Nordic Center between December 22, 2012 and January 6, 2013.

EVENTS: The Recreation Department hosted several public events, offering guests and the public to opportunity to experience the facilities in unique ways. In January, the Recreation Center hosted members of the U.S. Snowboard Team for a public meet and greet for several dozen fans. Team members included X-Games medalists and Olympians Kelly Clark and Elena Hight. A Youth Summer Camp Open House was held in March to showcase children’s summer camp offerings and to facilitate registration to 100 participants.

In late June, Olympics Day brought Olympic themed projects, activities and giveaways to 52 participants, along with discussions from elite athletes Tommy Gogolen and 2002 Olympian Matt Dayton. Early in December, the Recreation Center had several appearances with our partners on international elite ski and snowboard teams including the Chinese National Halfpipe Snowboard Team, Matt Fisher, Strength and Conditioning Coach for the Canadian National Snowboard Team, and members of the U.S. Freestyle Mogul Ski Team including 2010 Olympic Gold Medalist, Hannah Kearney.

COMMUNICATIONS: Utilizing the ActiveNet system, the department sent 104 e-blasts in 2012 to efficiently communicate with guests to promote programs and events. E-blasts were also used to communicate schedule changes, facility issues such as closure dates, and program-specific information. The recreation department contacted over 98,000 individuals over the year via e-blasts. ActiveNet improvements also allowed for more engaging e-mail formats that included photos, graphics and individualized content.

SOCIAL MEDIA – The Recreation Department utilizes social media to communicate and to engage with customers, the community and the general public using three channels, Facebook, Twitter and a Wordpress Blog. These sites allow the distribution of more captivating and immediate content communication (such as photos, video and announcements) in real time, versus communication via the Town of Breckenridge website, and also allows for consumer re-distribution of the content. The site with the most growth in 2012 was Facebook where the Recreation Department’s lifetime likes grew 25% to 646 and 63 posts. With Twitter, the department sent 270 tweets over the year and followers remained comparable to 2001, with 2,650 followers.



BLACK FRIDAY SALE - The Recreation Department's promotional highlight of 2012 was a third year of the Black Friday Sale, held on Friday, November 23, 2012. This special winter pass product targets winter seasonal residents and visitors. The campaign continued with an aliens theme used in ads, collateral and television commercials and live appearances. The marketing campaign of e-mails, newspaper ads, local radio and television commercials and appearances started well in advance of the sale to build anticipation. The promotion generated total online sales of \$129,653 in online sales revenue, an increase of 34% over 2011. A change in this year's promotion was to extend the sale thru Cyber Monday. The change added an extra \$14,620 or 11% to total sales. New customers to the Recreation Center accounted for 40% of the pass sales and \$51,510 in revenue. Of the repeat customers, 9% had been inactive (had not held a pass) for more than a year.

Net Promoter and Customer Feedback

The department seeks regular feedback throughout the year, through written evaluations, comment cards and online surveys. This is to measure the effectiveness of marketing efforts, along with guest satisfaction. The goal is to utilize feedback to constantly improve facilities, programs and services to the community.

Net Promoter Score:

A net promoter score (NPS) is the result of a customer satisfaction survey in which customers are asked only one "Ultimate" question: How likely are you to recommend Company or Product X to a friend or colleague? Responses to the "ultimate question" above are solicited on a 0 - 10 scale, with 0 meaning the least likely to recommend and 10 meaning the most likely to recommend. The 0 - 10 scale is required for proper NPS calculation. Responses are then coded as follows:

Customers rating 9-10 are called promoters.

Customers rating 7-8 are called neutral.

Customer rating 0-6 are called detractors.

The difference between the percentage of a company's promoters and detractors is the Net Promoter Score (NPS). For example, if 50% of a company's customers respond with a 9 or 10, and 30% respond 0 - 6, the company's NPS would be 20%.

A customer's response to the "recommend" question typically serves as a strong indicator of that individual's economic value to the company. For example, according to research, customers with higher scores typically buy more, remain customers for longer, and refer others than do those with lower scores. Aggregated across an entire customer set, the Net Promoter score is expected to signify a company's growth potential based on the strength of its customer relationships. It can also help management make the right decisions to facilitate such growth. NPS methodology is credited with the ability to both identify and create fast growth companies and help build market share by moving managerial focus away from short-term profits and toward long-term value in positive customer relationships. NPS reports can therefore be used as an additional managerial tool to accompany a firm's financial statements.

Net Promoter® Leaders

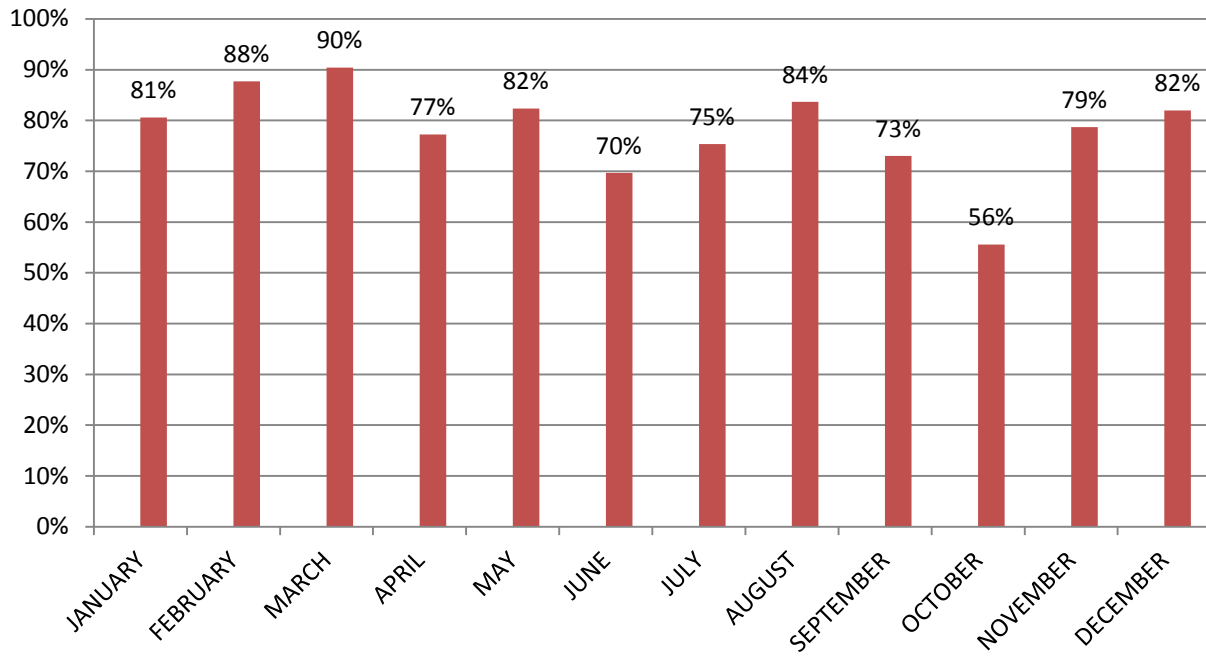
Source: Satmetrix 2012 Net Promoter® Benchmark Study of U.S. Consumers

Company	NPS®
USAA - Banking	83%
Amazon.com - Online Shopping	76%
USAA - Auto Insurance	74%
Trader Joe's - Grocery	73%
Wegmans - Grocery	73%
Costco - Department Stores	71%
Apple - Computer Hardware	71%
USAA - Homeowners Insurance	71%
Apple - Computer Software	68%
HEB - Grocery	68%

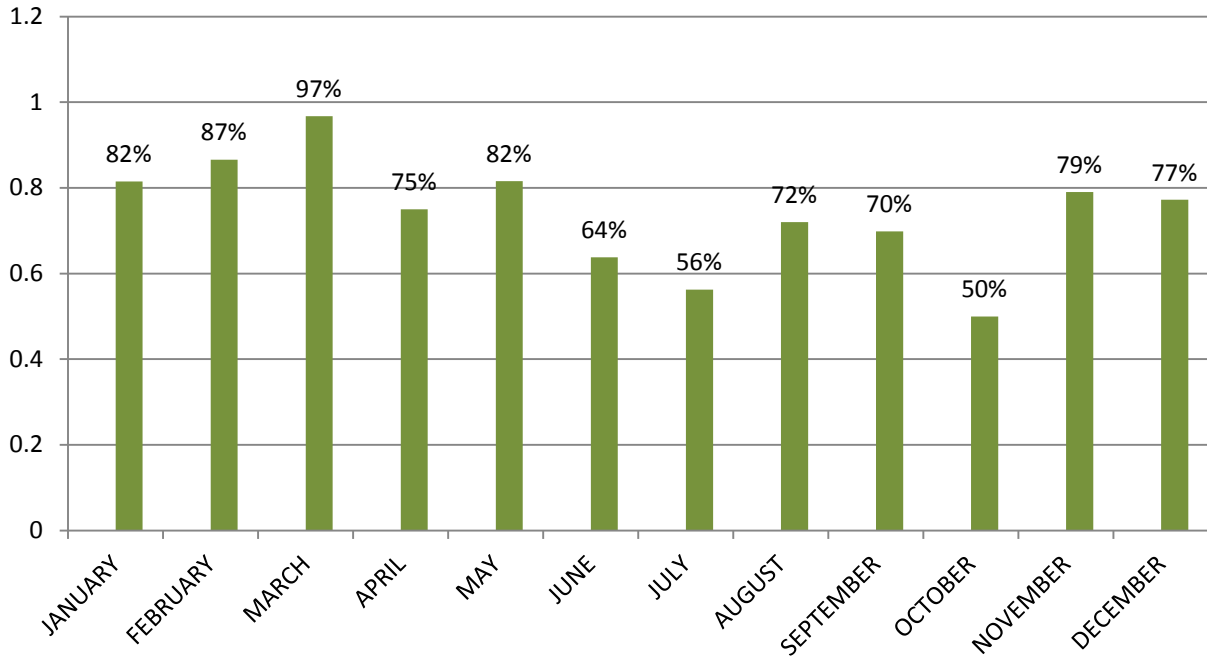
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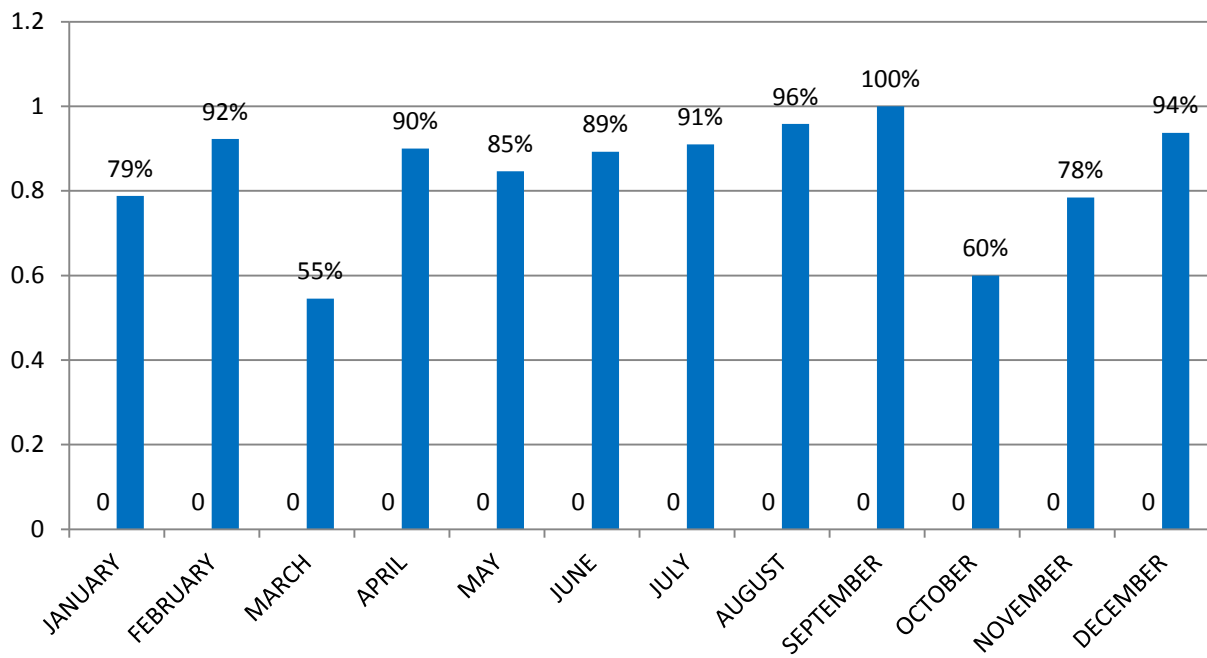
2012 Recreation Department Net Promoter Score (1,137 Respondents) 79% Overall



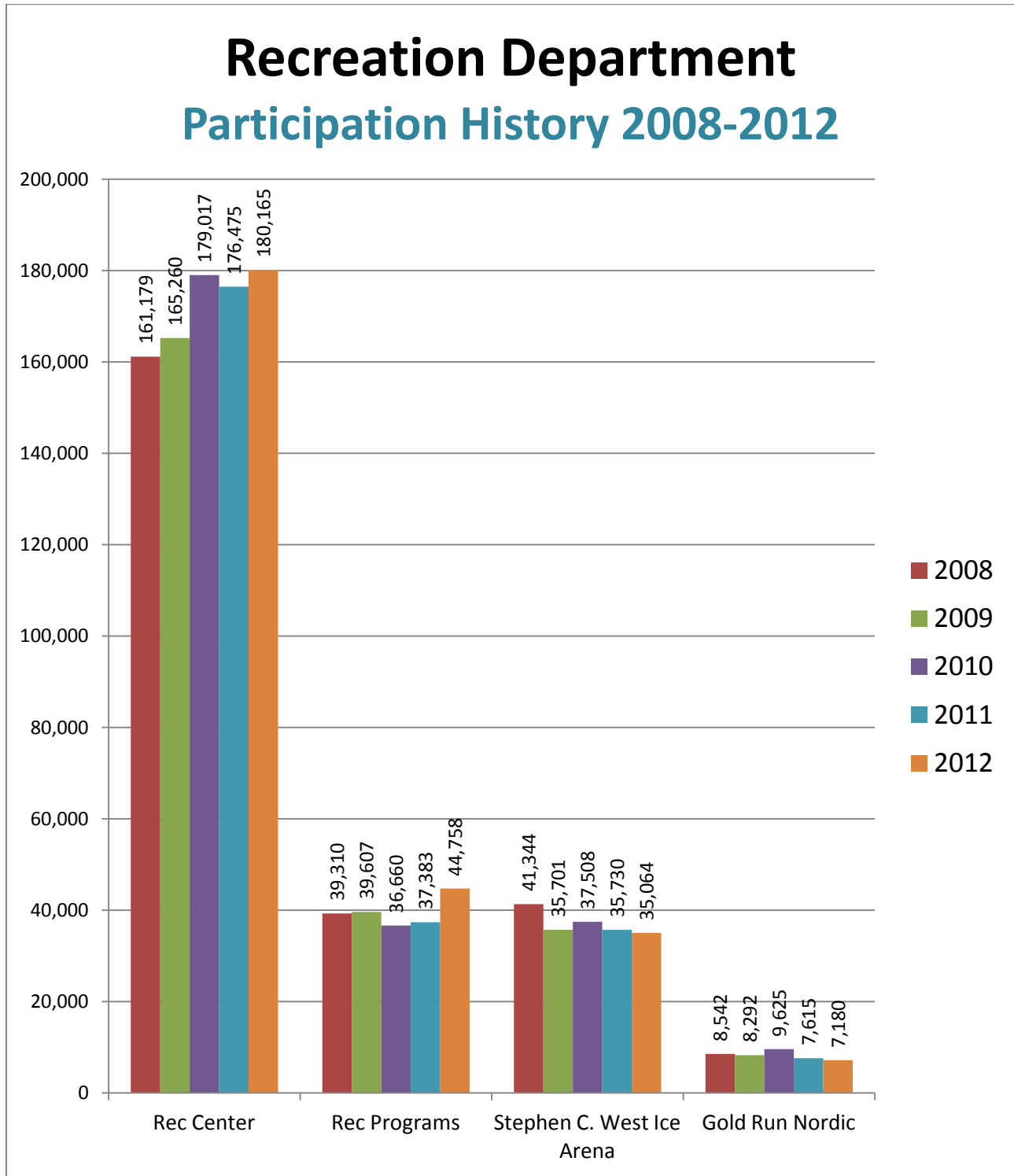
2012 Recreation Programs Net Promoter Score (647 Respondents) 75% Overall



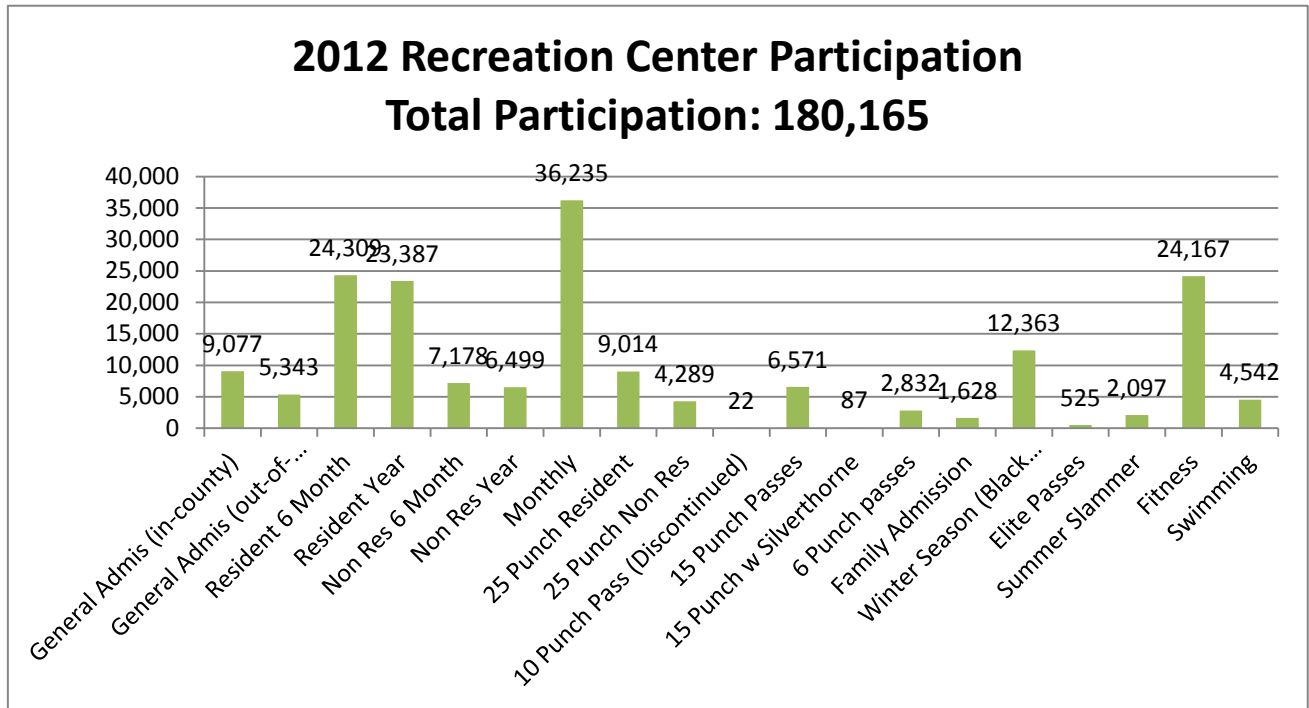
2012 Rec Facility Operations Net Promoter Score (310 Respondents) 86% Overall



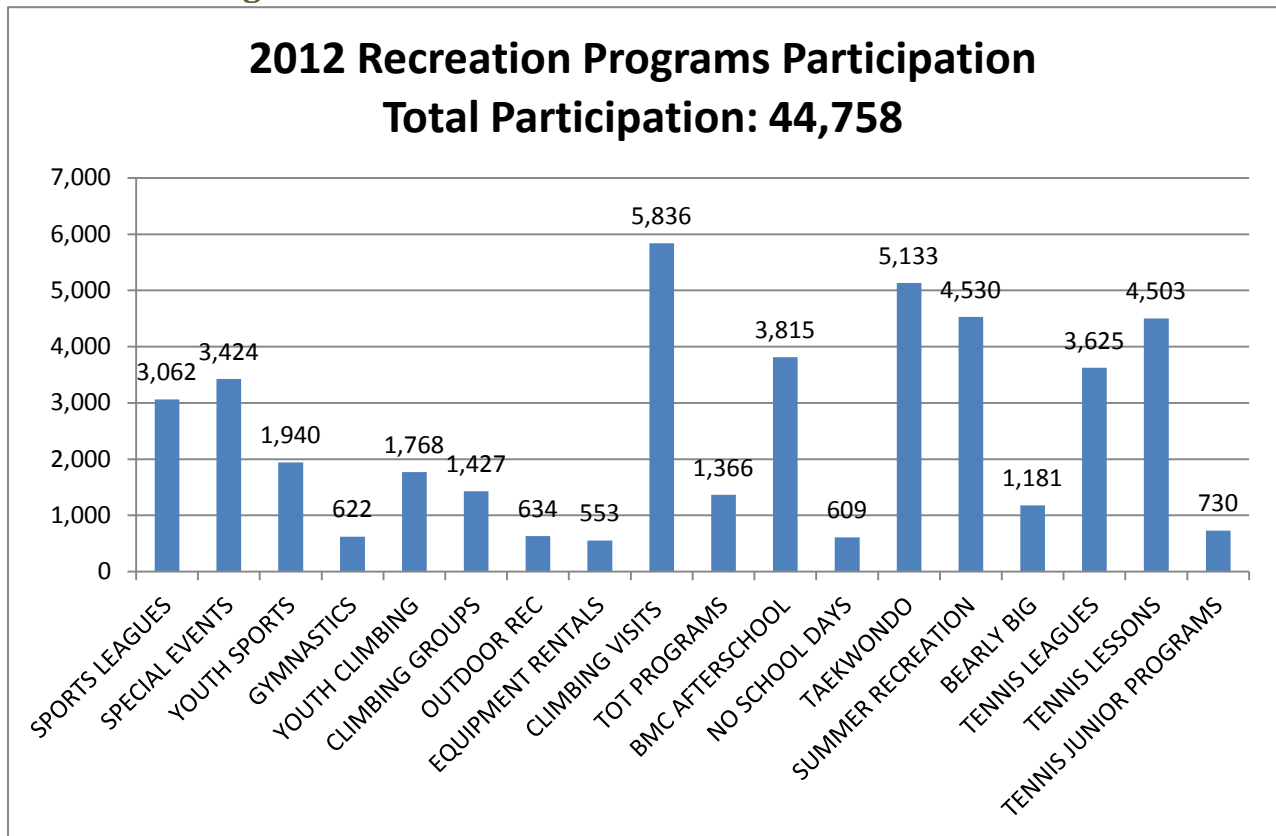
Participation Statistics



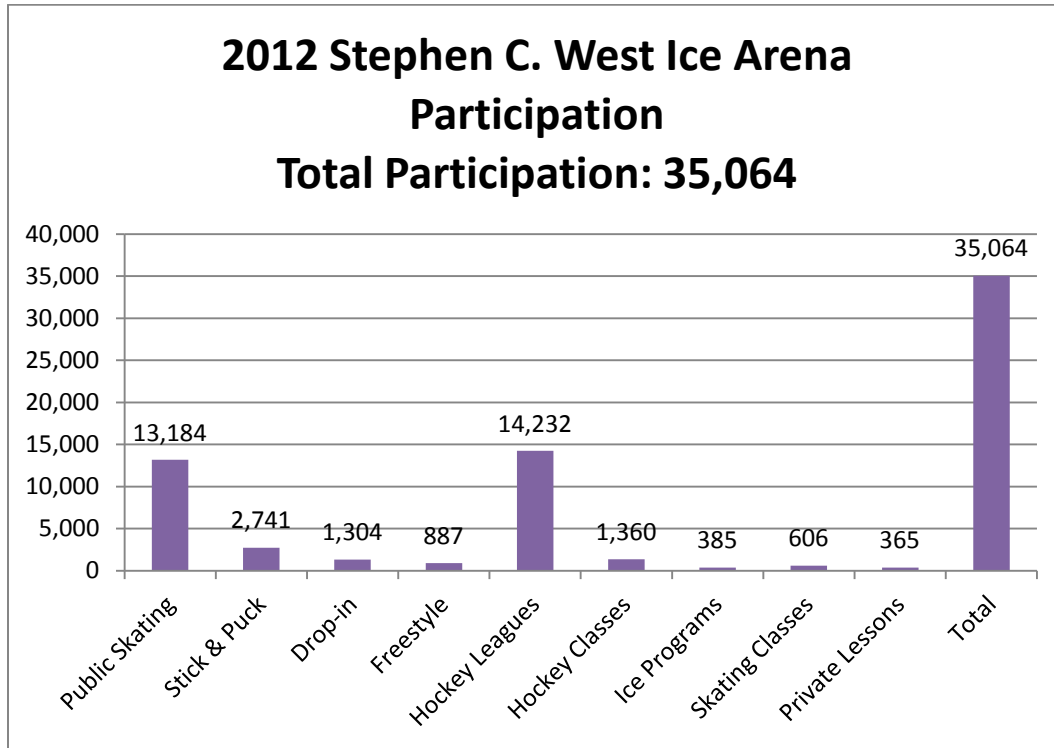
Recreation Center



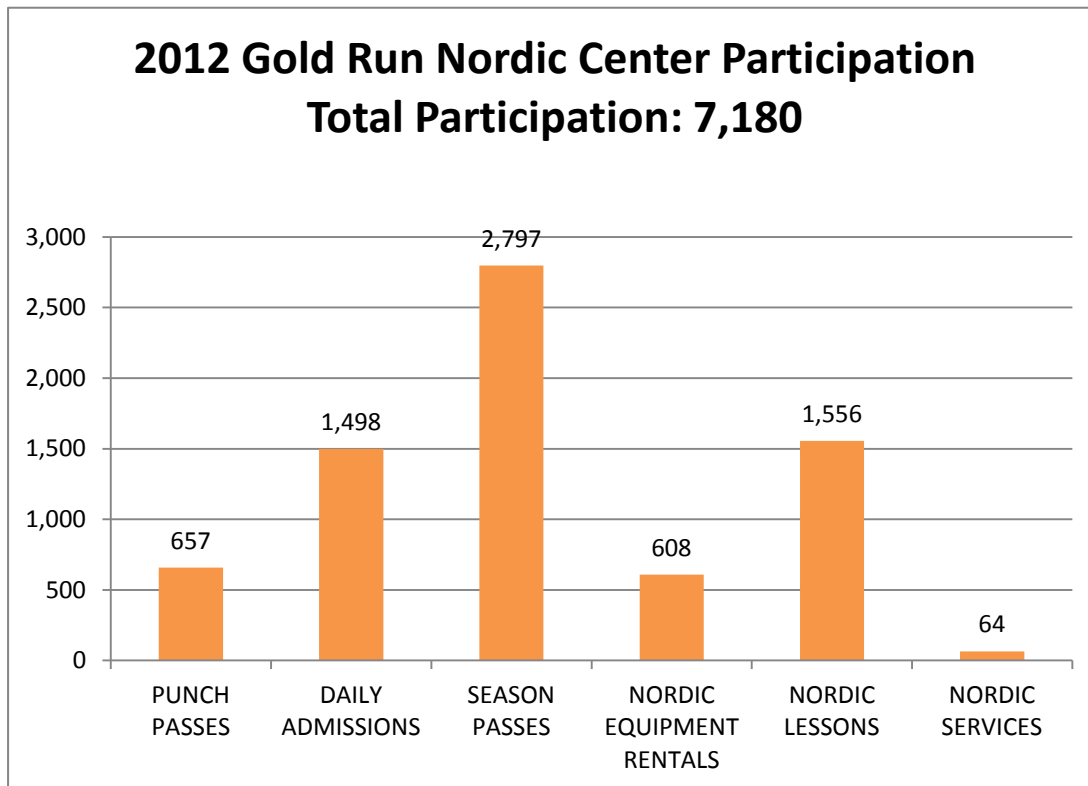
Recreation Programs



Stephen C. West Ice Arena



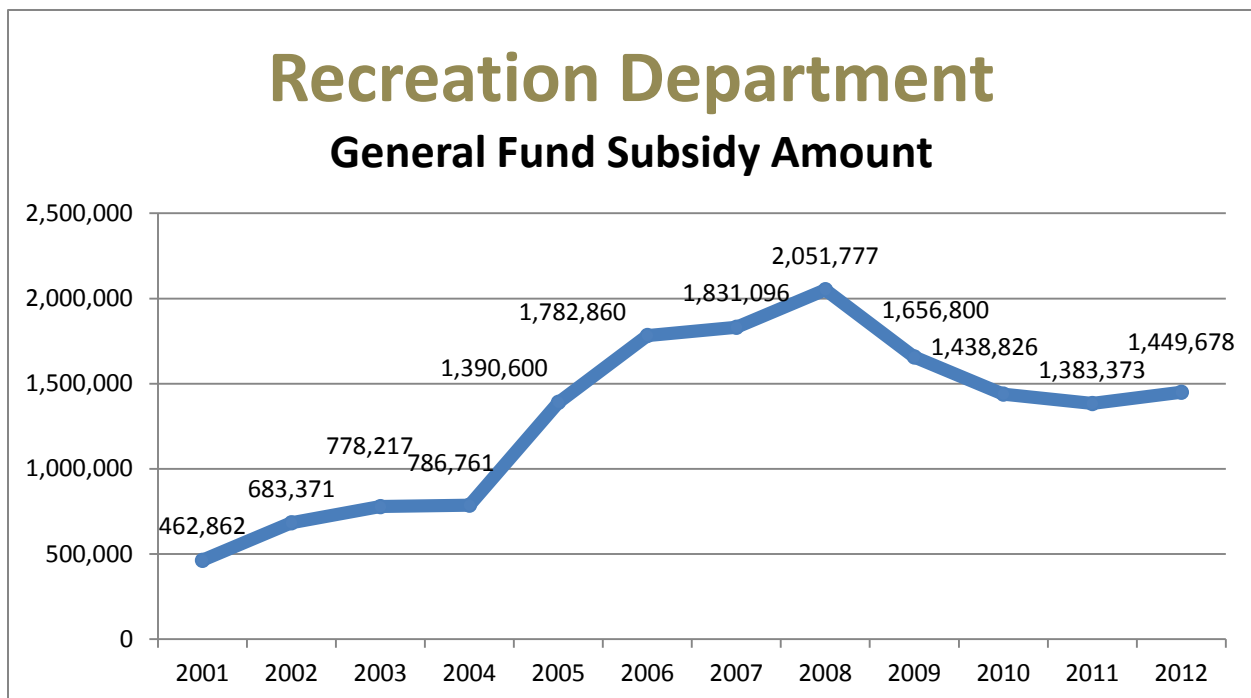
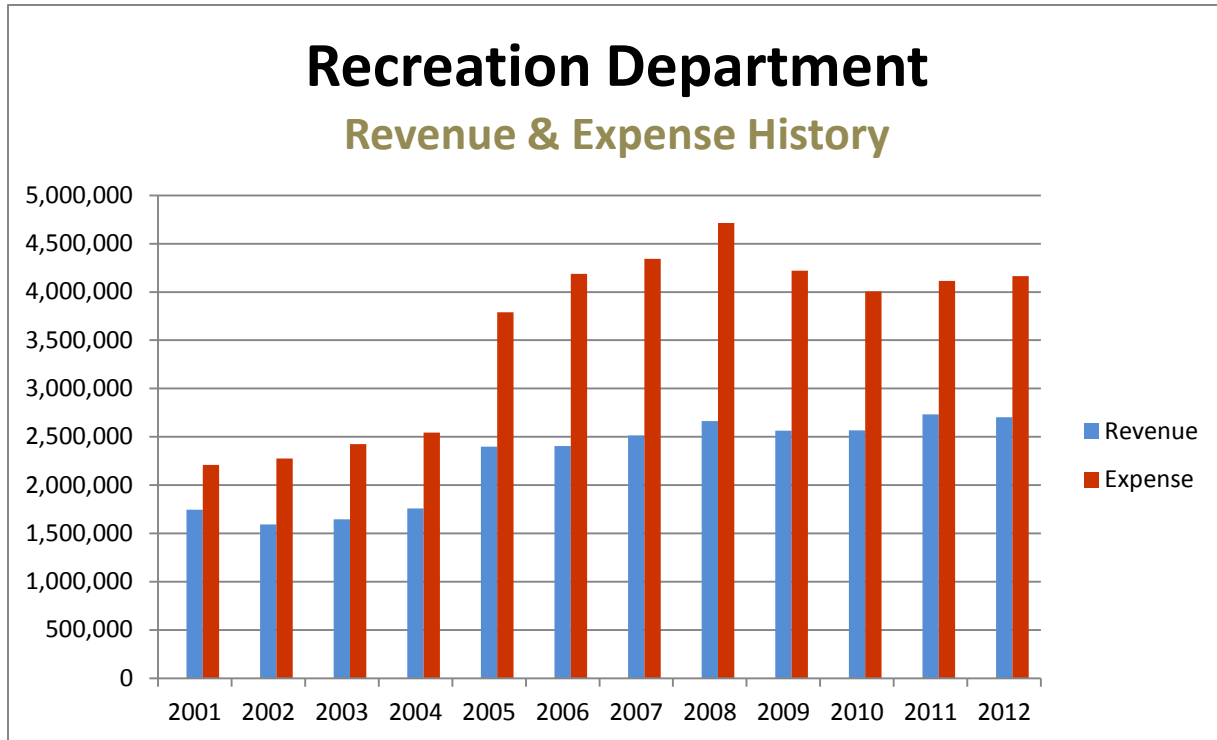
Gold Run Nordic Center



Finances

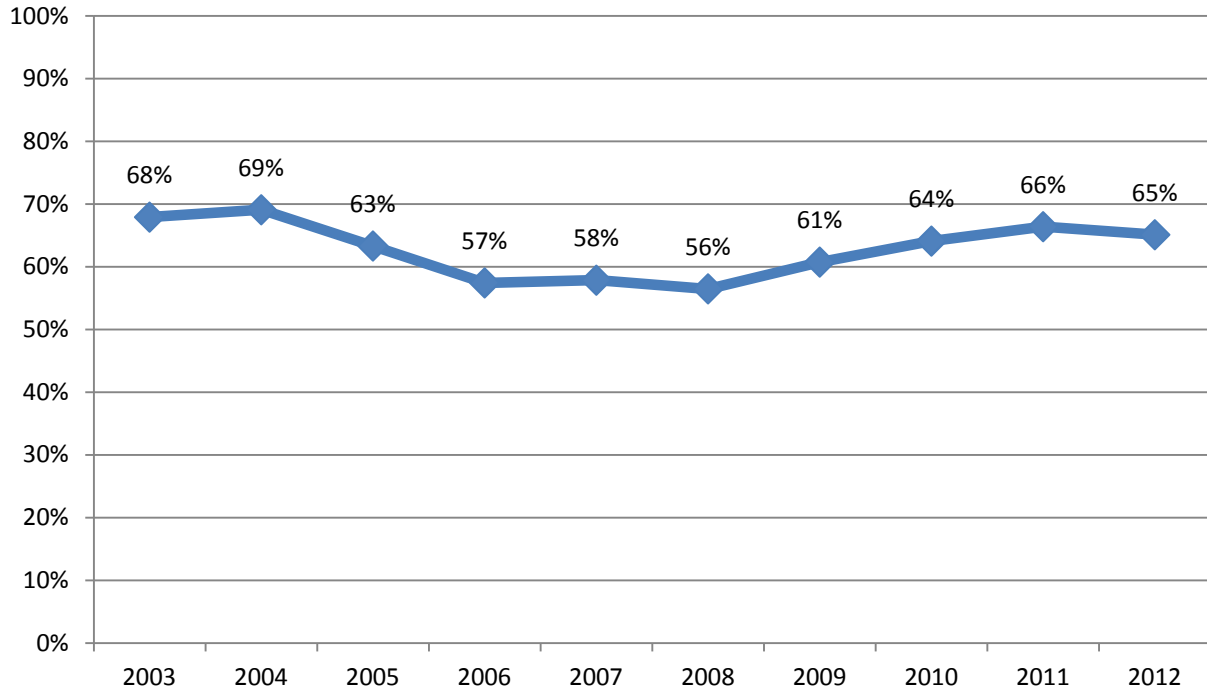
Recreation Department Overview

Recreation Department Revenue: \$2,703,931 **Does not include Golf Course Maintenance*
 Recreation Department Expense: \$4,153,609 **Ds not include Golf Course Maintenance*

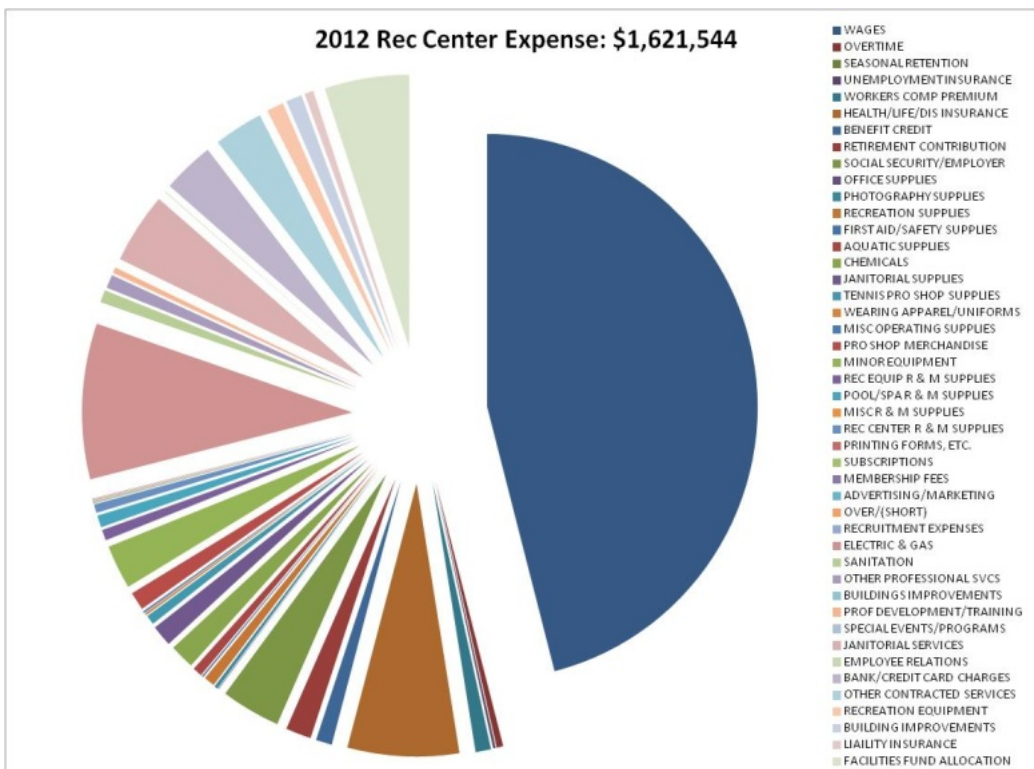
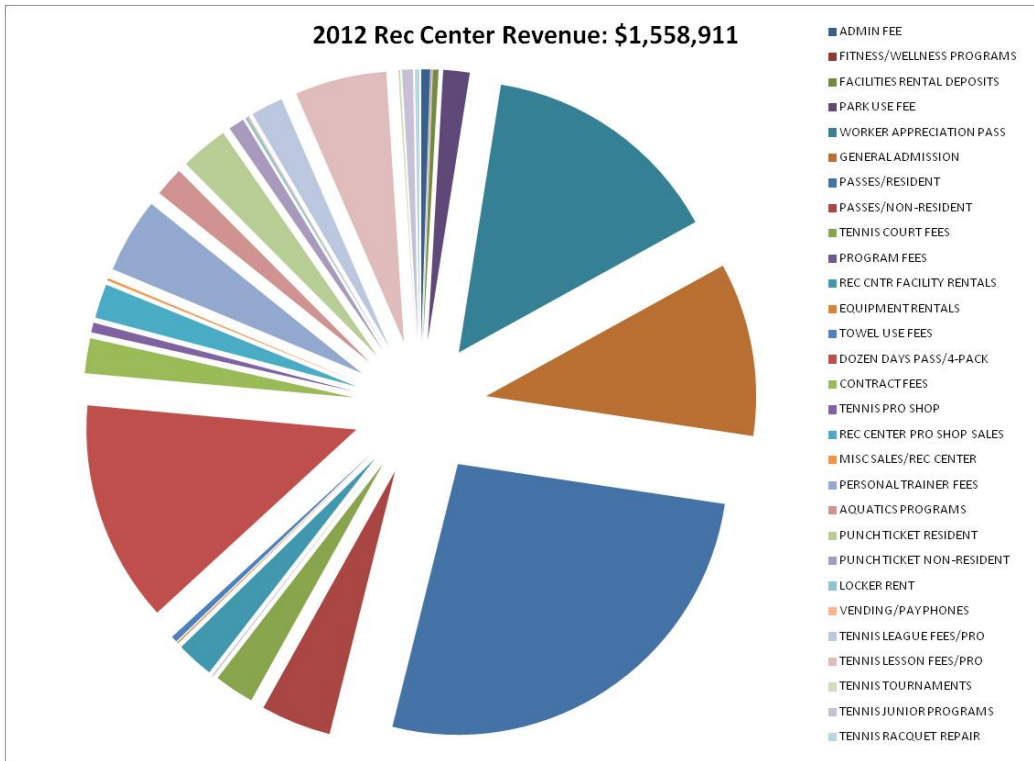


Recreation Department Cost Recovery Percentages

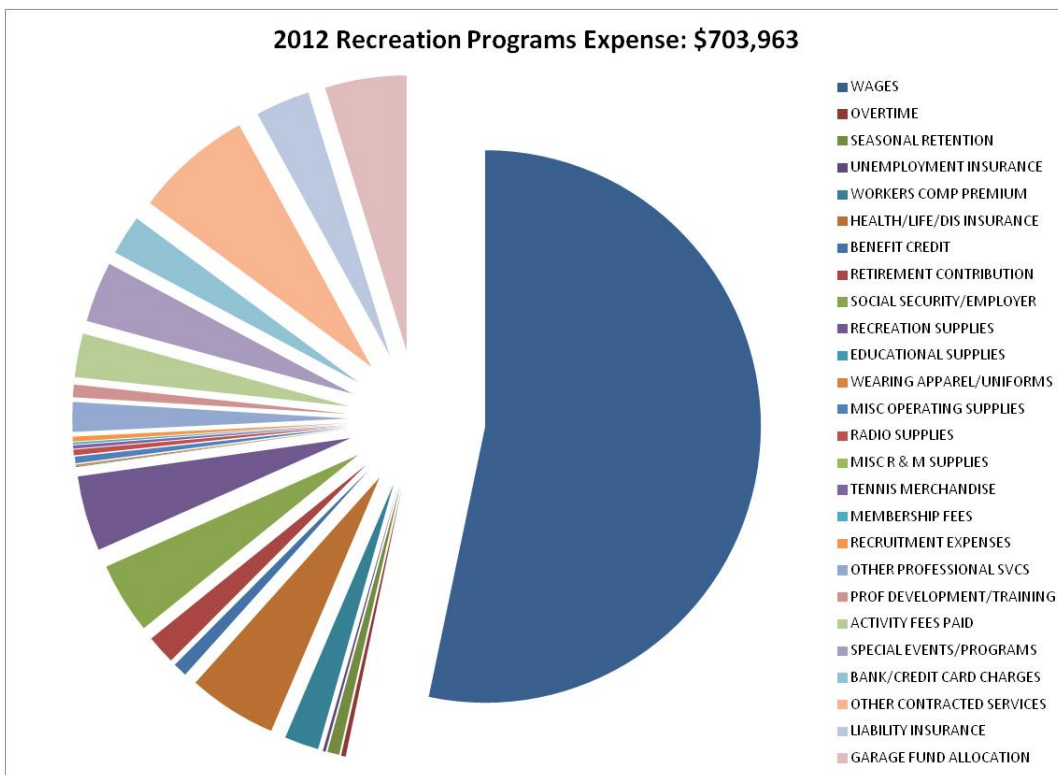
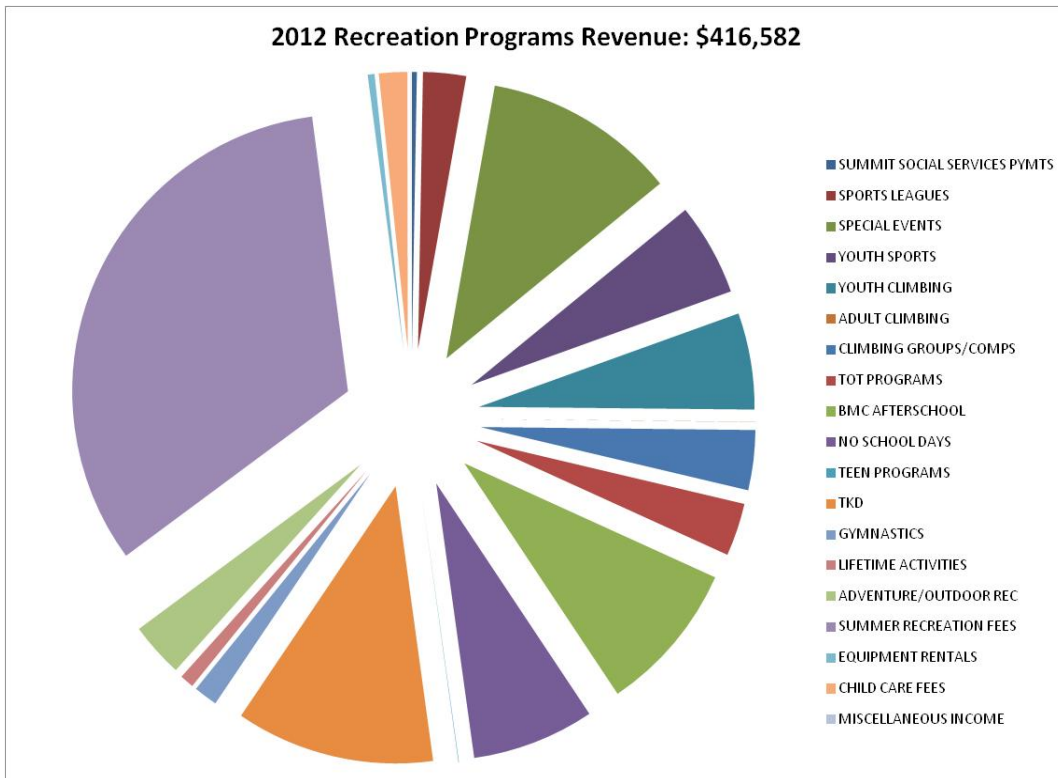
**Does not include Golf Course Maintenance*



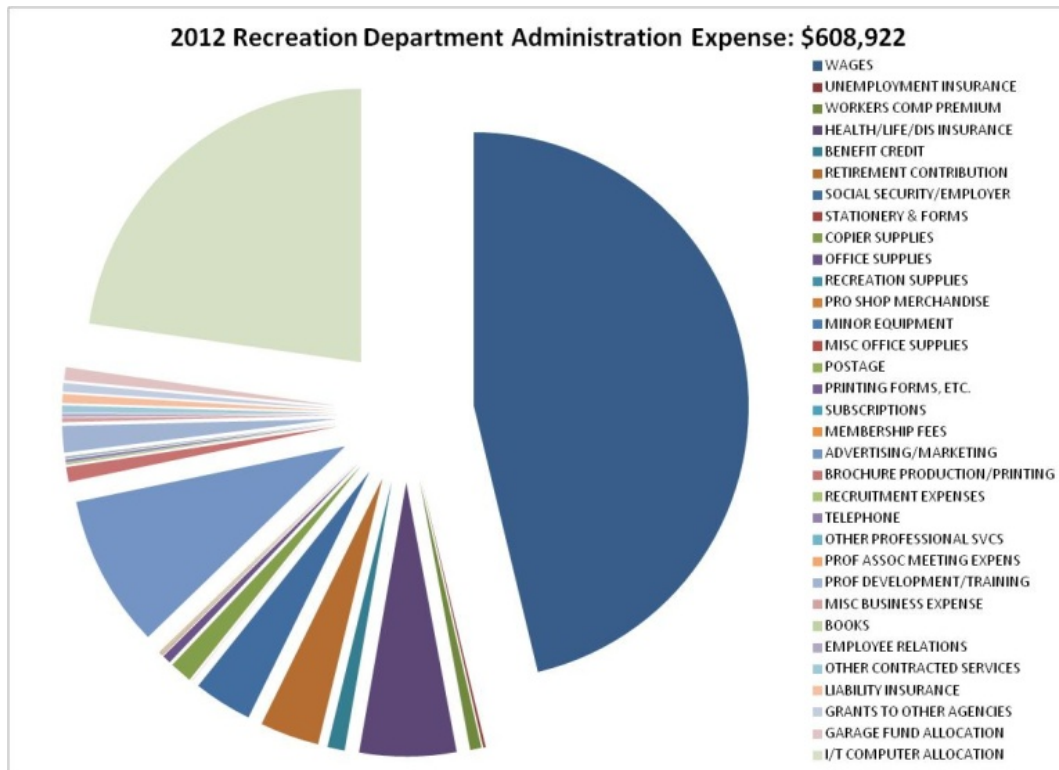
Recreation Center



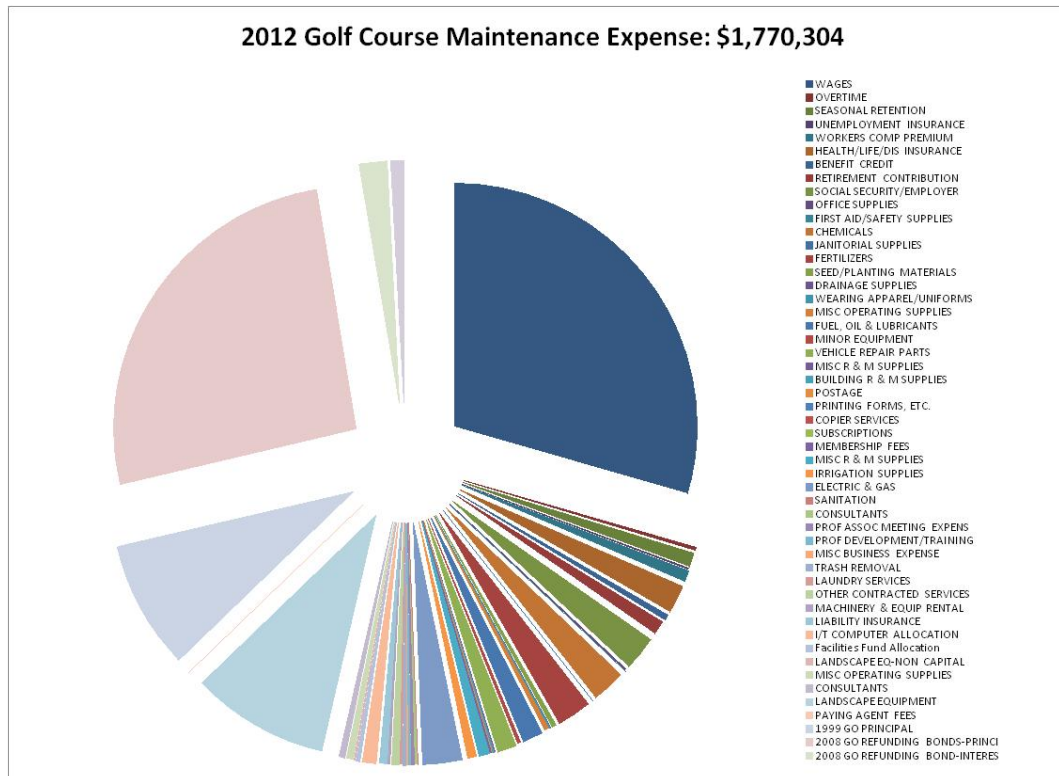
Recreation Programs



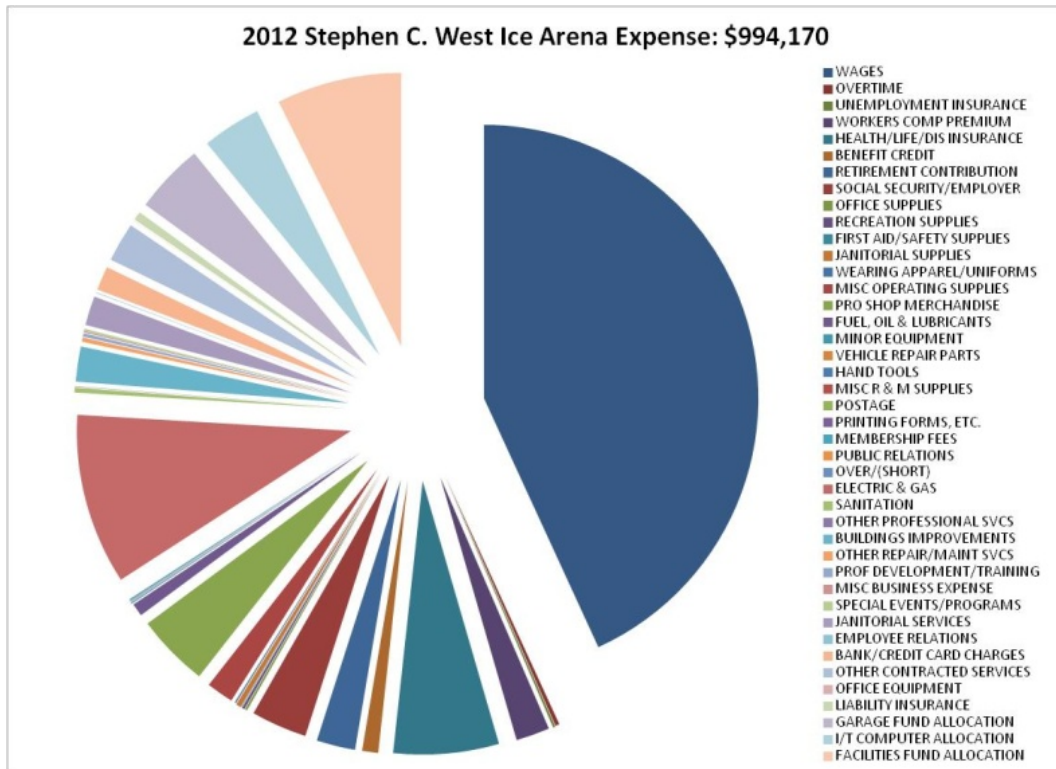
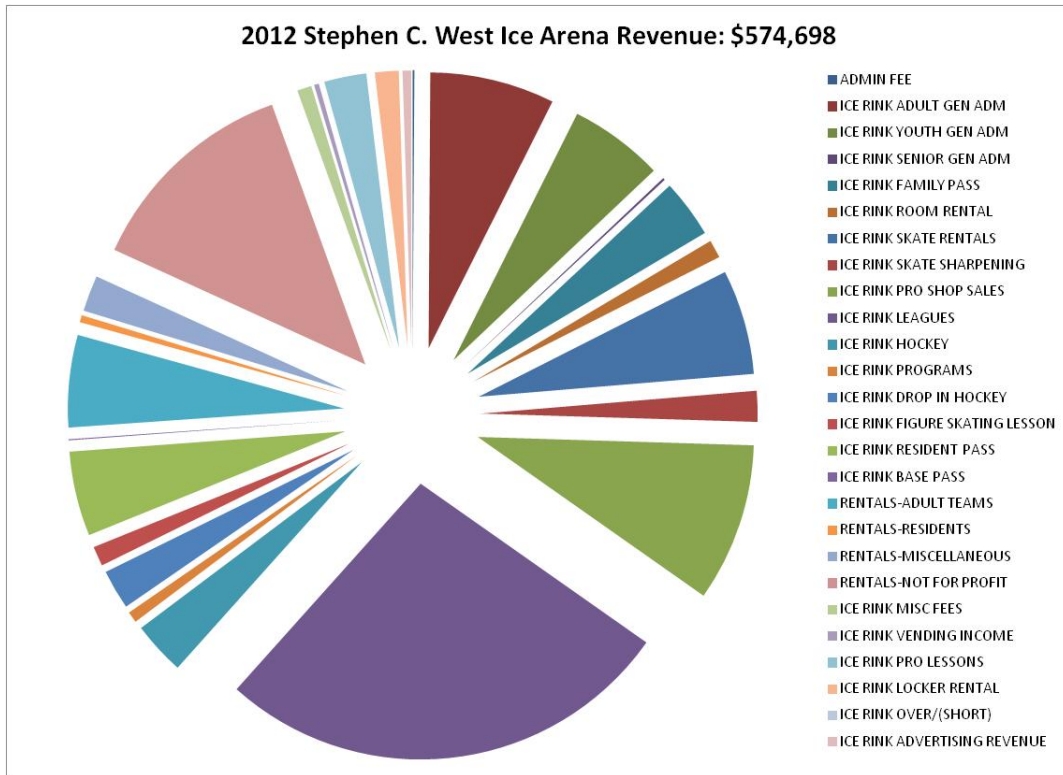
Recreation Department Administration



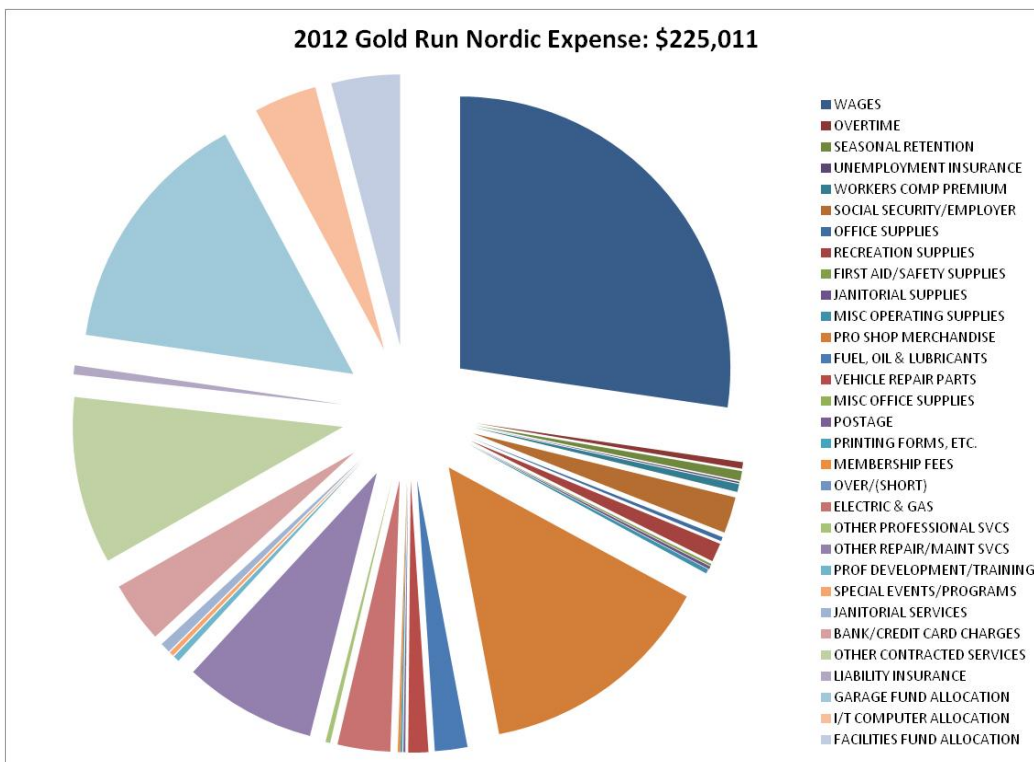
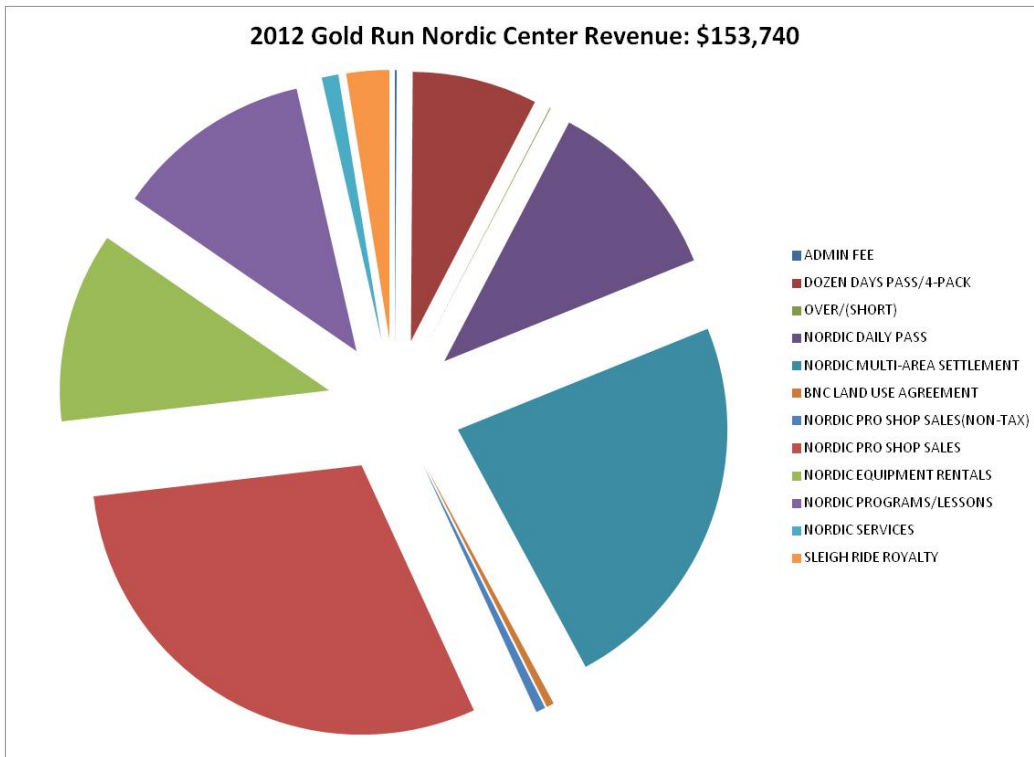
Golf Course Maintenance Operations



Stephen C. West Ice Arena



Gold Run Nordic Center



TO: TIM GAGEN, TOWN MANAGER
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: SOLAR GARDEN PURCHASE
DATE: 5-30-13
CC: RICK HOLMAN, ASSISTANT TOWN MANAGER

One of the final components of the solar garden projects is the determination of the Towns reservation and purchase quantities. Clean Energy Collective (CEC) has just supplied the Town with an analysis of our electric meters and associated savings calculations. The analysis memo from CEC is attached as exhibit B. This memo will present several options to Council in terms of how many kilo Watts (kW) we purchase and what the ultimate disposition of those panels will be.

Overall Savings

As we found in our preliminary analysis of the Town’s electrical consumption, we have some pretty expensive meters. This is a function of the demand charges placed on commercial meters. Our most expensive rates are attached to water pumps, which can spike enormous demand in a very short period of time. As such, they are placed on very high demand rate schedules by Xcel.

Description	Location	Rate / kWh	kW	ROI	Cost
Irrig. Pumps	85 Gold Run	\$ 0.647	20.22	36.08%	\$ 72,792
King. Park Lights	857 Airport	0.401	19.99	24.35%	71,964
Fleet Maint.	1105 Airport	0.217	28.44	14.67%	102,384
Woodmoor Pump	1002 Boreas	0.149	33.79	10.46%	121,644
War. Mark Pumps	White Cloud	0.127	24.9	8.95%	89,640
Woodmoor Pump	455 Boreas	0.106	79.86	7.47%	287,496
Peak 7 Water	131 Slalom	0.101	26.81	7.04%	96,516
Police Facility	150 Valley Brook	0.092	37.65	6.37%	135,540
Golf CH (carts)	200 Clubhouse	0.090	121.93	6.19%	438,948
Water Pumps	150 Peabody	\$ 0.087	6.42	6.01%	23,112
			<u>400.01</u>		
					<u>\$ 1,440,036</u>

The table above summarizes the results of our meter analysis. By applying our on-bill credits to these meters, which have the highest rates, we can maximize our return. The weighted average return on investment (ROI) for these 10 meters is 10.8%. These meters would suffice to consume the power generated by 400 kW of solar panels, our maximum allowable purchase.

It bears noting that the estimates staff is presenting are substantially higher than the 6-7% ROI we presented a few months ago. The reason for this is we were using the residential credit rates to calculate our on bill credits. We knew our credits would be higher, but we had no way of knowing how much higher. As the table above shows, the commercial credits for the Town turned out to be much higher than the residential credit rate of \$.07/kWh. Our REC rate of \$.10/kWh at the McCain garden is also higher than we anticipated.

Purchase Size Considerations

Council has asked staff to analyze our potential purchase amounts with several factors in mind. To wit;

1. Town savings potential
2. 'Reserve' amount for potential Historic District participation
3. Estimate of Community at large demand for panels

The first consideration, Town saving potential, is addressed in the table above and in Exhibit A attached hereto. As the tables in Exhibit A show, the Town can achieve an excellent ROI with pretty much any purchase level up to 400 kW. The ROI actually goes up as our purchase amount goes down, as we would drop the less lucrative meters first from our portfolio. However, our total dollars saved also go down as purchase amount decreases. In summary, we can't really lose regardless of what our final purchase amount is. By way of explanation, the purchase amounts described in Exhibit A are based on selecting to offset entire meters. That is how we end up with purchase quantities of 400 kW (max amount), 271 kW (top 8 meters), 207 kW (top 6 meters), and 102 kW (top 4 meters). In practice we can purchase any amount we want up to 400 kW.

Finance has worked with the Planning department to address the Historic District reserve. We found out how much solar currently exists in the District, as well as pending permits and letters of intent submitted to CEC. With these factors in mind, we determine that a 130 kW reserve would likely serve the District for the foreseeable future. Of course, changes in demand as a result of the gardens coming on line are difficult to predict. But, if we underestimated demand, we can always sell panels from our remaining allocation. And, in the case we have overestimated demand, we would continue to save money with the reserve panels as long as we own them.

CEC has been in constant communication with staff regarding the status of interest in the panels. At this point, it appears the projects will sell out even without the Town's participation. This, of course, cannot be assured until the payments are received by CEC. This will not happen until the arrays are operational this summer.

Reservation Recommendation

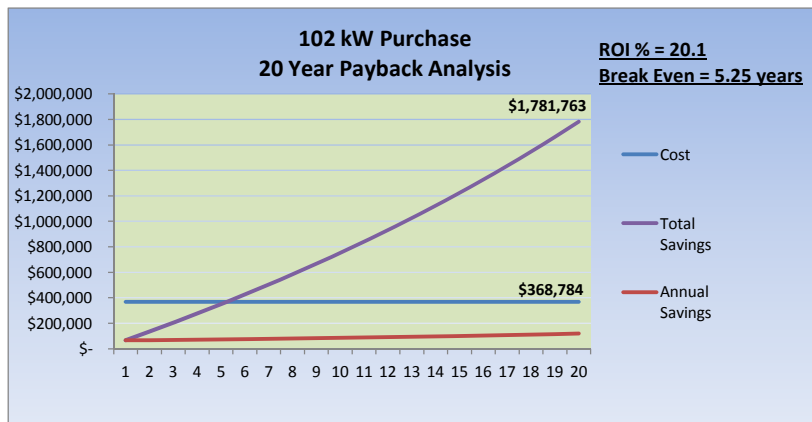
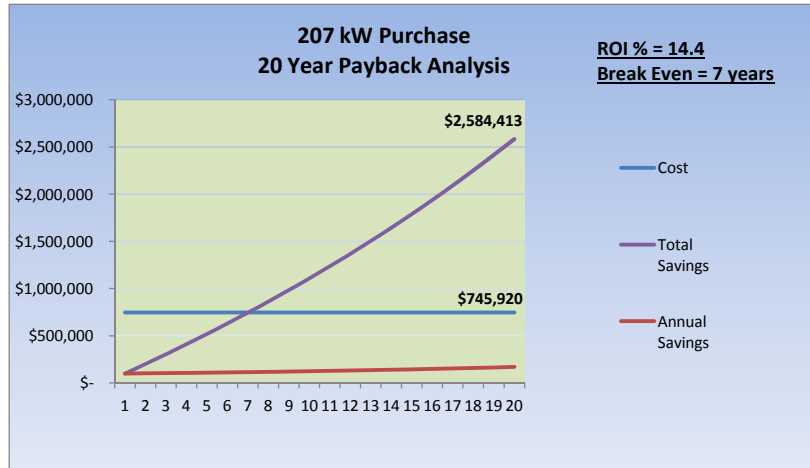
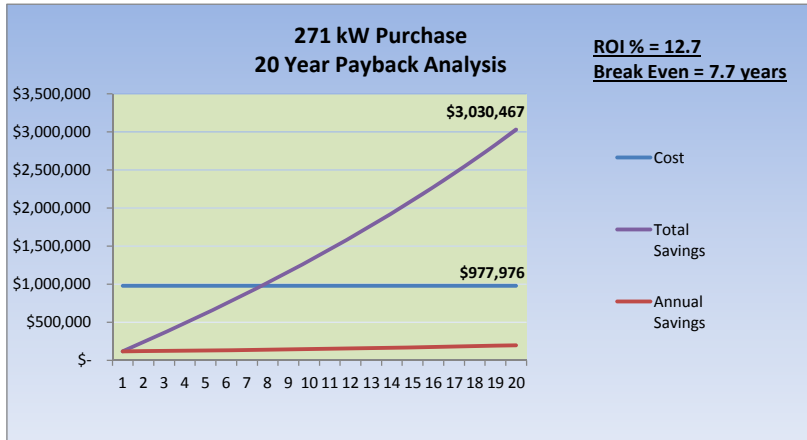
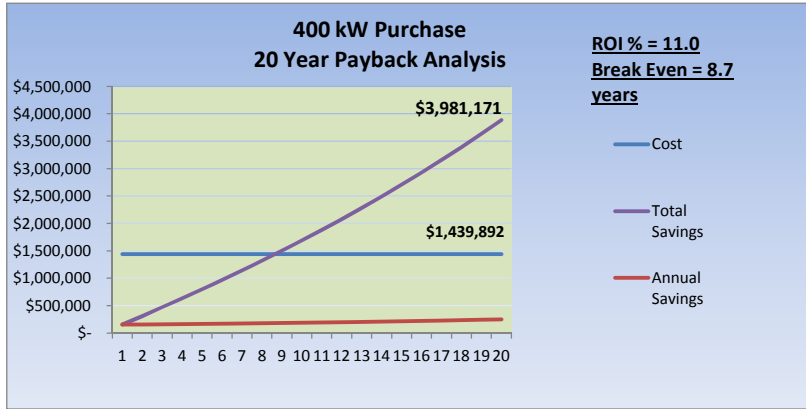
Reservations at this point in time are non-binding. As mentioned above, the reservations will not become binding until the arrays are operational and the purchase contracts are executed. Staff is recommending that we reserve the full 400 kW initially contemplated at this time. This would require a fully refundable deposit of \$144,000. The reasons for reserving the full 400 kW are as follows;

1. **Reservation is non-binding** – We would not be required to purchase the full amount unless that was our desire at the time of certification of the arrays.
2. **Control** – By having the full 400 kW in our reservation, we can release it as we see fit. CEC has stated they would approach us with purchases that would take away from our reservation, and we could approve or not. For example, there appears to be large commercial interest in the arrays, and one or two large purchasers may end up taking the remaining capacity. This may not be the result Council is seeking.
3. **Array Allocation** – The Town is eligible for a \$.10 REC payment at McCain, and a \$.08 REC payment at Stillson. All other participants will receive the \$.08 REC payment at both

sites. If we have the 400 kW reservation, we can reduce our Stillson allocation as additional reservations are placed. This will enable us to take full advantage of this incentive from CEC.

Staff is at this time ready to prepare the paperwork for our reservation with CEC. We are seeking Council's direction regarding the size of the reservation. I look forward to answering your questions at our June 11th work session.

Exhibit A





May 30, 2013

Dear Brian;

I am pleased to provide this revised proposal to you and the Town of Breckenridge. We're excited to be working with the Town and look forward to finishing up the discussion of our business terms with regard to the purchase of panels in the array and the ongoing marketing efforts of CEC.

Economics for the Town of Breckenridge

The chart below summarizes the total cost to purchase for the Town, as well as displays the first year on bill credits, REC Payments and expected 1st year payback. The purchase is based on 399,970 watts of solar capacity, evenly split between the two sites. The on-bill credit rate is \$.1540/kWh for the first year, which is the weighted average of the Town's premise specific credit rates. The premise specific credit rates are displayed in the back of this letter. The full 20 year schedules for both sites are also displayed.

McCain & Stillson- Commercial SG Class			Size
Customer Pricing		Panels	1,702
		Watts	399,970
	Per Watt	Per Panel	
	\$3.60	\$846.00	\$1,439,892
1st Year Savings			\$99,898
1st Year REC Payment			\$58,382
Total			\$158,281
1st Year Payback			11.0%
20 Year Savings & Credits			\$3,981,171

Next Steps

1. Reservation- As we had discussed, I would like to have the Town complete it's reservation for the initial 400kW of capacity. The reservation will be split between the two arrays evenly. The reservation page is a one page form for each array and is accompanied by a 10% fully refundable deposit. The reservation deposit will be applied against the final purchases that the Town makes.
2. Releasing Reserved Capacity to Other Customers- CEC will follow the Town's direction on how much capacity is released to other customers, and from which array. The following are the steps we are suggesting to release capacity to other Summit County residents and businesses:



- a. Capacity would first be released from Stillson, as it has a lower REC payment than McCain. (The Town receives \$.10/kWh in the McCain array and \$.08/kWh in Stillson)
 - b. Capacity would be released from the premise numbers with the lowest credit rates first.
 - c. We will provide bi-monthly reporting to the Town on the total amount of capacity remaining in each array. We will also let you know of large reservations/purchases that we receive.
3. Completing Purchase Transactions- Because the arrays will be completed at different times, we will need to plan for two separate closing transactions. The first will be for the Stillson array, and will be based on the net-capacity the Town purchases, which is likely to be well below the 200kW reservation amount. The closing should take place the month before the array is interconnected. (Xcel requires all subscribers to be loaded in the system by the last day of the preceding month)
- a. Stillson Interconnection- Currently scheduled for August 8th, which would put the closing of sales in the month of July.
 - b. McCain Interconnection- Currently scheduled for August 29th, but we are doubtful that date will be met. Closing of sales would be scheduled for late August.
4. Continued Marketing by CEC after the Town's Purchase- CEC will continue to actively market and sell capacity in the arrays for up to one year after interconnection, or the capacity is sold out, whichever comes first. The Town can determine how much capacity it wants to retain for its long-term internal consumption and CEC will market the balance.
5. Post-Closing Transfers of Capacity- Any capacity that is purchased by the Town and subsequently remarketed and sold to other Town or County residents or businesses will be transferred by CEC from the Town to the new purchaser. CEC will establish a process to inform the Town of the capacity being sold each month and coordinate the release of the panels and a full refund to the Town. CEC will not charge either the Town or the purchaser a fee for this transfer.

Please let me know if there is other information you need or if I can answer any questions. And again, thank you for coming out to the ground breaking.

Best regards

Thomas Sweeney

Chief Operating Officer

Stillson- Commercial SG Class			Size
Customer Pricing		Panels	851
		Watts	199,985
Per Watt	Per Panel		
\$3.60	\$846.00		\$719,946
1st Year Savings			\$49,949
1st Year REC Payment			\$25,948
Total			\$75,897
1st Year Payback			10.5%
20 Year Savings & Credits			\$1,931,318

Year	Panels	851	Total
	Watts	199,985	
	On-Bill	REC	
	Credits	Payments	
1	\$49,949	\$25,948	\$75,897
2	\$51,821	\$25,687	\$77,508
3	\$53,757	\$25,426	\$79,183
4	\$55,759	\$25,165	\$80,925
5	\$57,830	\$24,905	\$82,735
6	\$59,971	\$24,644	\$84,615
7	\$62,185	\$24,383	\$86,568
8	\$64,473	\$24,122	\$88,595
9	\$66,837	\$23,861	\$90,698
10	\$69,280	\$23,601	\$92,880
11	\$72,068	\$23,426	\$95,493
12	\$74,964	\$23,251	\$98,215
13	\$77,971	\$23,076	\$101,048
14	\$81,095	\$22,902	\$103,997
15	\$84,340	\$22,727	\$107,067
16	\$87,708	\$22,552	\$110,261
17	\$91,206	\$22,378	\$113,584
18	\$94,838	\$22,203	\$117,041
19	\$98,608	\$22,028	\$120,636
20	\$102,521	\$21,853	\$124,375
	\$1,457,180	\$474,138	\$1,931,318

McCain - Commercial SG Class			Size
Customer Pricing		Panels	851
		Watts	199,985
Per Watt	Per Panel		
\$3.60	\$846.00		\$719,946
1st Year Savings			\$49,949
1st Year REC Payment			\$32,435
Total			\$82,384
1st Year Payback			11.4%
20 Year Savings & Credits			\$2,049,853

Year	Panels	851	Total
	Watts	199,985	
	On-Bill	REC	
	Credits	Payments	
1	\$49,949	\$32,435	\$82,384
2	\$51,821	\$32,109	\$83,929
3	\$53,757	\$31,783	\$85,539
4	\$55,759	\$31,457	\$87,216
5	\$57,830	\$31,131	\$88,961
6	\$59,971	\$30,805	\$90,776
7	\$62,185	\$30,479	\$92,664
8	\$64,473	\$30,153	\$94,626
9	\$66,837	\$29,827	\$96,664
10	\$69,280	\$29,501	\$98,780
11	\$72,068	\$29,282	\$101,350
12	\$74,964	\$29,064	\$104,027
13	\$77,971	\$28,846	\$106,817
14	\$81,095	\$28,627	\$109,723
15	\$84,340	\$28,409	\$112,748
16	\$87,708	\$28,190	\$115,899
17	\$91,206	\$27,972	\$119,178
18	\$94,838	\$27,754	\$122,591
19	\$98,608	\$27,535	\$126,143
20	\$102,521	\$27,317	\$129,838
	\$1,457,180	\$592,672	\$2,049,853



Expected Bill Credits by Premise Number

CEC requested 12 months of billing detail for all premises that were designated as SG or PG class of service. Using Xcel Energy's credit calculator, CEC was able to determine the estimated credit rates for each premise, and the maximum off-set allowed under the program. The table below shows the on-bill credit rate per kWh and calculates the weighted average for all premises up to 400kW of capacity.

Premise #	Location Description	Annual kWh	Maximum		Bill Credit	Monthly		System Size kW
			120% kWh	Off-Set		Bill Credit	# of Panels	
301429592	85 Gold Run Gulch	27,520	33,024	33,024	\$0.647	\$21,350.35	86.49	20.22
301920054	857 Airport Rd	27,200	32,640	32,640	\$0.401	\$13,089.95	85.48	19.99
301863837	1105 Airport Rd	38,697	46,436	46,436	\$0.217	\$10,098.99	121.61	28.44
300996219	1002 Boreas Pass Rd	45,982	55,178	55,178	\$0.149	\$8,210.55	144.51	33.79
301901882	White Cloud Drive	33,880	40,656	40,656	\$0.127	\$5,149.49	106.47	24.90
301006583	455 Boreas Pass Rd	108,668	130,402	130,402	\$0.106	\$13,849.95	341.51	79.86
301301408	131 Slalom Drive	36,480	43,776	43,776	\$0.101	\$4,400.36	114.65	26.81
303950493	150 Valley Brook	51,241	61,489	61,489	\$0.092	\$5,650.86	161.03	37.65
301906065	200 Clubhouse Drive	165,920	199,104	199,104	\$0.090	\$17,853.66	521.43	121.93
302133494	150 Peabody Ter	35,080	42,096	10,484	\$0.087	\$915.88	27.46	6.42
	Totals	570,668	684,802	653,190	\$0.1540	\$100,570.027	1,710.64	400.00
302133494	150 Peabody Ter	35,080	42,096	31,612	\$0.087		82.79	25.78
300686017	150 W Adams Ave	254,464	305,357	305,357	\$0.086		799.70	186.99
300694281	Pump House #2 353 Timber	40,292	48,350	48,350	\$0.085		126.63	29.61
301719468	189 Boreas Pass Rd, Meter #	215,200	258,240	258,240	\$0.076		676.30	15.81
301766895	750 Four O Clock Rd	257,200	308,640	308,640	\$0.071		808.30	189.00
300174249	103 S Harris Street	143,920	172,704	172,704	\$0.070		452.29	105.76
302124886	150 Watson Ave	78,080	93,696	93,696	\$0.067		245.38	57.38
301907900	271 Lakeshore Loop	409,120	490,944	490,944	\$0.063		1,285.73	300.64
300681872	150 W Ski Hill Rd	183,200	219,840	219,840	\$0.062		575.74	134.62
304131984	2001 French Gulch Rd	236,240	283,488	283,488	\$0.059		742.43	173.60
301719468	189 Boreas Pass Rd, Meter #	722,637	867,164	867,164	\$0.058		2,271.02	531.03
300688356	880 Airport Road	1,547,587	1,857,104	1,857,104	\$0.057		4,863.57	1,134.24
301775828	1091 Airport Road	83,880	100,656	100,656	\$0.042		263.61	61.64
		5,348,236	6,417,883	5,037,796			16,614.75	3,746.08

Expected Production

		Stilson Site			McCain Site		
		Panel	Watts	Annual	Panel	Watts	Annual
Degrade	Year	Performance	Panel	kWh	Performance	Panel	kWh
1%	1	99.5%	235	381	99.5%	235	393
1%	2	98.5%	235	377	98.5%	235	389
1%	3	97.5%	235	373	97.5%	235	385
1%	4	96.5%	235	370	96.5%	235	381
1%	5	95.5%	235	366	95.5%	235	377
1%	6	94.5%	235	362	94.5%	235	373
1%	7	93.5%	235	358	93.5%	235	369
1%	8	92.5%	235	354	92.5%	235	365
1%	9	91.5%	235	350	91.5%	235	361
1%	10	90.5%	235	347	90.5%	235	357
0.67%	11	89.8%	235	344	89.8%	235	355
0.67%	12	89.2%	235	342	89.2%	235	352
0.67%	13	88.5%	235	339	88.5%	235	349
0.67%	14	87.8%	235	336	87.8%	235	347
0.67%	15	87.2%	235	334	87.2%	235	344
0.67%	16	86.5%	235	331	86.5%	235	341
0.67%	17	85.8%	235	329	85.8%	235	339
0.67%	18	85.1%	235	326	85.1%	235	336
0.67%	19	84.5%	235	324	84.5%	235	333
0.67%	20	83.8%	235	321	83.8%	235	331
0.67%	21	83.1%	235	318	83.1%	235	328
0.67%	22	82.5%	235	316	82.5%	235	326
0.67%	23	81.8%	235	313	81.8%	235	323
0.67%	24	81.1%	235	311	81.1%	235	320
0.67%	25	80.4%	235	308	80.4%	235	318

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: BOLT ADMINISTRATIVE LICENSE ADMINISTRATIVE RULES
DATE: 6/4/13
CC: TIM GAGEN, RICK HOLMAN

The attached administrative rules provide guidance for the issuance of a Town of Breckenridge Business and Occupational License and Tax (BOLT) Administrative License. The administrative rules explain the intent of the new license category.

Please see the agenda item entitled "BOLT Ordinance Change – Administrative License" under "Legislative Review" on this agenda for detail on the ordinance and its intent.

ADMINISTRATIVE RULES AND REGULATIONS CONCERNING TOWN OF BRECKENRIDGE “BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE”

1. **Effective Date.** These regulations are effective _____, 2013.
2. **Authority.** These regulations are issued by the Financial Services Manager of the Town of Breckenridge pursuant to the authority granted by Section 4-1-10(a)(3) of the Breckenridge Town Code.
3. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the Breckenridge Town Code were followed in connection with the issuance of these regulations. Notice of the adoption of these regulations was given in accordance with the requirements set forth in Section 1-18-3 of the Breckenridge Town Code.
4. **Conflict With Business and Occupational Licenses and Tax Ordinance.** These regulations do not amend the Town’s “Business and Occupational Licenses and Tax Ordinance” (found at Chapter 1 of Title 4 of the Breckenridge Town Code). If there is a conflict between these regulations and the Business and Occupational Licenses and Tax Ordinance, the ordinance will control.

5. **Definitions:**

As used in these regulations, the following words have the following meanings:

FINANCIAL SERVICES MANAGER:	The Financial Services Manager of the Town, or such person’s designee.
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6. **What is the Breckenridge Business and Occupational License and Tax?**

The Town of Breckenridge “Business and Occupational Licenses and Tax” Ordinance requires the licensing and regulation of business activities, occupations, and enterprises conducted within the Town and provide the Town with necessary information relating to businesses and professions operating within the Town in order to protect the health, welfare and safety of its inhabitants, and to generate and raise additional revenues for the Town for the purpose of marketing and promoting the Town and its environs as a year round resort, to promote and market activities and events beneficial to the economic vitality of the community.

Under the Business and Occupational Licenses and Tax Ordinance, a business and occupational license must be obtained from the Town prior to engaging in any business activity in limits of the Town. The presumption is that any business activity engaged in within Town limits is subject to licensing, and the burden is on the person doing business to demonstrate that the activity is not subject to licensing and/or tax because it is specifically exempt under the Business and Occupational Licenses and Tax Ordinance.

7. **What is an Administrative Business License?**

When deemed to be in the public interest, the Financial Services Manager may authorize the issuance of an Administrative Business License at no charge if the applicant meets the requirements for the issuance of an Administrative Business License as described in the Business and Occupational Licenses and Tax Ordinance.

8. **Which businesses qualify for the Administrative Business License?**

An Administrative Business License may only be issued under the following conditions:

1. The Town is the applicant's only customer of the vendor within the Town limits; or
2. The only location within Town limits at which the applicant does business is a Town-owned facility.

9. **How do I make a claim that my business qualifies for an Administrative Business License?**

To make a claim that a particular business qualifies for an Administrative Business License, a completed Administrative Business License Application must be submitted to the Town's Accounting Coordinator. The Town has the right to require that evidence to support the claim be provided if the initial submission is found to be inadequate or incomplete. If the Town determines that the business qualifies for an Administrative Business License, a Business and Occupational License will be issued to evidence that business is properly licensed as described in the Business and Occupational Licenses and Tax Ordinance. Contractor must sign an affidavit specifying that if contractor begins to conduct other business within the Town, the contractor will purchase a business license.

10. **When must I make a claim that my business qualifies for an administrative business license?**

An application for an Administrative Business License must be properly submitted and approved by the Accounting Coordinator prior to the applicant engaging in any business within the Town limits. If the Town has not approved an applicant's application for an Administrative Business License prior to the applicant engaging in business with the Town limits, the applicant must obtain a regular business license before any business activity can be conducted. However, if an Administrative Business License is subsequently approved and issued, you may file an application for a refund of the Business and Occupational Tax you paid to obtain a regular business license.

11. **What if the circumstances described on the application change at some point in the future?**

The licensee has the duty to immediately notify the Town if the circumstances stated on the Administrative Business License Application change in any way. If the business no longer qualifies for an Administrative Business License due to the change in circumstances, the appropriate license fee (per Section 4-1-4 of the Breckenridge Town Code) must be paid to the Town without delay. If the Town discovers the change in circumstances without having first been notified by the licensee, an invoice including applicable penalties and interest will issue.

12. **What is the duration of the license?**

A license issued under these guidelines is valid for a period of one year commencing with the date of issuance and must be renewed annually for so long as such person is subject to the licensing requirements of these regulations. All licenses renew on the 15th day of the month in which the license was issued.

13. **Disclaimer**

The Town's enforcement of the Business and Occupational Licenses and Tax Ordinance always involves applying the ordinance to the facts of a particular business. Not all possible factual scenarios involving the application of the Business and Occupational Licenses and Tax Ordinance are described in these regulations. Nothing in these regulations limits the Town's authority to apply the Business and Occupational Licenses and Tax Ordinance to factual situations not specifically described in these regulations.

14. **Whom can I contact if I have any other questions concerning Town of Breckenridge Business and Occupational License?**

The Town of Breckenridge, Accounting Coordinator, 150 Ski Hill Road, PO Box 8629, Breckenridge, CO 80424 970-453-3182

Dated: _____, 2013

Brian Waldes, Financial Services Manager
Town of Breckenridge, Colorado



To: Breckenridge Town Council
From: Laurie Best- Community Development Department
Date: June 2, 2013 (for worksession June 11th)
Re: Maggie Placer Annexation Modification

The Maggie Placer property is a 1.82 acre parcel located on the south end of Town on Highway 9 just north of Allaire Timbers Inn and Ski & Racquet Condominiums. The property was annexed in 2007 and an Annexation Agreement was approved by the Council to establish the minimum requirements for 18 deed restricted units and 4 market rate units. That original Agreement was modified in 2012, but the applicant has subsequently made additional changes that require another amendment. After several modifications to the plans, Staff believes the applicant has responded to feedback from the Planning Commission, staff, and the Housing Committee, and supports the changes that are requested, specifically:

- reduce the maximum number of units from 20 to 18 (9 deed restricted and 9 market)
- eliminate three-bedroom deed restricted units and construct 8 two-bedroom units and 1 one-bedroom ADA unit
- modify the pricing from 2-80% AMI units and 8-95% AMI units to 2-80% AMI units and 7-100% AMI units. (Note that the owner has agreed to use the 2012 AMI numbers and an interest rate of 6.5% for pricing which is significantly higher than current rates and results in lower price points and more long term affordability-maximum price at \$295,000)
- extend the start date from June 1, 2013 to June 1, 2014
- modify the release rate from 1 market unit for every 3 deed-restricted units to 1 market unit for every 2 deed-restricted

Background:

The original Agreement that was approved in 2007 allowed 4 market units and 18 deed restricted units to be priced at 110 to 140% AMI. In 2012, the Agreement was modified to reduce the size of the project to 20 units, to lower the price points to 80-95% AMI, and to allow a 50/50 ratio of market to deed restricted units (10 market units and 10 deed-restricted units). As part of the 2012 modification, the owner also agreed to use Summit County vendors, businesses, and employees for all construction and to begin construction by June 1, 2013.

After multiple revisions, the applicant has now eliminated two additional units and has reconfigured the plan from multi-family townhomes into duplexes and triplexes. The project has been reviewed twice with the Planning Commission and it appears that the biggest site design concerns have been addressed with the elimination of some units and the change to triplex configuration for some buildings. At their worksession on June 4th, the Planning Commission recommended that the project be forwarded to the Town Council for consideration of the annexation agreement deal points. It should be noted that the Planning Commission has not completed a full point analysis as many of the details of the plan are not available and it was reviewed as a worksession. But, if the Council is comfortable with the changes that

are requested, the applicant will finalize the design and submit a development permit application that can be fully vetted by the Planning Commission. It is important to note that the applicant has accepted reservations for seven of the nine deed-restricted units that are contingent on Town approval of the project and their goal is to begin construction this summer/fall.

Recommendation:

Staff supports the modifications that the applicant has requested. It is staff's opinion that the smaller units at 80-100% AMI will address a need in the community and that the elimination of two units will significantly improve the project fit on the property. In addition to the modifications requested by the applicant, staff would also suggest that the Council add a condition to the Agreement requiring the applicant to obtain approval from the Town for the HOA documents to specifically address:

- composition of the Board relative to market units and deed restricted units to insure deed restricted owners represent a majority
- definitions of acceptable commercial vehicles to clarify that reasonable commercial vehicles are not prohibited

Staff has discussed these issues with the applicant who has agreed to work with the Town on the specific language if the Council agrees they should be added to the agreement. We look forward to your direction regarding the modifications requested by the applicant as well as the modification proposed by staff. Based on your feedback a Modified Annexation Agreement will be drafted and presented for your approval via a resolution.

MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director of Community Development
Kim Dykstra-DiLallo, Director of Communications

SUBJECT: Disposable Bag Update

DATE: June 4, 2013 for June 11 Council Meeting

Staff has continued to work on the various aspects of the public outreach program related to the Disposable Bag Fee. This memo provides an update on this work.

Breckenridge Bag Design and Ordering

Based on the feedback we received at the Council retreat, we are moving forward with a design for a non-woven polypropylene reusable “Breckenridge Bag”. Staff received seven bids for the design work and eventually selected the team of the WilsonLass graphic design firm and artist Lisa Rivard to prepare the design. Several design concept options will be presented to staff on June 6 and a final design will be selected by June 7. This rather aggressive timeline is necessary in order to finalize design, place an order, get proofs from the bag manufacturer, and ultimately receive the bags in September prior to the October 1 implementation of the Disposable Bag Fee.

Staff also received seven bids from different bag providers who work directly with Chinese manufacturers. It looks like we will be able to acquire bags for around one dollar per bag or slightly less. The bags will be comprised of 80% post-consumer recycled content (primarily plastic PETE bottles).

Our plan is to order 50,000 bags to be distributed in approximately the following breakdown:

- 15,000 to Retail Stores
- 25,000 to Property Management Companies/Lodging Front Desks
- 6,000 to Lodging Shuttles
- 2,000 to Low Income Families
- 2,000 to Free Bag Handout Events

We intend to provide the bags to Retail Stores and will ask for a reimbursement as they are sold. We hope to be able to price the bags in the stores at 99 cents each. With lodging, this first round of bags will be provided for free to the lodging companies. The goal is to garner enough interest with the lodging companies that in subsequent rounds of bag production they will participate in the cost of the bags, in exchange for display of their logo on the bags.

Regarding bags for low income families, the Council adopted a provision in the Disposable Bag Fee ordinance that exempts customers showing evidence of receiving state or federal food assistance from the bag fee. The Council did have some questions on this provision and its origin, as staff had found similar language in other bag ordinances. Staff has contacted both Aspen and Boulder and we have been unable to find any legal requirement that these people be exempt. In Boulder's case, part of the rationale for the exemption was that the food assistance money can be used only for food and that such individuals would have to pay for the bags out of their own money, which Boulder felt was not necessary. As is noted above, we intend to distribute a number of the Breck Bags to low income groups through the Summit County Social Services Dept and similar organizations.

City Market

Staff has had some initial discussions with City Market management on the bag program. In order for City Market to stock and sell the Breckenridge Bags, we will need permission from City Market corporate offices. Regarding how the fee will be implemented at self checkout, City Market managers indicated that likely a prompt would come up on the checkout screen that would temporarily hold the transaction until an employee had verified and entered the number of bags taken by a guest. Staff also plans to work with City Market to get bag messaging signs installed in appropriate locations in the store and parking lot.

Communications Plan

Attached is a Communications Plan that staff has drafted. Staff has already been actively meeting with the BRC, restaurant association, and lodging association to initiate discussions on messaging to tourists and residents. The Plan outlines the various facets of the communications effort.

Council Questions

Does Council have any questions or input regarding the Breckenridge Bag or the Communications Plan?

REDUCING DISPOSABLE BAGS

TOWN OF BRECKENRIDGE

COMMUNICATIONS PLAN

June 2013

Situation Analysis

After 3+ years of researching, evaluating and discussing ways to reduce single-use bags, the Breckenridge Town Council passed the Disposable Bag Fee Ordinance on April 9, 2013, with implementation on October 1. To facilitate the success of this bag fee to locals and visitors alike (and to further the goals of the SustainableBreck Action Plan), the Council directed staff to put into action a Public Outreach/Communications Plan. One of the elements is the creation and distribution of an inaugural, signature ‘Breck Bag’. Another element is educating the locals and business owners of the bag fee, and the third aspect is educating our guests – before and during their visit.

Desired Outcomes/Goals

- REDUCE disposable bags in our community
- Provide consistent messaging and information on why this is being implemented
- Provide training on how it will work

Target Audiences

- Guests
- Residents – Full and Part-time
- Lodging/Property management company owners, managers & employees
- Retail business owners, managers & employees
- Restaurant owners, managers & employees
- Service businesses (incl. Welcome Center) owners, managers & employees
- Breckenridge schools
- Media

Objectives/Strategies

- By mid-June, design the iconic ‘Breck Bag’
- By mid-July, develop a Tool Kit for businesses in collaboration with BRC
- By mid-July, develop Marketing Plan (print, video, radio, social media, public relations, etc.)
- By late-July, develop Training Plan
- By mid-Aug., implement Marketing Plan
- By late-Aug., implement Training Plan
- By late Sept., distribute ‘Breck Bag’
- On Oct. 1 – implementation of the Breckenridge Bag Fee

Key Messages

❖ Breck Bag:

- Breckenridge Branding: two main panels – ‘community’ logo (one developed for USAPCC Breck Stages), strong visual representation of Breck community; two side panels – call to action, why are we doing this (see Public Outreach below), SustainableBreck logo & web address,

GoBreck.com logo/web address (**NOTE: this has been requested by numerous members of the business community as the desired ‘call to action’ website for tourism**).

- ❖ Public Outreach: *consistent with “Breck Bag” message*
 - One Bag, So Many Uses / Reduce, Reuse, Recycle
 - Changing the World, One Bag at a Time / Choose to Reuse

Key Tactics

- Video featurette (2 mins.) and ad (:30) – *produced by ToB, BRC & SCTV-10* – to be used on TV-8, TV-10, VisitorChannel, YouTube, at BWC; on various websites (ToB, BRC, HC3); provided to Lodging/Property Management Companies for their websites, and email confirmations
- Print advertising
- Radio advertising
- ‘Breck Bag Monster mascot’ for various presentations & events
- ‘Breck Bag’ giveaways & promotions
- Presentations to various groups (GM Roundtable, BRC Annual meeting, Restaurant Association, Lodging Association, etc.)
- Info table at various events (Green Team’s Bike Valet at Town Party)
- Collaborate PR pitches by ToB, BRC and BSR on Sustainable efforts
- Info/ad in the InRoom Directories
- Consistent messaging and appropriate signage provided with lodging front desks, concierges, and on shuttles
- Consistent messaging and signage for all Retail stores
- Messaging on Restaurant menus and in Breckenridge Dining Guide
- Approach BSR on communication touch points, including, but not limited to, adding this messaging to their passholder email list, messaging on mountain, etc.
- Develop a promotional component that allows businesses to utilize the ‘Breck Bag’ as an incentive/giveaway for social media promotion, data base acquisition, etc.

MEMO

TO: Breckenridge Town Council

FROM: Laurie Best-Community Development Department

RE: Childcare Scholarship Program-November 2013 Ballot

DATE: June 4, 2013 (for June 11th worksession)

Regarding the Childcare Scholarship tax, the Town is required to take formal action regarding participation in a coordinated election 100 days before the election (July 29, 2013) and to certify the final ballot language a minimum of 60 days before the election (September 6, 2013) . Since we are approaching these deadlines for the November 6, 2013 election and we are beginning to coordinate with the County regarding Right Start, staff felt it would be helpful to check in with the Council to provide an update regarding 1) the community outreach and level of support for the program/tax and 2) the next steps for the Town and the Task Force.

Community Outreach

On April 11th a survey was posted to survey monkey and links to the survey have been forwarded throughout the community, to the childcare community as well as the business community (BRC members and restaurant and lodging associations). The intent of the survey is to identify the general reaction of the community to the program and to a possible tax in November 2013 to pay for the program. As of June 4th 394 individuals, including 257 registered voters have responded to the survey. Some of the key findings include:

- Eighty two percent of the respondents support continuation of the scholarship program-this includes 82% of registered voters, 70% of business owners, and 85% of people employed in Town
- Seventy five percent of the registered voters have indicated they would support a tax to sustain the scholarship program (191 registered voters)
- About half of the registered voters would support either a sales tax or a property tax (98) and 70% of the remainder prefer a sales tax
- Sixty two percent of business owners have indicated they would support a tax to sustain the scholarship program
- Seventy eight percent of Town employees have indicated they would support a tax to sustain the scholarship program
- Overall, seventy five percent of the respondents have indicated they would support a tax to sustain the scholarship program

In addition to the internet survey, members of the Task Force have begun to reach out and canvas local neighborhoods. To date twenty additional people have signed petitions bringing the total number of registered voters in favor of a tax to 211. It should be noted that this outreach is being conducted without any active campaign and is intended to provide the Council with information as you consider the funding options for the program. We believe the results indicate that there is good broad support for the program.

Next Steps

To meet the election deadlines the Town will need to take formal action by July 29th. Once the Town takes formal action a Political Action Committee (PAC) will be established to manage a campaign. The County has indicated that they are considering, and most likely will include the continuation of Right Start on the same ballot. Therefore we are anticipating that one coordinated PAC will be established to manage both campaigns and to coordinate the messaging and outreach. The County decision is expected anytime, most likely late June or early July. In the meantime, in order to meet the election deadlines, staff will be preparing an Ordinance for the Councils consideration on June 25th and July 9th. To assist in drafting the Ordinance and moving forward with outreach/messaging staff is seeking some direction from the Council, specifically:

- Does the Council currently have a preference for the type of tax? (sales or property)
- Does the Council want the Task Force to expand outreach activities and collect more survey responses?

We will attend your worksession on the June 11th meeting to answer questions and discuss our next steps. Thank you.



Town of Breckenridge Childcare Scholarship Program



Insuring a reliable workforce by supporting over 500 cost-burdened families since 2008
(approximately 150 families and 180 children/year)

Employees from more than 350 local businesses

Insures access to quality childcare which impacts school readiness, social development,
socialization, and long term success/social outcomes

The highest rate of return comes from investing early (\$13-\$17 for every \$1)

Scholarships support local families and a stable and reliable workforce

Families must live and or work in the Upper Blue Basin

Fair compensation to teachers and reasonable teacher/student ratios

Approximately 50% of the children in care receive assistance

Accounts for 30% of the revenue for Breckenridge centers

Approximately \$650,000-\$800,000 per year

.24% additional sales tax from 8.275% to 8.515%*

1.652 mil property tax (\$131yr/\$1m residential or \$479/\$1m commercial)

*Aspen-9%, Crested Butte-8.5%, Denver-7.2%, Dillon-8.275%, Frisco-7.775%, Silverthorne-7.775%, Steamboat-8.4%, Telluride-10.4%, Vail-8.4%
Lodging: Aspen-1%, Crested Butte-4%, Denver 7.13%, Dillon-2%, Frisco-2.35%, Silverthorne-2%, Steamboat-3%, Telluride-2%, Vail-1.4%, Breck-2.4%

**The Town of Breckenridge-a real town and a world class resort where
individuals can live, work, play, and raise a family (Breckenridge Vision Plan)**

