



**BRECKENRIDGE TOWN COUNCIL WORK SESSION**

Tuesday, November 25, 2014; 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.*

<b>3:00-3:10pm</b>	<b>I</b>	<b><u>PLANNING COMMISSION DECISIONS</u></b>	<b>2</b>
<b>3:10-4:00pm</b>	<b>II</b>	<b><u>LEGISLATIVE REVIEW*</u></b>	
		Water Rates Ordinance	<b>10</b>
		Mill Levy Ordinance	<b>17</b>
		Verizon Lease Ordinance	<b>20</b>
		Milne House and Eberlein House Landmarking	<b>42</b>
		Breckenridge Grand Vacations Community Center Landmarking	<b>46</b>
		Marijuana Licensing Code Amendment	<b>49</b>
		Comcast Franchise Agreement	<b>52</b>
		Resolution to Adopt the 2015 Budget and Capital Improvement Plan	<b>58</b>
		Resolution Naming North Main Park	<b>60</b>
		CDOT Maintenance Agreement	<b>63</b>
<b>4:00-4:15pm</b>	<b>III</b>	<b><u>MANAGERS REPORT</u></b>	
		Public Projects Update	<b>79</b>
		Housing/Childcare Update	
		Committee Reports	<b>82</b>
		Financials	<b>83</b>
<b>4:15-4:30pm</b>	<b>IV</b>	<b><u>OTHER</u></b>	
		Short-Term Parking Goal Update	<b>94</b>
		Free Ride Transit Survey Results	<b>96</b>
<b>4:30-5:00pm</b>	<b>V</b>	<b><u>PLANNING MATTERS</u></b>	
		Wireless Communications Facilities Ordinance	<b>127</b>
<b>5:00pm</b>	<b>VI</b>	<b><u>EXECUTIVE SESSION - ACQUISITIONS AND NEGOTIATIONS</u></b>	

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:** November 19, 2014

**Re:** Planning Commission Decisions of the November 18, 2014, Meeting.

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***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF November 18, 2014:***

**CLASS C APPLICATIONS:**

None.

**CLASS B APPLICATIONS:**

None.

**CLASS A APPLICATIONS:**

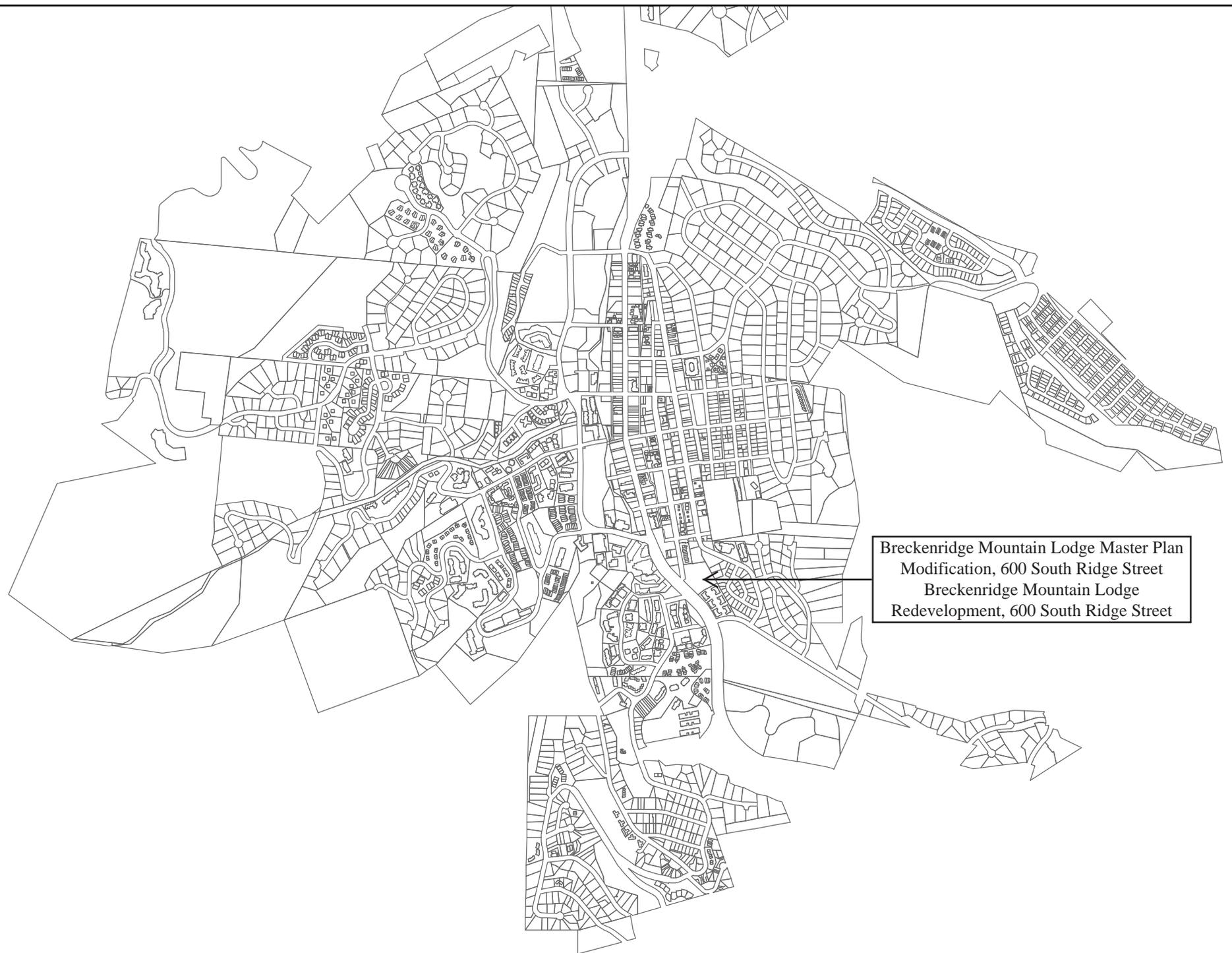
- 1) Breckenridge Mountain Lodge Master Plan Modification, PC#2014033, 600 South Ridge Street  
Master Plan modification to transfer TDRs of 17.65 SFEs for hotel use. Approved.
- 2) Breckenridge Mountain Lodge Redevelopment, PC#2014034, 600 South Ridge Street  
Redevelopment of Lot 3 of the Breckenridge Mountain Lodge area for a 3-story, 129 room hotel with 328 square feet of internal commercial use. Internal parking will be located within the north and south structures with the remainder on the surface mostly surrounded by the building. Approved.

**TOWN PROJECT HEARINGS:**

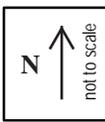
None.

**OTHER:**

None.



Breckenridge Mountain Lodge Master Plan  
Modification, 600 South Ridge Street  
Breckenridge Mountain Lodge  
Redevelopment, 600 South Ridge Street



# Breckenridge South

Town of Breckenridge and Summit County governments  
assume no responsibility for the accuracy of the data, and  
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## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Eric Mamula                      Jim Lamb                              Gretchen Dudney  
Kate Christopher                Dan Schroder                        Ron Schuman  
Dave Pringle arrived at 7:25pm  
Ben Brewer, Town Council Liaison

### APPROVAL OF AGENDA

With no changes, the November 18, 2014, Planning Commission Agenda was approved as presented.

### APPROVAL OF MINUTES

With no changes, the November 4, 2014, Planning Commission Minutes were approved as presented.

### TOWN COUNCIL REPORT:

Mr. Brewer:

- Passed an ordinance that increases the fees on water to prepare for the day that there is a need to build another water plant.
- Set the mill levy, currently at 5.07 mills, one of the lowest property taxes of any town in the state. We collect about \$2.3 million from this and two thirds of the rest of the Town's revenue are made up in sales tax. Child care measure didn't pass which would have added some.
- We approved on first reading a lease with Verizon, for the "foul pole" cell tower. One of the poles holding up the softball net at the Rec Center will be 25' taller for the cell tower. This will be a Class A application and come before the Planning Commission. There are some benefits with a lease agreement and improvements to the dumpster area over at the Rec Center.
- Landmarked a bunch of properties, Milne-Eberlein, Grand Vacations Community Center.
- Extended the moratorium on new marijuana licenses, extended it from January 1 to July 1, 2015.
- Brought on Robert Gregory as our Town prosecutor and reaffirmed Tim Berry as our Town Attorney.
- (Ms. Dudney asked about if the non-binding measure passes on December 9 votes Yes, and the Town Council votes "Yes", when does it go into effect?) If retail marijuana on Main Street is approved by the voters then, the Town Council will take two council meetings to set the ordinance. It is anyone's guess on the timing of this process. The retail marijuana shop that exists on Main Street will have to move by January 2<sup>nd</sup> so we would probably set the ordinance before that day. I would affirm whatever decision the community makes in the vote on December 9.

### FINAL HEARINGS:

- 1) Breckenridge Mountain Lodge Master Plan Modification (MM) PC#2014033, 600 South Ridge Street
- 2) Breckenridge Mountain Lodge Redevelopment (MM) PC#2014034, 600 South Ridge Street

Mr. Mosher presented. The applicant's proposals are: to modify the existing Breckenridge Mountain Lodge Area Master Plan, and redevelop Lot 3 of the Breckenridge Mountain Lodge Area for a hotel with a small portion of commercial use. Staff is presenting these as a final hearing as we heard general support for the applicable policies from the Development Code and a possible passing score on a final point analysis.

#### Changes from the October 21, 2014 Planning Commission Meeting

1. The needed Transfer of Development Rights (TDRs) decreased slightly from 17.67 SFEs to 17.65 SFEs.
  - a. The applicant will be seeking up to 18 TDRs to cover any incidental changes needed with the creation of final construction documents. This is reflected in the Findings and Conditions.
2. The Parking Analysis from the parking consultant and a revised Management Plan from the applicant with an included valet parking option.

- a. The applicant has submitted an analysis of the parking scenarios.
3. An increase in the proposed off-site employee housing square footage.
4. Public Trail Maintenance memo.
  - a. A memo from the Town Attorney explaining “Liability Issues When Private Property Is Used as a Public Trail”.
5. Staff has included a final point analysis.
  - a. The analysis reflects the input from the Commission at the last hearing.
  - b. In addition, the applicant is seeking positive points under Policy 24/R and Policy 26/R.
  - c. In addition, the applicant will be incurring negative points under Policy 33/R.

At the last hearing, the applicant received constructive feedback and direction from the Commission. Staff had focused many of the report questions on specific policies from the Development Code with the goal of establishing direction for a final point analysis for both the Master Plan and Redevelopment applications. Some of the Commission expressed concerns about the site buffering, landscaping and parking for the proposal.

Staff heard the majority of Commissioners support:

1. **(-10 points)** Policy 6/R – Building Height - The plans are showing the highest point of the roof (measured to the mean) to be 37-8 1/8”. This is more than one-half (1/2) story over the LUGs but no more than one story over the LUG recommendation.
2. **(-1 point)** Policy 33/R – The plans are showing one outdoor gas fire pit.
3. **(+1 point)** Policy 6/R - Building Height – for broken, interesting roof forms that step down at the edges.
4. **(+1 point)** Policy 15/R – Refuse - Dumpster enclosure incorporated in principal structure.
5. **(+2 points)** Policy 18/R – Parking - About 78% of all the parking being provided will be screened from public view.
6. **(+4 points)** Policy 22/R – Landscaping – Providing above average landscaping plan. (Finding and Conditions include a requirement for a Landscaping covenant to be recorded prior to Certificate of Occupancy.)
7. **(+3 points)** Policy 24/R – Social Community – over 300% extra amenity space being provided. (Finding and Conditions include a requirement for Meeting Room and Amenity covenant to be recorded prior to Certificate of Occupancy.)
8. **(+4 points)** Policy 25/R – Transit – Providing a shuttle for guest use. (Finding and Conditions include a requirement for a standard shuttle covenant to be recorded prior to Certificate of Occupancy.)

With this Final review, the applicant is also seeking:

1. **(+4 points)** Policy 26/R – Infrastructure, Capital Improvements for the addition of the third turn-lane where Ridge Street meets Highway 9. (See discussion below)
2. **(+3 points)** Policy 24/R – Social Community – for providing 6.1% of the total density (4,000 square feet) in Employee Housing. (Finding and Conditions include a requirement for a covenant to be recorded for 4,000 square feet of Employee Housing located in the Upper Blue Basin prior to Certificate of Occupancy.)
3. **(-3 points)** Policy 33/R – Social Conservation – For added safety for the guests, the applicant is proposing to add snow melted areas beneath the porte-cochère and at the outdoor pool area. Since adequate snow stacking is provided on-site, no recorded covenant is required. A Condition of Approval will be added to indicate these spaces on the construction set of drawings.

At the last meeting, Staff heard majority support for the project as presented. Some Commissioners expressed some concerns about the parking mitigation plan (Policy 18/R) and site buffering (Policy 7/R). Responding, the applicant has provided a valet parking plan and increased the number of shrubs along the south property line to address these concerns.

Staff feels the review process for this proposal resulted in a development that should benefit the Town. The applicant has responded to the Commissioner, Staff and neighbor's concerns, which have been reflected in the current proposal. Staff recommends approval of the two applications. If the Commission believes the Development Agreement can be applied with the additions identified in the attached Findings and Conditions, Staff recommends the Commission support:

1. The attached Point Analysis for the Breckenridge Mountain Lodge Area Master Plan Modification showing a passing score of positive eight (+8) points, PC #2014033 and;
2. The Development Application for the Breckenridge Mountain Lodge Area Master Plan Modification, PC #2014033, with the presented Findings and Conditions.

*and*

1. The attached Point Analysis for the Breckenridge Mountain Lodge Redevelopment, PC #2014034 and;
2. The Development application for the Breckenridge Mountain Lodge Redevelopment, PC #2014034, with the presented Findings and Conditions.
- 3.

*Staff noted that, in the report, the points suggested under Policy 26/R Infrastructure should be +4 not +2*

#### *Commissioner Questions / Comments*

- Mr. Schuman: The heated 6,100 sq feet where is that? (Mr. Mosher: The porte cochere and the pool area.)
- Mr. Schroder: The positive extra points do they change the final point analysis? (Mr. Mosher: Yes.)
- Mr. Mamula: Could you please show me the turn lane and how it affects the applicant's property? (Mr. Mosher: The whole corner where the sidewalk is right now gets redone. There is a hydrant that is tight near the Breck Brewery.) How many cars can you stack in those lanes? (Mr. O'Connor, Applicant: Probably three cars.)
- Mr. Schroder: The attorney's clarification that there wasn't any liability; do we know if any neighbors are still unhappy? (Mr. Mosher: No known unhappy neighbors at this point.)

#### *Applicant Presentation:*

Mr. Michael O'Connor, Triumph Development:

Thanks to the planning staff and the Planning Commission for the candid feedback, it has taken us to a good point and the right decision. We walked away from the last meeting with good feedback and the significant changes that we have made over time were worth it. The final touches that we needed like the additional buffering on the south end and the legal liability issues for the public path from the Town's Open Space Department helped us understand this area better too. It is good to see that the staff agrees with us and that the proposal is passing with positive points.

There really are no architectural changes; the renderings give more overall context. The building has come a long way, the renderings show the more residential aspects of the building and the hearth room is rendered correctly.

The general configuration of the added turning lane means that we are growing the right way towards our property. But, it will mean that traffic will flow and reduce congestion. It is an issue for the hotel and the community and we would believe it solves these and deserves the positive four (+4) points suggested in the report. Also, we believe, with the revised parking plan and study, that this is a pedestrian friendly location for a hotel. The drawings show 0.85 parking spaces per room (more than the Development Agreement allowed) and the guests who park here won't need to access their car once they are here. There is substantial evidence in the Code for this level of parking at lodges where there isn't substantial pedestrian access. I know we are not going to have an issue with parking. Adding the garage area, offered more snow stacking and moved most of the parking underground and gave us more flexibility with parking option. The valet parking option gets the required parking up to that required by the Development Code. It will allow us to grow into it, we only need to provide the valet parking if the hotel is busy and, with the added income from the rooms. it makes it

worth it. We have simplified the parking management plan, this is not going to impact the community. We will market the fact that this is a pedestrian friendly location and that there is a free Town and County shuttle system. This is a business issue. If we don't have enough parking, we can't have it be a negative issue for our guests.

The point analysis is positive 8 depending on the decision for the Capital Improvement analysis with the turning lane. (Mr. Schroder: The point analysis is it positive eight (+8)?) (Mr. Mosher: Yes, positive eight (+8); the staff report shows it incorrectly.)

(Mr. Pringle: I liked how you stated that when it gets to a certain level you will plug in the valet parking. Are there other triggers that will trigger in the valet plan?) I've talked to the Double Tree and they don't have more than 85% of their guests show up with a car and they also have valet options. We will learn more, this is a business decision, valet parking is an expense that you don't need to have, but when we need we have the plan. This will not become a Town expense or impact. When the hotel is booked at 90% occupancy, we have the valet staff on and the plan in place.

With no further questions from the Commission, Mr. Mamula opened the hearing to public comment.

Ms. Lynn Crowell, 113 Powder Ridge Road (not present at the meeting): Submitted a letter to the Commission the day of the meeting and it was added to public record.

Mr. Mark Roberts, 44 Sheppard Circle, Breckenridge:

I'm pleased to see that the building has come a long way. Most of my concerns involve parking, as a property manager and as a resident of the Town. On Friday nights during ski season, I watch my son play hockey and then we go out for pizza and there is no where to park in Town. The subject property with the empty buildings right now is full of parked cars using the empty spaces. So all of those cars will now need to go somewhere else. I've gotten to the point where I park at the school. I manage several units at Crystal Peak Lodge and when I tell my guests that there is only one parking space per two bedroom unit, they can't believe it because they have 6 people with several cars. At Crystal peak Lodge I would tell my guests to pay the parking ticket fine of \$20 a day at the Town lot instead of walking a half a mile away from cheaper parking. The building does look really good. My dad owns a house across from Lynn Crowell and I manage houses adjacent to this and I haven't heard objections from them.

Ms. Reilly DeSantis, 505 South Ridge Street:

I would love to see this parcel developed and I think your plans are beautiful. I'm not sure if it is in line with what I see for Breckenridge. I too am concerned about parking. Where will your employees park? I used to have an office at One Ski Hill residence and with all of their parking and it did not work. The number of heads in beds doesn't add up for me when it comes to parking.

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

#### *Commissioner Questions / Comments*

Ms. Dudney: I really appreciate the comments from the public. One reason I'm so positive about this project is that, as a Marriott, it has a reservation system which will allow the manager to manage the parking situations. The guests will know that parking is an issue up front. Secondly, it is very pedestrian-accessible to skiing and the rest of Town. I think the design is terrific, I have no doubt that the parking will work. I'm all for it.

Mr. Pringle: I had one question on point analysis, in respect to 18/R on parking, once we agree that the reduced parking amount is adequate to the Development Agreement, and therefore no negative points. (Mr. Mosher: So the Commission accepts the absolute if you take the Development Agreement as the guiding document. Negative point could be possible but, the

is no precedent.) So, once conditions are met in the Development Agreement, then no negative points? So when you meet the parking in the Development Agreement, why would you give them any positive points, like the shuttle, if they mitigate the parking situation? I want to have a conversation with the Town Council and suggest not awarding positive points on the shuttle which mitigates the parking problem. I'm sure we are compelled to go with the positive points, but I think this is a classic double dip. With so many positive points for the project, it would be wonderful if the applicant were to allow us to take away the positive four (+4) points so that we establish precedent. After saying this, I think the applicant has done a great job in addressing issues, with the architecture, addressing neighbor concerns, etc. I don't have any issues. I am confident that you will handle the parking but it is a leap of faith that we go there. I don't put a lot of stock into the parking plan but I realize it will be up to the person who owns the business to see it through. I'm in support of these points other than the positive four (+4) for the shuttle.

Mr. Schroder: I am in support of the total score of positive eight (+8) points with the analysis and I appreciate the developer work well with all involved. As mentioned with Mr. Brewer, we foresee a date in the future where we see that the water won't keep flowing and I see this also happening with parking. There will be a lot of new cars with teenagers getting drivers licenses. I appreciate that you are going this way and planning for the future. I'm in support of the proposal as presented

Ms. Christopher: I agree with all that has been said and I also am in support and thank you for all the changes.

Ms. Lamb: I am in agreement with everything that has been said, my pet problem was the parking and I think you've done a good job with that.

Mr. Schuman: I do support the project; I think the parking plan will work. I've seen the Hotel Jerome parking plan work and I agree with the point that Ms. Dudney made about the Marriott reservation system making it possible to plan and talk to the guests.

Mr. Mamula: The only reason this is being built is because of the Development Agreement. Without the Development Agreement this would not be built this way with this much density. However, thank you for the changes that you've made. I'm still leery about the parking. Addressing the public comment regarding the cars that are parked on the lot now, at no point is Mr. O'Connor liable to accommodate the people who poach parking spaces the current lot. That is a problem that the Town has to solve. I wouldn't mind seeing a more in depth plan for using the valet. I'm in agreement with the positive four (+4) points for the infrastructure points. I also would like to see a conversation with Town Council on both the shuttle and the positive points for extra amenity space. (Ms. Puester: If the Commissioners are in agreement with positive four (+4) points in the infrastructures then we need to add a motion at the conclusion of your comments.)

Mr. Pringle made a motion to change the point analysis for the 26/R from positive two (+ 2) to positive four (+4) points, second by M. Christopher. The motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the point analysis for the Breckenridge Mountain Lodge Master Plan Modification, PC#2014033, 600 South Ridge Street, showing zero (0) points. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Breckenridge Mountain Lodge Master Plan Modification, PC#2014033, 600 South Ridge Street, with the presented Findings and Conditions. Mr. Schuman seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the point analysis for the Breckenridge Mountain Lodge Redevelopment, PC#2014034, 600 South Ridge Street showing a net score of positive eight (+8) points. Mr.

Schroder seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Breckenridge Mountain Lodge Redevelopment, PC#2014034, 600 South Ridge Street, with the presented Findings and Conditions. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

**OTHER MATTERS:**

Ms. Dudney: If you happen to go to the Town Council meeting on Tuesday, I agree with both Mr. Pringle and Mr. Mamula about the double dipping on these two matters with the shuttle. Also, the Town Council needs to realize that this will exacerbate the parking in the Town with the poaches. (Mr. Lamb and Ms. Christopher agree as well.)

Mr. Lamb: I agree this parking issue should be addressed. (Mr. Grosshuesch: The way the parking balances out is that if you are willing to walk a little bit further you will find a place to park in the winter. You can find it if you are willing to walk.)

Mr. Mamula: We still have an issue with the business owners and their staff, who feel that they have a need to park right in front of their place of business. The parking in town is supposed to be for our guests.

Ms. Dudney: The parking tickets are more expensive.

Mr. Mamula: The locals need to be the solution to this not the guest. (Ms. Puester: We can put this on our top ten issues as well.)

**ADJOURNMENT:**

The meeting was adjourned at 8:15 pm.

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Eric Mamula, Chair

## Memorandum

**TO:** Town Council

**FROM:** Finance and Municipal Services

**DATE:** 11/18/2014 (for November 25<sup>th</sup> meeting)

**RE:** 2015 Water Rate Ordinance

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The second reading of the ordinance fixing the 2014 Town water rates is scheduled for your meeting on November 25<sup>th</sup>. There are no changes proposed to ordinance from first reading.

Staff will be available at the worksession to answer any questions you may have.

1 **FOR WORKSESSION/SECOND READING – NOV. 25**

2  
3 **NO CHANGE FROM FIRST READING**

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

7  
8 COUNCIL BILL NO. 36

9  
10 Series 2014

11  
12 AN ORDINANCE AMENDING TITLE 12 OF THE BRECKENRIDGE TOWN CODE  
13 CONCERNING THE MUNICIPAL WATER SYSTEM OF THE TOWN EFFECTIVE  
14 JANUARY 1, 2015; MODIFYING THE AMOUNT OF ANNUAL INCREASE OF THE  
15 TOWN'S PLANT INVESTMENT FEE FOR YEARS 2015, 2016, AND 2017; PROVIDING  
16 FOR A DECREASE IN THE BASE WATER ALLOWANCE FOR RESIDENTIAL WATER  
17 USERS; AND PROVIDING FOR AN INCREASE IN CERTAIN MUNICIPAL WATER FEES  
18 AND CHARGES

19  
20 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
21 COLORADO:

22  
23 Section 1. The Town Council of the Town of Breckenridge finds and determines as  
24 follows:

25  
26 A. The Town of Breckenridge is a home rule municipal corporation organized and  
27 existing pursuant to Article XX of the Colorado Constitution.

28  
29 B. On April 1, 1980 the people of the Town of Breckenridge adopted the Breckenridge  
Town Charter.

30 C. Section 13.1 of the Breckenridge Town Charter provides in pertinent part as follows:

31 The town shall have and exercise with regard to all utilities . . . all municipal  
32 powers, including, without limitation, all powers now existing and which may be  
33 hereafter provided by the Constitution and the statutes.

34  
35 D. Section 13.1 of the Breckenridge Town Charter further provides that “the right of the  
36 town to construct . . . any public utility, work or way, is expressly reserved.”

37 E. Section 31-35-402(1)(b), C.R.S., authorizes a municipality to operate and maintain  
38 water facilities for its own use and for the use of public and private consumers and users within  
39 and without the territorial boundaries of the municipality.

40 F. Pursuant to the authority granted by the Breckenridge Town Charter and Section 31-

1 35-402(1)(b), C.R.S., the Town owns and operates a municipal water system.

2  
3 G. Section 13.3 of the Breckenridge Town Charter provides that “(t)he council shall by  
4 ordinance establish rates for services provided by municipality-owned utilities.”

5 H. Section 31-35-402(1)(f), C.R.S., authorizes a municipality with respect to a municipal  
6 water system:

7 To prescribe, revise, and collect in advance or otherwise, from any consumer or  
8 any owner or occupant of any real property connected therewith or receiving  
9 service therefrom, rates, fees, tolls, and charges or any combination thereof for the  
10 services furnished by, or the direct or indirect connection with, or the use of, or  
11 any commodity from such water facilities . . . , including, without limiting the  
12 generality of the foregoing, . . . tap fees.

13  
14 I. Section 31-35-402(1)(f), C.R.S., further provides that the governing body of a  
15 municipality is empowered to establish and collect the rates, fees, tolls, and charges in  
16 connection with the operation of its municipal water system “without any modification,  
17 supervision, or regulation of any such rates, fees, tolls, or charges by any board, agency, bureau,  
18 commission or official other than the governing body collecting them.”

19 J. The action of the Town Council in setting the rates, fees, tolls, and charges to be  
20 charged and collected by the Town in connection with the operation of its municipal water  
21 system is a legislative matter.

22 K. In connection with the adoption of this ordinance, the Town has reviewed,  
23 considered, and relied upon a study of the reasonably anticipated current and future maintenance  
24 and expansion costs for the Town’s municipal water system as prepared by the Town’s staff, and  
25 all other matters, materials and information related thereto or submitted to the Town in  
26 connection therewith. All such materials are to be considered part of the record of the  
27 proceedings related to the adoption of this ordinance.

28 L. The rates, fees, tolls, and charges imposed in connection with the operation of a  
29 municipal water system should raise revenue required, among other things, to construct, operate,  
30 repair, maintain, upgrade, expand and replace the water system.

31 M. The increase in the amount of the annual increase of the Plant Investment Fee for the  
32 years 2015, 2016, and 2017 imposed by this ordinance accomplishes the Town’s goals and  
33 objectives of raising revenue that will be required in the future to expand and replace the Town’s  
34 water system.

35 Section 2. Effective January 1, 2015, Section 12-4-4 of the Breckenridge Town Code is  
36 amended to read as follows:

37  
38 12-4-4: PLANT INVESTMENT FEE; AUTOMATIC ANNUAL  
39 ADJUSTMENT:

40

1 On January 1 of each year, commencing in 2007, the amount of the PIF to be paid  
 2 to the town pursuant to section 12-4-3 of this chapter shall be increased by an  
 3 amount equal to five percent (5%) of the previous year's PIF; provided,  
 4 however, that for the years 2015, 2016, and 2017 the amount of the PIF to be  
 5 paid to the town pursuant to section 12-4-3 of this chapter shall be increased  
 6 by an amount equal to ten percent (10%) of the previous year's PIF. The  
 7 increased PIF rate shall apply to all applications for water service that have not  
 8 been fully paid by the effective date of such rate increase. Not later than thirty  
 9 (30) days after the PIF is adjusted each year as provided in this section, the town  
 10 clerk shall cause to be published a public notice setting forth the amount of the  
 11 adjusted PIF. Such notice shall be published one time in a newspaper of general  
 12 circulation in the town; provided, however, that the failure of the town clerk to  
 13 cause such notice to be published shall not affect the validity of the adjustment to  
 14 the PIF as made by the finance director pursuant to this section.

15  
 16 Section 3. Effective January 1, 2015, Section 12-4-11 of the Breckenridge Town Code  
 17 is amended so as to read in its entirety as follows:

18  
 19 12-4-11: WATER USER FEES; RESIDENTIAL:

20  
 21 A. The in town base rate user fee for all residential water users, regardless of the  
 22 size of the water meter, includes a usage allowance of not to exceed ~~twelve ten~~  
 23 thousand (~~12,000~~ 10,000) gallons of water per SFE per billing cycle, and shall be  
 24 computed according to the following table:  
 25

<u>Water Use Date</u>	<u>Base User Fee</u>
Effective January 1, 2014	\$31.25 per billing cycle per SFE
<b><u>Effective January 1, 2015</u></b>	<b><u>\$32.81 per billing cycle per SFE</u></b>

26  
 27 B. In addition to the base user fee set forth in subsection A of this section, each in  
 28 town residential water user shall pay an excess use charge for each one thousand  
 29 (1,000) gallons of metered water, or fraction thereof, used per SFE per billing  
 30 cycle in excess of the usage allowance of ~~twelve ten~~ thousand (~~12,000~~ 10,000)  
 31 gallons of water per SFE per billing cycle. The amount of the excess use charge  
 32 shall be computed according to the following table:  
 33

<u>Water Use Date</u>	<u>Excess Use Charge</u>
Effective January 1, 2014	\$3.11
<b><u>Effective January 1, 2015</u></b>	<b><u>\$5.00</u></b>

34  
 35 Section 4. Effective January 1, 2015, Section 12-4-12(A) of the Breckenridge Town  
 36 Code is amended so as to read in its entirety as follows:

37  
 38 12-4-12: WATER USER FEES; NONRESIDENTIAL:

1  
2 A. The in town base rate user fee per SFE per billing cycle and the usage  
3 allowance per SFE per billing cycle for all nonresidential water users shall be  
4 determined based upon the size of the water meter which connects the water  
5 using property to the water system, as follows:  
6

7 For water used commencing January 1, ~~2014~~2015

9 <u>Meter Size</u>	10 <u>Base Water Fee</u> <u>Per Account</u>	11 <u>Usage Allowance</u> <u>Per Account (Gallons)</u>
12 Less than 1 inch	13 \$ <del>35.79</del> 14 <u>\$ 37.58</u>	15 13,000
16 1 inch	17 <del>53.69</del> 18 <u>56.37</u>	19 20,000
20 1½ inch	21 <del>93.69</del> 22 <u>98.37</u>	23 35,000
24 2 inch	25 <del>147.52</del> 26 <u>154.90</u>	27 54,000
28 3 inch	29 <del>283.65</del> 30 <u>297.83</u>	31 105,000
32 4 inch	33 <del>438.48</del> 34 <u>460.40</u>	35 162,000
36 6 inch	37 <del>861.53</del> 38 <u>904.61</u>	39 318,000

40 Section 5. Effective January 1, 2015 Section 12-4-21(A) of the Breckenridge Town Code  
41 is amended to read as follows

42 A. Commencing with the periodic billing statement issued by the Town in March  
43 ~~2014~~ 2015 (for water service provided during the months of January-February  
44 ~~2014~~ 2015), there shall be added to each paper billing statement mailed by the  
45 Town through the United States Postal Service, and there shall be assessed and  
46 paid by the owner of the property that is the subject of the billing statement, a  
47 statement fee in the amount of ~~ten~~ fifteen dollars (~~\$10.00~~ 15.00) per statement per  
48 billing cycle. The statement fee shall be a water charge within the meaning of  
49 section 12-1-6 of this title, and shall be due and payable to the town at the same  
50 time and in the same manner as other water charges are due and payable to the  
51 town under this chapter. There shall be no statement fee charged if the owner  
52 elects to have the billing statement delivered by electronic means.

53 Section 6. Except as specifically amended hereby, the Breckenridge Town Code, and the  
54 various secondary codes adopted by reference therein, shall continue in full force and effect.  
55



1  
2  
3  
4

500-123\2015\Water Rate Ordinance\_2 (First Reading)(10-30-14)

**MEMO**

TO: Town Council

FROM: Finance and Municipal Services Dept.

RE: An Ordinance Setting the 2015 Mill Levy

DATE: November 17, 2014 (for November 25<sup>th</sup> meeting)

---

The second reading of the ordinance fixing the Town's 2015 mill levy is scheduled for your meeting on November 25<sup>th</sup>. There are no changes proposed to the ordinance from first reading.

Staff will be available at the November 25<sup>th</sup> meeting if you have any questions.

1 **FOR WORKSESSION/SECOND READING – NOV. 25**

2  
3 **NO CHANGE FROM FIRST READING**

4  
5 COUNCIL BILL NO. 37

6  
7 Series 2014

8  
9 AN ORDINANCE SETTING THE MILL LEVY WITHIN THE  
10 TOWN OF BRECKENRIDGE FOR 2015

11  
12 WHEREAS, the Town Council of the Town of Breckenridge has determined that a mill  
13 levy of 5.07 mills upon each dollar of the assessed valuation of all taxable property within the  
14 Town of Breckenridge is needed to balance the 2015 Town budget.

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

18  
19 Section 1. For the purposes of defraying the expense of the General Fund of  
20 Breckenridge, Colorado for the fiscal year 2015, there is hereby levied a tax of 5.07 mills upon  
21 each dollar of assessed valuation for all taxable property within the Town of Breckenridge.

22  
23 Section 2. The Town Clerk is authorized and directed, after adoption of the budget by the  
24 Town Council, to certify to the Board of County Commissioners of Summit County, Colorado,  
25 the tax levies for the Town of Breckenridge, Colorado as herein set forth.

26  
27 Section 3. This ordinance shall be published and become effective as provided by  
28 Section 5.9 of the Breckenridge Town Charter.

29  
30 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
31 PUBLISHED IN FULL this 11th day of November, 2014. A Public Hearing shall be held at the  
32 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 25th day of  
33 November, 2014, at 7:30 P.M. or as soon thereafter as possible in the Municipal Building of the  
34 Town.

35  
36 TOWN OF BRECKENRIDGE, a Colorado  
37 municipal corporation

38  
39  
40 By \_\_\_\_\_  
41 John G. Warner, Mayor

42  
43 ATTEST:  
44

1  
2  
3  
4

---

Helen Cospolich , Town Clerk

## Memorandum

**TO:** Town Council

**FROM:** Tom Daugherty, Public Works Director

**DATE:** November 19, 2014

**RE:** Verizon Antenna Lease Second Reading

---

Attached is an ordinance that approves a lease with Verizon to construct and operate an antenna at the Kingdom Park ball fields.

Staff brought this issue before the Council on November 11, 2014 for first reading and the only change is the address of Kingdom Park is changed from 857 Airport Road to 880 Airport Road. There was a discrepancy between the County data base and the Town's data base which has been resolved.

The main aspects of the lease are as follows:

1. \$1,500 per month which Verizon has accepted.
2. The term of the lease is for 25 years but the Town can end the lease after 15 years with twelve months notice.
3. Verizon will build a new dumpster building in the parking lot and the support building for their antenna.

The Town will not have any costs. The construction of these facilities is expected to take place next spring and will not interfere with the scheduled use of the fields.

The new dumpster will provide some benefits to the Town because it will allow a larger dumpster and easier access. The larger dumpster will ultimately reduce the Town's operational costs and will bring the dumpster into compliance with Town code.

Once the lease is approved Verizon will submit for a development permit and this project will go through the planning process as a Class A application.

1 ***FOR WORKSESSION/SECOND READING – NOV. 25***

2  
3 ***NO CHANGE FROM FIRST READING***

4  
5 COUNCIL BILL NO. 38

6  
7 Series 2014

8  
9 AN ORDINANCE APPROVING A LEASE WITH COLORADO RSA NO. 3 LIMITED  
10 PARTNERSHIP D/B/A VERIZON WIRELESS  
11 (Kingdom Park Ball Field; 857 880 Airport Road)

12  
13 WHEREAS, the Town of Breckenridge owns the real property commonly known as  
14 “Kingdom Park,” located at 857 880 Airport Road in Breckenridge, Colorado; and

15  
16 WHEREAS, Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless has  
17 proposed to lease a part of the ball field area located within Kingdom Park for the for the  
18 placement of a wireless communications facility; and

19  
20 WHEREAS, a proposed Land Lease Agreement between the Town and Colorado RSA  
21 No. 3 Limited Partnership d/b/a Verizon Wireless has been prepared, a copy of which is marked  
22 **Exhibit “A,”** attached hereto, and incorporated herein by reference; and

23  
24 WHEREAS, the proposed Land Lease Agreement has been reviewed by the Town  
25 Attorney and 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, Section 1-11-4 of the Breckenridge Town Code requires that any real estate  
36 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

37  
38 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
39 BRECKENRIDGE, COLORADO:

40  
41 Section 1. The proposed Lease between the Town and Colorado RSA No. 3 Limited  
42 Partnership d/b/a Verizon Wireless, a copy of which is marked **Exhibit “A,”** attached hereto,  
43 and incorporated herein by reference, is approved, and the Town Manager is authorized,  
44 empowered, and directed to execute such Lease for and on behalf of the Town of Breckenridge.

45



**LAND LEASE AGREEMENT**

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the Town of Breckenridge, a Colorado municipal corporation, with its principal offices located at 150 Ski Hill Road, P.O. Box 168, Breckenridge, Colorado 80424, hereinafter designated LANDLORD and Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated TENANT. The LANDLORD and TENANT are at times collectively referred to hereinafter as the “Parties” or individually as a “Party”.

1. PREMISES. LANDLORD hereby leases to TENANT a portion of that certain parcel of property (the entirety of LANDLORD’s property is referred to hereinafter as the Property), located at ~~857~~ **880** Airport Road, Breckenridge, Colorado 80424, commonly known as “Kingdom Park”, and being described as a 684 square foot parcel and a new canister pole (collectively, the “Land Space”), together with the non exclusive access for ingress and egress, seven (7) days a week twenty four (24) hours a day, on foot or motor vehicle, including trucks, over or along a twelve foot (12’) wide strip of land extending from the nearest public right-of-way, Airport Road, to the Land Space (“Access”), and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way (the “Utilities”) to and from the Land Space, said Land Space, Access and Utilities (hereinafter collectively referred to as the “Premises”) being substantially as described herein in Exhibit “A” attached hereto and made a part hereof.

In the event any public utility is unable to use the “strip of land” for the installation and maintenance of utility wireless, poles cables, conduits, and pipes over, under, or along Kingdom Drive the LANDLORD hereby agrees to grant access either to the TENANT or to the public utility at no cost to the TENANT.

2. SURVEY. LANDLORD also hereby grants to TENANT the right to survey the Property and the Premises, and said survey shall then become Exhibit “B” which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit “A”. Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of Eighteen Thousand and 00/100 Dollars (\$18,000.00) to be paid in consecutive equal monthly installments of One Thousand Five Hundred Dollars (\$1,500.00) each on the first day of the month, in advance, to LANDLORD. This Agreement shall commence based upon the date TENANT is granted a building permit by the governmental agency charged with issuing such permits, or the date of execution of the Agreement by the Parties, whichever is later. In the event the date at which TENANT is granted a building permit or the date of execution of the Agreement, whichever is applicable, falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if such date falls

between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "Commencement Date"). LANDLORD and TENANT acknowledge and agree that initial rental payment(s) shall not actually be sent by TENANT until thirty (30) days after the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1, TENANT shall send to the LANDLORD the rental payments for January 1 and February 1 by February 1.

Upon agreement of the Parties, TENANT may pay rent by electronic funds transfer and in such event, LANDLORD agrees to provide to TENANT bank routing information for such purpose upon request of TENANT.

TENANT shall construct a trash enclosure building as depicted on the attached Exhibit "A" as part of this Agreement. All costs associated with the construction of the trash enclosure building will be the TENANT'S responsibility. Once the Certificate of Occupancy is received the LANDLORD will own and take possession of the enclosure in its "AS-IS" condition and be responsible for the costs of maintenance and utilities thereafter. TENANT will not begin construction until the LANDLORD has approved the site plans. TENANT shall also be responsible for attaching the baseball net to TENANT's new canister monopole. In the event that TENANT is required to remove any portion of the net for maintenance or repairs, TENANT will be responsible for the replacement of the net to its preexisting condition.

b. LANDLORD hereby agrees upon request and reasonable advance notice to provide to TENANT certain documentation (the "Rental Documentation") evidencing LANDLORD's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to TENANT in TENANT's reasonable discretion, evidencing LANDLORD's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to TENANT, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by TENANT in TENANT's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from TENANT, LANDLORD agrees to provide updated Rental Documentation in a form reasonably acceptable to TENANT. The Rental Documentation shall be provided to TENANT in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to TENANT shall be a prerequisite for the payment of any rent by TENANT and notwithstanding anything to the contrary herein, TENANT shall have no obligation to make any rental payments until Rental Documentation has been supplied to TENANT as provided herein.

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless TENANT terminates it at the end of the then current term by giving LANDLORD written notice of the intent to terminate at least six (6) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

5. EXTENSION RENTALS. The annual rental for each five (5) year extension term shall automatically be increased by 10% over the annual rental due during the immediately preceding five (5) year term.

6. TERMINATION BY LANDLORD. The LANDLORD may terminate this Agreement by giving twelve (12) months prior written notice to the TENANT. The soonest the termination may become effective is at the end of the second (2<sup>nd</sup>) five (5) year term extension which is fifteen (15) years from the Commencement Date.

7. TAXES. TENANT shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LANDLORD demonstrates is the result of TENANT's use of the Premises and/or the installation, maintenance, and operation of the TENANT's improvements, and any sales tax imposed on the rent (except to the extent that TENANT is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LANDLORD demonstrates arises from the TENANT's improvements and/or TENANT's use of the Premises. LANDLORD and TENANT shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LANDLORD or TENANT at the Property. Notwithstanding the foregoing, TENANT shall not have the obligation to pay any tax, assessment, or charge that TENANT is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property.

TENANT shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which TENANT is wholly or partly responsible for payment. LANDLORD shall reasonably cooperate with TENANT at TENANT's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by TENANT, there is a reduction, credit or repayment received by the LANDLORD for any taxes previously paid by TENANT, LANDLORD agrees to promptly reimburse to TENANT the amount of said reduction, credit or repayment.

8. USE; GOVERNMENTAL APPROVALS. TENANT shall use the Premises only for the purpose of constructing, maintaining, repairing and operating wireless communications facilities(as defined by applicable federal law) and uses incidental thereto, as may be approved by LANDLORD acting in its governmental capacity acting pursuant to applicable local, state, and federal laws. Subject to the issuance of a development permit in accordance with local law, a security fence that complies with local law may be placed around the perimeter of the Premises at the discretion of TENANT (not including the access). All improvements, equipment, antennas and conduits shall be at TENANT's expense and their installation shall be at the discretion and option of TENANT. Subject to LANDLORD's approval acting in its governmental capacity pursuant to applicable local, state, and federal laws TENANT shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment

operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that TENANT's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities (including, but not limited to, LANDLORD acting in its governmental capacity pursuant to applicable local, state, and federal laws) as well as satisfactory soil boring tests which will permit TENANT use of the Premises as set forth above. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to TENANT is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) TENANT determines that such Governmental Approvals may not be obtained in a timely manner; (iv) TENANT determines that any soil boring tests are unsatisfactory; (v) TENANT determines that the Premises is no longer technically compatible for its use, or (vi) TENANT, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, TENANT shall have the right to terminate this Agreement. Notice of TENANT's exercise of its right to terminate shall be given to LANDLORD in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by TENANT, or upon such later date as designated by TENANT. All rentals paid to said termination date shall be retained by LANDLORD. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the TENANT shall have no further obligations for the payment of rent to LANDLORD.

Nothing in this Paragraph or this Agreement shall ever be interpreted or construed to: (i) obligate or require LANDLORD, acting in its governmental capacity pursuant to applicable local, state, and federal laws, to approve or to issue any certificate, permit, or approval for any use of the Premises proposed or requested by Tenant, including, but not limited to, the uses of the Premises described in this Agreement; (ii) be a waiver, relinquishment, diminution, or modification in any way of any lawful right or power LANDLORD (acting in its governmental capacity pursuant to applicable local, state, and federal laws) now has or hereafter acquires during the Term of this Agreement with respect to the location, design, or use of any of Tenant's wireless communication facilities (as defined by applicable federal law) located or proposed to be located in or upon the Premises. Nothing in this Paragraph or the Agreement obligates or requires LANDLORD (acting in its governmental capacity pursuant to applicable local, state, and federal laws) to approve any use or proposed use of the Premises by Tenant, and LANDLORD hereby reserves all rights with respect thereto. Tenant acknowledges and agrees that, notwithstanding this Agreement, it must apply for and obtain any and all permits and approvals from LANDLORD that are required under applicable local, state, and federal laws in existence as of the commencement of this Agreement, or as adopted during the Term of this Agreement.

9. INDEMNIFICATION. Subject to Paragraph 10 below, and without LANDLORD waiving the defense that it does not have the power to indemnify a private party under the Colorado Constitution, each Party shall indemnify, defend, and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or

arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

10. INSURANCE.

a. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, to the extent such loss is covered by insurance . These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LANDLORD and TENANT each agree that at its own cost and expense, each will maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LANDLORD and TENANT each agree that it will include the other Party as an additional insured. Notwithstanding anything contained in this paragraph to the contrary, the Parties agree that LANDLORD's required liability insurance may be provided by the Colorado Intergovernmental Risk Sharing Agency, a self-insurance pool of municipal governments, of which LANDLORD is a member, and that LANDLORD'S required insurance policy limits shall be those limits provided from time to time throughout the Term of this Agreement by the general liability insurance policy issued by the Colorado Intergovernmental Risk Sharing Agency.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 9 and 29, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided TENANT is not in default hereunder beyond applicable notice and cure periods, TENANT shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months' prior notice is given to LANDLORD.

13. INTERFERENCE. TENANT agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LANDLORD or other Tenants of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed TENANT's equipment causes such interference, and after LANDLORD has notified TENANT in writing of such interference, TENANT will take all

commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at TENANT's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LANDLORD be entitled to terminate this Agreement or relocate the equipment as long as TENANT is making a good faith effort to remedy the interference issue. LANDLORD agrees that LANDLORD and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of TENANT. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance, subject to any applicable restriction against granting specific performance against a municipal corporation provided by applicable Colorado law.

14. REMOVAL AT END OF TERM. TENANT shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LANDLORD agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of TENANT shall remain the personal property of TENANT and TENANT shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes TENANT to remain on the Premises after termination of this Agreement, TENANT shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed. Any of TENANT'S property left on the Premises after the date by which such property is to be removed as provided in this paragraph shall be deemed abandoned by TENANT and may be removed by LANDLORD without notice and without any liability to TENANT.

15. HOLDOVER. TENANT has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, TENANT holds over in violation of Paragraph 14 and this Paragraph 15, then this agreement shall not be renewed for a new term but the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall equal to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. Intentionally Deleted.

17. RIGHTS UPON SALE. Should LANDLORD, at any time during the Term decide (i) to sell or transfer all or any part of the Property, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by TENANT, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or

interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize TENANT's rights hereunder under the terms of this Agreement. To the extent that LANDLORD grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by TENANT for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LANDLORD shall not be released from its obligations to TENANT under this Agreement, and TENANT shall have the right to look to LANDLORD and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LANDLORD covenants that TENANT, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LANDLORD represents and warrants to TENANT as of the execution date of this Agreement, and covenants during the Term that LANDLORD is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LANDLORD further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LANDLORD's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by TENANT as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LANDLORD and TENANT related to the subject matter of this agreement and that no verbal or oral agreements, promises or understandings shall be binding upon either LANDLORD or TENANT in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW; VENUE. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located without regard to its conflict of laws rules that might require this Agreement to be interpreted in accordance with the laws of any state other than the State of Colorado. Venue for any litigation related to this Agreement shall be proper in the state courts of Summit County, Colorado.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the TENANT without any approval or consent of the LANDLORD to the TENANT's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of TENANT's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to

other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LANDLORD, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of TENANT or transfer upon partnership or corporate dissolution of TENANT shall constitute an assignment hereunder. TENANT may sublet the Premises within its sole discretion, upon notice to LANDLORD. Any sublease that is entered into by TENANT shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LANDLORD: Town of Breckenridge  
150 Ski Hill Road  
P.O. Box 168  
Breckenridge, Colorado 80424

TENANT: Colorado RSA No. 3 Limited Partnership  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the successors and permitted assigns of the Parties hereto.

25. Intentionally Deleted.

26. RECORDING. LANDLORD agrees to execute a Memorandum of this Agreement which TENANT may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by TENANT with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LANDLORD shall give TENANT written notice of such breach. After receipt of such written notice, TENANT shall have fifteen (15) days in which to cure any monetary breach and thirty

(30) days in which to cure any non-monetary breach, provided TENANT shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and TENANT commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LANDLORD may not maintain any action or effect any remedies for default against TENANT unless and until TENANT has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LANDLORD with respect to any of the provisions of this Agreement or its obligations under it, TENANT shall give LANDLORD written notice of such breach. After receipt of such written notice, LANDLORD shall have thirty (30) days in which to cure any such breach, provided LANDLORD shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LANDLORD commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. TENANT may not maintain any action or effect any remedies for default against LANDLORD unless and until LANDLORD has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LANDLORD fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LANDLORD if the failure to perform such an obligation interferes with TENANT's ability to conduct its business on the Property; provided, however, that if the nature of LANDLORD's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LANDLORD shall use reasonable efforts to mitigate its damages in connection with a default by TENANT. If a Party so performs any of the other Party's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by the paying Party shall immediately be owing by the non-paying Party to the paying Party, and the non-paying Party shall pay to the paying Party upon demand the full undisputed amount thereof with interest thereon from the date of payment at the legal rate. Notwithstanding the foregoing, if LANDLORD does not pay TENANT the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LANDLORD, TENANT may offset the full undisputed amount, including all accrued interest,

due against all fees due and owing to LANDLORD until the full undisputed amount, including all accrued interest, is fully reimbursed to TENANT.

29. ENVIRONMENTAL.

a. LANDLORD will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of TENANT in the Premises.

b. Subject to the defense that the Landlord cannot lawfully indemnify a private party under the Colorado Constitution, LANDLORD shall hold TENANT harmless and indemnify TENANT from and assume all duties, responsibility and liability at LANDLORD's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by TENANT; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by TENANT.

c. In the event that abatement of hazardous materials is required in connection with the construction of the Premises, LANDLORD shall take responsibility as generator of the waste resulting from the abatement and shall cooperate with any necessary abatement procedures, including signing all necessary documents and manifest required for abatement. "Hazardous Material" shall mean any material, substance, chemical or waste identified as hazardous, toxic, solid waste or dangerous in any applicable federal, state or local Law or regulation (including petroleum, impacted soils and asbestos).

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt TENANT's operations at the Premises for more than forty-five (45) days, then TENANT may, at any time following such fire or other casualty, provided LANDLORD has not completed the restoration required to permit TENANT to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days' prior written notice to LANDLORD. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination

date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which TENANT's use of the Premises is impaired.

31. CONDEMNATION. Intentionally Deleted.

32. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LANDLORD shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). TENANT shall, in respect to the condition of the Premises and at TENANT's sole cost and expense, comply with (a) all Laws relating solely to TENANT's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by TENANT in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

36. ANNUAL APPROPRIATION. Financial obligations of the Landlord under this Agreement payable after the current fiscal year in which this Agreement is executed are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Town Council of the Town of Breckenridge, Colorado. If sufficient funds are not made available by the Town Council, this Agreement may be terminated by either Party without penalty. The Landlord's financial obligations under this Agreement do not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation within the meaning of the Constitution or laws of the State of Colorado.

37. GOVERNMENTAL IMMUNITY. The Landlord is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Landlord, its officers, or its employees.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

**LANDLORD:**

Town of Breckenridge

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TENANT:**

Colorado RSA No. 3 Limited Partnership  
d/b/a Verizon Wireless

By Verizon Wireless (VAW) LLC,  
Its General Partner

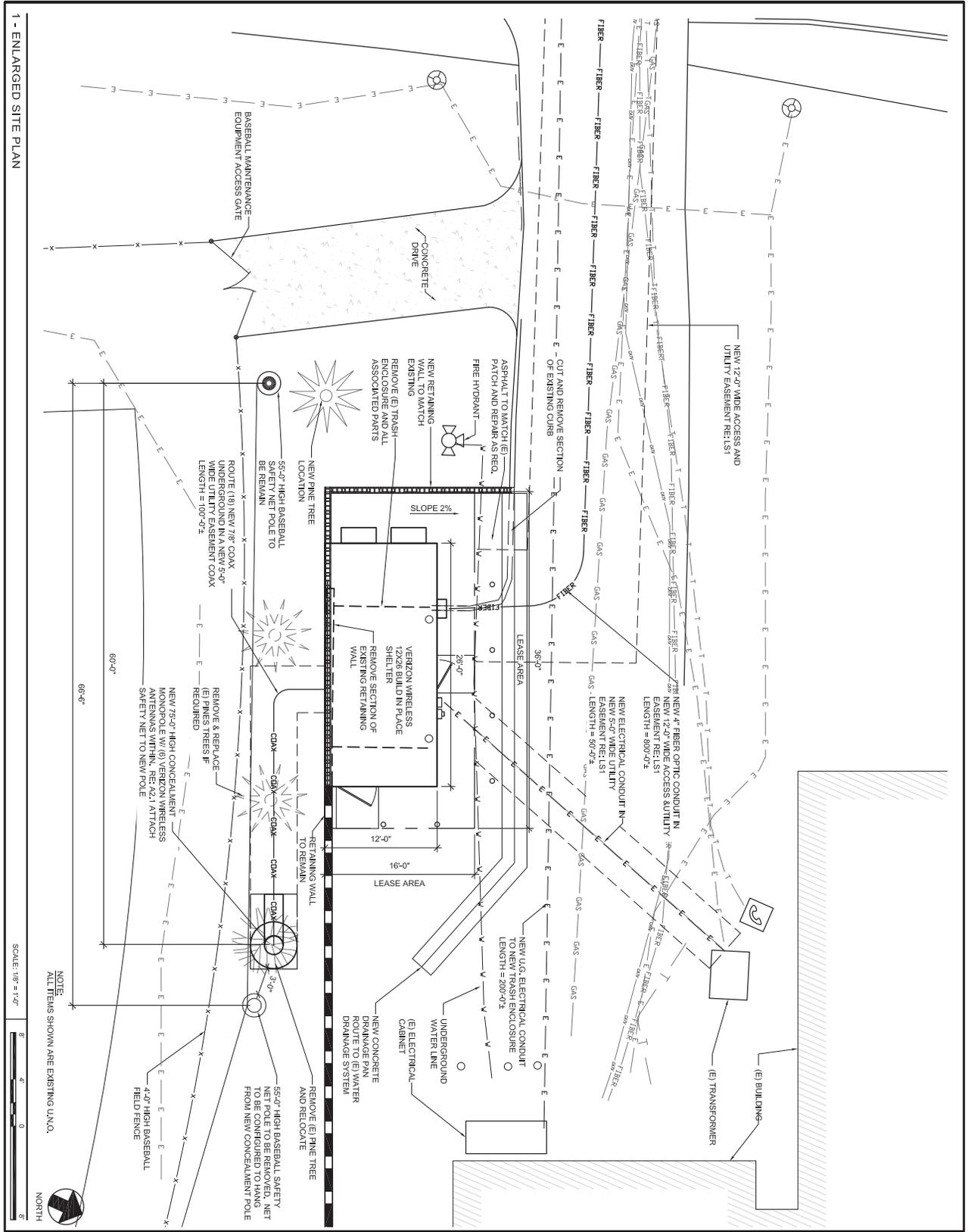
By: \_\_\_\_\_  
Brian Mecum  
Area Vice President Network  
Date: \_\_\_\_\_

**EXHIBIT "A"**

**DESCRIPTION OF LAND SPACE, ACCESS AND UTILITIES**

**EXHIBIT "B"**  
**SURVEY**





1 - ENLARGED SITE PLAN

SCALE: 1/8" = 1'-0"

NOTE: ALL ITEMS SHOWN ARE EXISTING UNO.



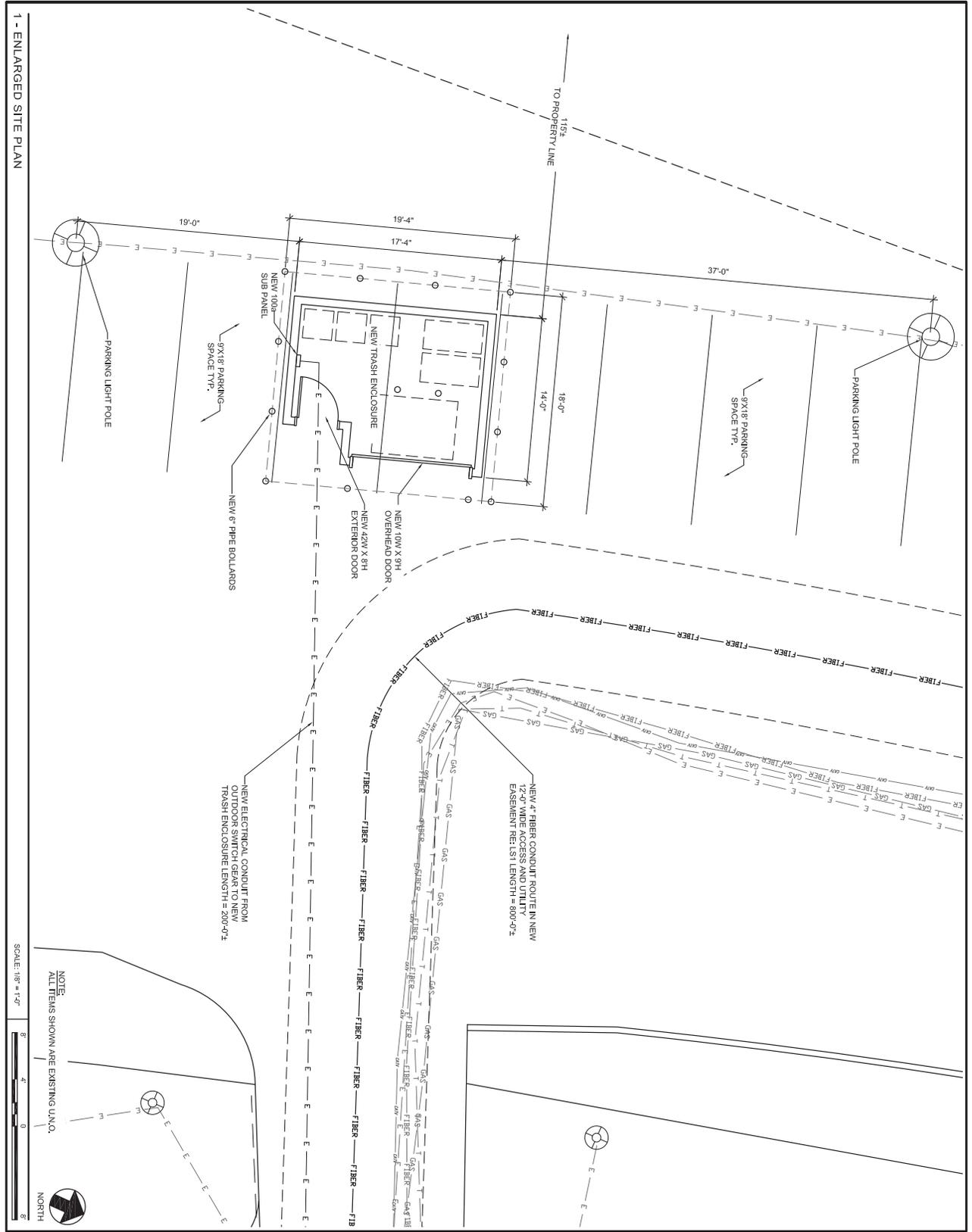
A2.0

ENLARGED  
 SITE PLAN @  
 SHELTER

**ARCHITECTURE**  
 CHARLES STECKLE ARCHITECTS  
 3505 W. 10TH AVENUE, SUITE 200  
 LITTLETON, COLORADO 80127  
 OFFICE: 303.932.9974

A	OWNER	ZONING SERVICE	DR.
B	OWNER	ZONING SERVICE	DR.
C	OWNER	ZONING SERVICE	DR.
D	OWNER	ZONING SERVICE	DR.
E	OWNER	ZONING SERVICE	DR.
F	OWNER	ZONING SERVICE	DR.

VERIZON Wireless  
 VERIZON WIRELESS SERVICES  
 3151 S. VALUHN WAY, SUITE 850  
 AURORA, CO 80014  
 PROJECT INFORMATION  
 SITE NAME  
 CO3 CUCUMBER GULCH  
 21030905502  
 657 AIRPORT RD.  
 BRECKENRIDGE, CO 80042



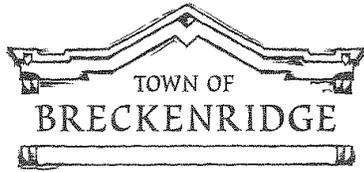
<p><b>Verizon Wireless</b></p> <p>VERIZON WIRELESS SERVICES          3151 S. VALUORN WAY, SUITE 850          AURORA, CO 80014</p> <p>PROJECT INFORMATION          SITE NAME  <b>CO3 CUCUMBER GULCH</b>          21030905902          657 AIRPORT RD.          BRECKENRIDGE, CO 80424</p>	<p><b>ARCHITECTURE</b></p> <p>CHARLES STECKLE</p> <p>3950 S. VALUORN WAY, SUITE 280          LITTLETON, COLORADO 80127          OFFICE: 303.352.9974</p>	<p>A DESIGN ZONING REVIEW DPL          B DESIGN ZONING REVIEW DPL          C ADDRESS OWNER REVIEW DPL          D SIGNING CLIENT REVIEW DPL          F 100% FID OWNER REVIEW DPL</p>
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**ENLARGED SITE PLAN @ TRASH ENCLOSURE**

**A2.1**







**MEMORANDUM**

**TO: Town Council**

**FROM: Julia Puester, AICP, Senior Planner**

**DATE: November 18, 2014 for meeting of November 25, 2014**

**SUBJECT: Second Readings for Landmarking of Historic Properties-Breckenridge Grand Vacations Community Center, Milne House and Eberlein House**

---

The second readings of the ordinances approving local landmark status for the Breckenridge Grand Vacations Community Center, Milne House and Eberlein House are scheduled for your meeting on November 25th.

There are no changes from first reading.

Staff will be available for any questions at the meeting Tuesday.

1 **FOR WORKSESSION/SECOND READING – NOV. 25**

2  
3 **NO CHANGE FROM FIRST READING**

4  
5 COUNCIL BILL NO. 39

6  
7 Series 2014

8  
9 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK  
10 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE  
11 (Milne/McNamara House and Eberlein House; Lots 3 and 4, Block 8,  
12 Yingling & Mickles Addition)

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

16  
17 Section 1. Findings. The Town Council of the Town of Breckenridge finds and  
18 determines as follows:

19  
20 A. The Town of Breckenridge owns the hereinafter described real property. Such real  
21 property is located within the corporate limits of the Town of Breckenridge, County of Summit  
22 and State of Colorado.

23 B. The Town filed an application pursuant to Chapter 11 of Title 9 of the Breckenridge  
24 Town Code seeking to have the hereinafter described real property designated as a landmark  
25 (“Application”).

26 C. The Town followed all of procedural requirements of Chapter 11 of Title 9 of the  
27 Breckenridge Town Code in connection with the processing of the Application.

28 D. The improvements located on hereinafter described real property are more than fifty  
29 (50) years old.

30 E. The hereinafter described real property meets the “architectural” designation criteria  
31 for a landmark as set forth in Section 9-11-4(A)(1)(a) of the Breckenridge Town Code because  
32 the property exemplifies specific elements of architectural style or period.

33 F. The hereinafter described real property meets the “social” designation criteria for a  
34 landmark as set forth in Section 9-11-4(A)(1)(b) of the Breckenridge Town Code because the  
35 property is associated with a notable person or the work of a notable person.

36 G. The hereinafter described real property meets the “physical integrity” criteria for a  
37 landmark as set forth in Section 9-11-4(A)(3) of the Breckenridge Town Code because the  
38 property:

- 1 (i) is on its original location or is in the same historic context after having been  
2 moved (Milne/McNamara House); and  
3 (ii) the structure has been accurately reconstructed or restored based on  
4 documentation (Milne/McNamara House and Eberlein House).  
5

6 H. In accordance with the requirements of Section 9-11-3(B)(3) of the Breckenridge  
7 Town Code, on November 4, 2014 the Application was reviewed by the Breckenridge Planning  
8 Commission. On such date the Planning Commission recommended to the Town Council that the  
9 Application be granted.

10 I. The Application meets the applicable requirements of Chapter 11 of Title 9 of the  
11 Breckenridge Town Code, and should be granted without conditions.

12 J. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final approval of  
13 an application for landmark designation under Chapter 11 of Title 9 of the Breckenridge Town  
14 Code be made by ordinance duly adopted by the Town Council.

15 Section 2. Designation of Property as Landmark. The following described real property:

16  
17 Lots 3 and 4, Block 8, Yingling & Mickles Addition, Town of Breckenridge,  
18 County of Summit, State of Colorado; commonly known and described as the  
19 “Milne/McNamara House and Eberlein House,” 100 and 102 North Harris Street,  
20 Breckenridge, Colorado 80424  
21

22 is designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge Town  
23 Code.  
24

25 Section 3. Police Power Finding. The Town Council finds, determines and declares that  
26 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
27 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and  
28 the inhabitants thereof.  
29

30 Section 4. Town Authority. The Town Council finds, determines and declares that it has  
31 the power to adopt this ordinance pursuant to the authority granted to home rule municipalities  
32 by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town  
33 Charter.  
34

35 Section 5. Effective Date. This ordinance shall be published and become effective as  
36 provided by Section 5.9 of the Breckenridge Town Charter.  
37

38 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
39 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
40 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
41 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
42 Town.  
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TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

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

ATTEST:

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

1 **FOR SECOND READING – NOV. 25**

2  
3 **NO CHANGE FROM FIRST READING**

4  
5 COUNCIL BILL NO. 40

6  
7 Series 2014

8  
9 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK  
10 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE  
11 (Breckenridge Grand Vacations Community Center; Lots 1 – 9, Block 2, Yingling & Mickles  
12 Addition, and Part of Klack Placer )

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

16  
17 Section 1. Findings. The Town Council of the Town of Breckenridge finds and  
18 determines as follows:

19  
20 A. The Town of Breckenridge owns the hereinafter described real property. Such real  
21 property is located within the corporate limits of the Town of Breckenridge, County of Summit  
22 and State of Colorado.

23 B. The Town filed an application pursuant to Chapter 11 of Title 9 of the Breckenridge  
24 Town Code seeking to have the hereinafter described real property designated as a landmark  
25 (“Application”).

26 C. The Town followed all of procedural requirements of Chapter 11 of Title 9 of the  
27 Breckenridge Town Code in connection with the processing of the Application.

28 D. The improvements located on hereinafter described real property are at least than fifty  
29 (50) years old.

30 E. The hereinafter described real property meets the “architectural” designation criteria  
31 for a landmark as set forth in Section 9-11-4(A)(1)(a) of the Breckenridge Town Code because  
32 the property:

- 33 (i) exemplifies specific elements of architectural style or period;  
34 (ii) is an example of the work of an architect or builder who is recognized for  
35 expertise nationally, statewide, regionally or locally;  
36 (iii) demonstrates superior craftsmanship or high artistic value;  
37 (iv) represents an innovation in construction, materials or design;  
38 (v) is of a style particularly associated with the Breckenridge area;  
39 (vi) represents a built environment of a group of people in an era of history; and  
40 (vii) is a significant historic remodel.  
41

1 F. The hereinafter described real property meets the “social” designation criteria for a  
2 landmark as set forth in Section 9-11-4(A)(1)(b) of the Breckenridge Town Code because the  
3 property:

- 4 (i) is a site of a historic event that had an effect upon society;
- 5 (ii) exemplifies cultural, political, economic or social heritage of the community; and
- 6 (iii) is associated with a notable person or the work of a notable person.

7  
8 G. The hereinafter described real property meets the “geographic/environmental”  
9 designation criteria for a landmark as set forth in Section 9-11-4(A)(1)(c) of the Breckenridge  
10 Town Code because the property:

- 11 (i) enhances sense of identity of the community; and
- 12 (ii) is an established and familiar natural setting or visual feature of the community.

13  
14 H. The hereinafter described real property meets the “physical integrity” criteria for a  
15 landmark as set forth in Section 9-11-4(A)(3) of the Breckenridge Town Code because the  
16 property:

- 17 (i) shows character, interest or value as part of the development, heritage or cultural  
18 characteristics of the community, region, state, or nation;
- 19 (ii) retains original design features, materials and/or character;
- 20 (iii) is on its original location or is in the same historic context after having been  
21 moved; and
- 22 (iv) the structure has been accurately reconstructed or restored based on  
23 documentation.

24  
25 I. In accordance with the requirements of Section 9-11-3(B)(3) of the Breckenridge  
26 Town Code, on November 4, 2014 the Application was reviewed by the Breckenridge Planning  
27 Commission. On such date the Planning Commission recommended to the Town Council that the  
28 Application be granted.

29 J. The Application meets the applicable requirements of Chapter 11 of Title 9 of the  
30 Breckenridge Town Code, and should be granted without conditions.

31 K. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final approval of  
32 an application for landmark designation under Chapter 11 of Title 9 of the Breckenridge Town  
33 Code be made by ordinance duly adopted by the Town Council.

34 Section 2. Designation of Property as Landmark. The following described real property:

35  
36 Lots 1 through 9, Block 2, Yingling & Mickles Addition, and that portion of the  
37 Klack Gulch Placer, U.S. Mineral Survey No. 1224 situate between Washington  
38 Avenue and Lincoln Avenue and bounded on the west by Block 4, Abbett  
39 Addition and on the east by Block 2, Y & M Addition, all in the Town of  
40 Breckenridge, County of Summit, State of Colorado; commonly known and

1 described as the "Breckenridge Grand Vacations Community Center," 103 South  
2 Harris Street, Breckenridge, Colorado 80424

3  
4 is designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge Town  
5 Code.

6  
7 Section 3. Police Power Finding. The Town Council finds, determines and declares that  
8 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
9 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and  
10 the inhabitants thereof.

11  
12 Section 4. Town Authority. The Town Council finds, determines and declares that it has  
13 the power to adopt this ordinance pursuant to the authority granted to home rule municipalities  
14 by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town  
15 Charter.

16  
17 Section 5. Effective Date. This ordinance shall be published and become effective as  
18 provided by Section 5.9 of the Breckenridge Town Charter.

19  
20 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
21 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
22 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
23 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
24 Town.

25  
26 TOWN OF BRECKENRIDGE, a Colorado  
27 municipal corporation

28  
29  
30  
31 By: \_\_\_\_\_  
32 John G. Warner, Mayor

33  
34 ATTEST:

35  
36  
37  
38 \_\_\_\_\_  
39 Helen Cospolich  
40 Town Clerk

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 41 (Extending Prohibition on New Marijuana Applications/Licenses Until July 1, 2015)

DATE: November 12, 2014 (for November 25<sup>th</sup> meeting)

---

The second reading of the ordinance extending the prohibition on new medical and retail marijuana license applications and licenses until July 1, 2015 is scheduled for your meeting on November 25<sup>th</sup>. There are no changes proposed to ordinance from first reading.

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

1 **FOR WORKSESSION/SECOND READING – NOV. 25**

2  
3 **NO CHANGE FROM FIRST READING**

4  
5 Additions To The Current Breckenridge Town Code Are  
6 Indicated By ; Deletions By ~~Strikeout~~

7  
8 COUNCIL BILL NO.41

9  
10 Series 2014

11  
12 AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE  
13 TOWN CODE , KNOWN AS THE “TOWN OF BRECKENRIDGE 2013 MARIJUANA  
14 LICENSING ORDINANCE,” BY EXTENDING THE LIMITATION ON THE SUBMISSION  
15 OF NEW LICENSE APPLICATIONS UNTIL JULY 1, 2015

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

19  
20 Section 1. Section 4-14-8(D) of the Breckenridge Town Code is amended to read as  
21 follows:

22  
23 ~~D. Until January 1, 2015 only licensees who hold both a valid Town medical~~  
24 ~~marijuana license and a valid state license issued under the Colorado Medical~~  
25 ~~Marijuana Code on the effective date of this Chapter may submit an application~~  
26 ~~for a license for a new retail marijuana establishment license under this Chapter;~~  
27 ~~provided, however, that between the effective date of this Chapter and January 1,~~  
28 ~~2015 a licensee who holds both a valid Town medical marijuana or retail~~  
29 ~~marijuana license and a valid state license of the same type may transfer~~  
30 ~~ownership of the local license in accordance with the applicable codes, the~~  
31 ~~applicable administrative regulations, and Section 4-14-19 of this Chapter. The~~  
32 ~~Local Licensing Authority shall not accept or process any application submitted~~  
33 ~~in violation of this provision.~~**Until July 1, 2015 the Local Licensing Authority**  
34 **shall not: (i) accept or process an application for a new medical marijuana**  
35 **business or retail marijuana establishment license under this Chapter, or (ii)**  
36 **approve and issue any new medical marijuana business or retail marijuana**  
37 **establishment license under this Chapter. However, prior to July 1, 2015 the**  
38 **Local Licensing Authority may approve a transfer of ownership of an**  
39 **existing local license or a change of location of an existing licensed premises**  
40 **in accordance with the applicable codes, the applicable administrative**  
41 **regulations, and the applicable requirements of this Chapter. For the**  
42 **purpose of this Section, a “new medical marijuana or retail marijuana**  
43 **establishment license” means a local medical marijuana business or retail**  
44 **marijuana establishment license under this Chapter that was not issued by**

1 **the Local Licensing Authority and in full force and effect prior to November**  
2 **11, 2014.**  
3

4 Section 2. Except as specifically amended by this ordinance, the  
5 BreckenridgeTownCode, and the various secondary codes adopted by reference therein, shall  
6 continue in full force and effect.  
7

8 Section 3. The Town Council finds, determines and declares that it has the power to  
9 adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, Article 43.3 of Title  
10 12, C.R.S.; (ii) Section 16 of Article XVIII to the Colorado Constitution; (iii) the Colorado Retail  
11 Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative regulations;  
12 (v) The Local Government Land Use Control Enabling Act, Part 1 of Article 20 of Title 29,  
13 C.R.S.; (vi) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (vii)  
14 Section 31-15-103, C.R.S. (concerning municipal police powers); (viii) Section 31-15-401,  
15 C.R.S. (concerning municipal police powers); (ix) Section 31-15-501, C.R.S. (concerning  
16 municipal authority to regulate businesses); (x) the authority granted to home rule municipalities  
17 by Article XX of the Colorado Constitution; and (xi) the powers contained in the Breckenridge  
18 Town Charter.  
19

20 Section 4. The Town Council further finds, determines, and declares that this ordinance  
21 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
22 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
23 thereof.  
24

25 Section 5. This ordinance shall be published and shall become effective as provided by  
26 Section 5.9 of the Breckenridge Town Charter.  
27

28 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
29 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
30 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
31 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
32 Town.  
33

34 TOWN OF BRECKENRIDGE, a Colorado  
35 municipal corporation  
36

37  
38 By: \_\_\_\_\_  
39 John G. Warner, Mayor  
40

41 ATTEST:  
42  
43  
44

45 \_\_\_\_\_  
46 Helen Cospolich  
47 Town Clerk



## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Tim Gagen, Town Manager  
**Date:** November 20, 2014  
**Subject:** Ordinance Extending Town's Comcast Cable Franchise

The Town has a Cable Franchise Agreement with Comcast which expires December 31, 2014. The Town, along with Summit County and the other Towns in the County, have been working with Comcast to renew the Franchise Agreement for over a year. The Town also has a lease with Comcast for the location and operation of their head end on Town property on Wellington Road. This lease has previously expired and been extended month-to-month with the plan to approve a new lease that coincides with the Franchise renewal. The communities of Summit County have recently finalized the proposed Franchise renewal but the revision and renewal of the lease with Comcast has lagged behind and is not yet finalized to the Town's and County's satisfaction. Given that additional work needs to be done on the lease, our Cable Franchise attorney has recommended that the Towns and County consider extending the Franchise one more time to finish negotiation on the lease and when complete, consider approval of the Franchise and lease at the same time as originally planned. Extending the Franchise preserves all the current provisions of the Franchise.

Attached is an ordinance that will approve the Fourth Amendment to the Franchise Agreement extending the existing terms until June 30, 2015. This ordinance is scheduled for first reading during the regular Council meeting on November 25, 2014.

**COUNCIL BILL NO. \_\_\_\_**

**Series 2014**

**AN ORDINANCE APPROVING THE FOURTH AMENDMENT TO THE TOWN'S  
CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF  
CALIFORNIA/COLORADO/WASHINGTON, LP**

**WHEREAS**, the Town entered into a cable franchise agreement with Universal Cable Communications, Inc. d/b/a Classic Cable (“Classic Cable”) dated November 15, 1995 (“Franchise Agreement”); and

**WHEREAS**, by Resolution No. 45, Series 2001, adopted October 23, 2001, the Town approved the assignment of the Franchise Agreement from Classic Cable to TCI Cable Partners of St. Louis, L.P. (“TCI”); and

**WHEREAS**, Comcast of California/Colorado/Washington, LP (“Comcast”) is the successor to TCI and currently holds a cable franchise with the Town pursuant to Resolution No. 30, Series 2002, adopted June 11, 2002; and

**WHEREAS**, Ordinance No. 27, Series 2005 extended the term of the Franchise Agreement to June 15, 2008; and

**WHEREAS**, by Ordinance No. 26, Series 2007, the Town Council approved a “First Amendment To Franchise Agreement” (“First Amendment”) that, among other things, extended the term of the Franchise Agreement until June 15, 2013; and

**WHEREAS**, by Ordinance No. 18, Series 2013, the Town Council approved a “Second Amendment To Franchise Agreement” (“Second Amendment”) that extended the term of the Franchise Agreement until June 15, 2014; and

**WHEREAS**, by Ordinance No. \_\_\_\_, Series 2014, the Town Council approved a “Third Amendment To Franchise Agreement” (“Third Amendment”) that extended the term of the Franchise Agreement until December 31, 2014; and

**WHEREAS**, Comcast has preserved its rights by timely filing a request with the Town to activate the formal process for renewing the Franchise Agreement pursuant to the Cable Communications Policy Act of 1984 (“Cable Act”); and

**WHEREAS**, the parties have agreed to extend the existing term of the Franchise Agreement until June 30, 2015, as more fully set forth in the proposed “Fourth Amendment to Franchise Agreement Between the Town of Breckenridge, Colorado and Comcast of California/Colorado/Washington, LP” (“Fourth Amendment”), a copy of which is marked Exhibit A, attached to this ordinance and incorporated into this ordinance by reference; and

**WHEREAS**, the Town Council finds and determines that approval of the Fourth Amendment would be in the best interest of the Town and its citizens.

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

Section 1. The Fourth Amendment to Franchise Agreement Between the Town of Breckenridge, Colorado and Comcast of California/Colorado/Washington, LP is approved, and the Mayor is authorized, empowered, and directed to execute such document for and on behalf of the Town of Breckenridge. The Franchise Agreement, as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, shall remain in effect, pursuant to the terms and conditions contained therein, until the new expiration date, until a new agreement is entered into between the parties, or until the Franchise Agreement is terminated pursuant to its terms.

Section 2. Neither the Town nor Comcast waive any right they have under law as a result of agreeing to extend the Franchise Agreement as provided in the Fourth Amendment, and Comcast shall not be required to file any additional request or document in order to preserve its rights under Section 626 of the Cable Act.

Section 3. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. The Town Council declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

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

Section 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 \_\_\_\_\_, 2014. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_ day of \_\_\_\_\_, 2014, 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

**FOURTH AMENDMENT TO THE CABLE TELEVISION FRANCHISE BETWEEN  
THE TOWN OF BRECKENRIDGE, COLORADO AND COMCAST OF  
CALIFORNIA/COLORADO/WASHINGTON, LP**

This Fourth Amendment to the Cable Television Franchise Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2014, such day being the effective date of the Town of Breckenridge Ordinance No. \_\_\_\_, Series 2014, and amend the Cable Television Franchise Agreement (“Franchise Agreement”), by and between the Town of Breckenridge, Colorado, (“Town”) and Comcast of California/Colorado/Washington, LP (“Comcast”).

**WHEREAS**, in 1995, the Town Council approved the grant of a nonexclusive Franchise Agreement to Universal Cable Communications, Inc., effective October 24, 1995, for its construction and operation of a cable television system within the Town; and

**WHEREAS**, Comcast of California/Colorado/Washington, LP, is the successor in interest to Universal Cable Communications, Inc.; and

**WHEREAS**, on November 13, 2007, the parties previously agreed to extend the Franchise Agreement to June 15, 2013; and

**WHEREAS**, on May 14, 2013, the parties previously agreed to extend the Franchise Agreement to June 15, 2014; and

**WHEREAS**, by Ordinance No. \_\_\_\_, Series 2014, the Town Council approved a “Third Amendment To Franchise Agreement” (“Third Amendment”) that extended the term of the Franchise Agreement until December 31, 2014; and

**WHEREAS**, Comcast has preserved its rights by timely filing a request with the Town to activate the formal process for renewing the Franchise Agreement pursuant to the provisions of the Cable Communications Policy Act of 1984 (“Cable Act”); and

**WHEREAS**, the Franchise Agreement was set to expire on December 31, 2014; and

**WHEREAS**, Town Staff and Comcast representatives have discussed the renewal of the Franchise Agreement and both parties have agreed that their respective interests will be served by a formal extension of the existing Franchise Agreement to a date certain; and

**WHEREAS**, the Town Council is agreeable to extending the existing term of the Franchise Agreement until June 30, 2015.

**NOW, THEREFORE**, the present Franchise Agreement is hereby amended by the following:

1. Section V of the Franchise Agreement – Term is hereby deleted and replaced with

the following:

**V. Term**

In accordance with Ordinance No. \_\_\_\_, Series 2014, the term of the Franchise shall be extended to June 30, 2015, unless terminated sooner as hereinafter provided.

2. Except as specifically modified hereby, the Franchise Agreement shall remain in full force and effect.

3. Neither party waives any right which it enjoys under law as a result of agreeing to this Franchise extension, and Comcast shall not be required to file any additional request or document in order to preserve its right of renewal under Section 626 of the Cable Act.

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

**TOWN OF BRECKENRIDGE, COLORADO**  
a Colorado municipal corporation

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

**ATTEST:**

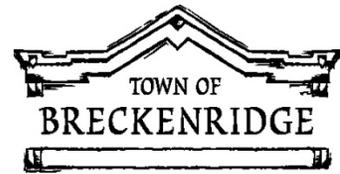
\_\_\_\_\_  
Helen Cospolich, Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Timothy H. Berry, Town Attorney

**COMCAST OF CALIFORNIA/COLORADO/  
WASHINGTON, LP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



## MEMORANDUM

**To:** Town Council  
**From:** Finance and Municipal Services Dept.  
**Subject:** *2015 Budget Resolution*  
**Date:** November 18, 2014  
**CC:** Tim Gagen, Town Manager; Rick Holman, Assistant Town Manager

---

Additional information has been incorporated into the 2015 budget. With the passage of the County's ballot question, the Town's contribution to the County Communications Center has decreased.

The attached resolution has been prepared to adopt the 2015 budget and the 2015-2018 Capital Improvement Plan. Adoption of the budget also includes changes to certain fees and charges that will become effective January 1, 2015.

Council is asked to review the attached updated page for the General Fund as well as the electronic version of the [2015 proposed budget](#). Council is also asked to hold a public hearing and to be prepared to vote on the budget resolution during the November 25th Council meeting.

1 **FOR WORKSESSION/ADOPTION – NOV. 25**

2  
3 RESOLUTION NO. 22

4  
5 SERIES 2014

6  
7  
8 A RESOLUTION ADOPTING THE 2015 BUDGET  
9 AND MAKING APPROPRIATIONS THEREFOR

10  
11 WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt an  
12 operating budget for each fiscal year; and

13  
14 WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt a  
15 five-year Capital Improvement Plan.

16  
17 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
18 BRECKENRIDGE, COLORADO:

19  
20 Section 1. The proposed operating budget for 2015 based on certain fee changes, as  
21 revised by Town Council and maintained on file by the Town Clerk, is adopted and  
22 appropriations are made to the various programs as shown therein.

23  
24 Section 2. The 2015-2019 Capital Improvement Plan, as proposed by the Town  
25 Manager and as amended by the Town Council, is approved.

26  
27 Section 3. All fees and charges contained in the 2015 operating budget are approved  
28 and adopted. Such fees shall become effective January 1, 2015. Further, the Town  
29 Manager may implement any of the other fees and charges contained in the 2015  
30 operating budget prior to January 1, 2015 if the Town Manager determines, in his  
31 judgment, that such early implementation is necessary or appropriate.

32  
33 Section 4. This Resolution is effective upon adoption.

34  
35 RESOLUTION ADOPTED AND APPROVED this 25th day of November, 2014.

36  
37 ATTEST:

TOWN OF BRECKENRIDGE

38  
39  
40  
41  
42 \_\_\_\_\_  
Helen Cospolich, Town Clerk

\_\_\_\_\_

John G. Warner, Mayor

43  
44 APPROVED IN FORM

45  
46  
47  
48  
49 \_\_\_\_\_  
Town Attorney

\_\_\_\_\_

Date

# Memo

To: Town Council Members  
From: Michael Barney, Director of Recreation  
CC: Tim Gagen, Rick Holman  
Date: 11/20/2014  
Re: Resolution to Name the Park being developed on 112 North Main St.

---

At the Town Council Work Session on November 11, 2014, Town Council was presented with a summary of the public process that was conducted to solicit potential names for the park site being developed at 112 North Main Street. Council reviewed the names that were submitted and decided that the name, "Prospector Park" best reflected the planned programming for the park and connected with the Town's strong mining history.

As a result, a resolution to officially name the park has been prepared for your approval and is included in the agenda packet. I will be in attendance at the Town Council work session on November 25, should you have any questions.

1 ***FOR WORKSESSION / ADOPTION – NOV. 25***

2  
3 RESOLUTION NO. \_\_\_\_\_

4  
5 Series 2014

6  
7 A RESOLUTION NAMING CERTAIN PROPERTY LOCATED WITHIN THE  
8 TOWN’S DOWNTOWN DISTRICT  
9

10 WHEREAS, by Resolution No. 13, Series 2014 the Town Council adopted certain  
11 policies to establish a systematic and consistent methodology for the naming of Town-owned  
12 properties; and

13  
14 WHEREAS, the Town owns or controls the property at 112 North Main Street in  
15 Breckenridge, Colorado, at which a new park is currently being constructed; and

16  
17 WHEREAS, the Town Council has been requested to formally name the new park site;  
18 and

19  
20 WHEREAS, the Town Council has considered the request, and finds and determines that  
21 the property located at 112 North Main Street in Breckenridge, Colorado should be formally  
22 named as hereafter provided; and

23  
24 WHEREAS, in considering the naming request the Town Council has given due and  
25 proper consideration to the policies and procedures set forth in Resolution no. 13, Series 2014.

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

29  
30 Section 1. The following property is given the following name:

31

<u>Property Name</u>	<u>Property Address</u>
Prospector Park	112 North Main Street

32  
33  
34  
35

36 Section 2. The property name established in Section 1 of this resolution may be changed  
37 by the Town Council in accordance with Section 6 of Resolution No. 13, Series 2014, or any  
38 successor resolution or naming policy of the Town.

39  
40 Section 3. This resolution is effective upon adoption.



**Memorandum**

**TO:** Town Council  
**FROM:** Tom Daugherty, Public Works Director  
**DATE:** November 17, 2014  
**RE:** CDOT Maintenance Contract

---

As you may know, the Town is contracted by CDOT to maintain State Highway (SH 9) through Breckenridge Town limits (Valley Brook Rd – Boreas Pass Rd.). Our contract is up for renewal and a resolution from the Council is required by CDOT.

Staff has reviewed the contract and finds it acceptable. Little has changed from the old contract.

1 **FOR WORKSESSION/ADOPTION – NOV 25**

2  
3 A RESOLUTION

4  
5 SERIES 2014

6  
7 A RESOLUTION APPROVING A CONTRACT FOR THE MAINTENANCE OF  
8 COLORADO HIGHWAY 9 WITH THE STATE OF COLORADO, DEPARTMENT OF  
9 TRANSPORTATION

10  
11 WHEREAS, governmental entities are authorized by Article XIV of the Colorado  
12 Constitution and Part 2 of Article 1 of Title 29, C.R.S., to co-operate and contract with one  
13 another to provide any function, service, or facility lawfully authorized to each of the co-  
14 operating or contracting governmental entities; and

15  
16 WHEREAS, Sections 43-2-102 and 103, C.R.S., requires the State of Colorado to  
17 maintain state highways, including where such highways extend through a city or an  
18 incorporated town; and

19  
20 WHEREAS, the State of Colorado, Department of Transportation and the Town have  
21 come to an agreement whereby the Town will provide certain maintenance services for the State  
22 on Colorado Highway 9 within the corporate limits of the Town of Breckenridge, all as more  
23 fully set forth in the proposed Contract between the parties, a copy of which is marked Exhibit  
24 “A”, attached hereto and incorporated herein by reference (“Contract”); and

25  
26 WHEREAS, the Town Council of the Town of Breckenridge has reviewed the proposed  
27 Contract, and finds and determines that it would be in the best interests of the Town and its  
28 residents for the Town to enter into the proposed Agreement; and

29  
30 WHEREAS, Rule 6.1(b) of the Council Procedures and Rules of Order provides that a  
31 resolution may be used to approve a contract.

32  
33 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
34 BRECKENRIDGE, COLORADO, as follows:

35  
36 Section 1. The proposed Contract with the State of Colorado, Department of  
37 Transportation (Exhibit "A" hereto) is approved; and the Town Manager and Town Clerk are  
38 hereby authorized, empowered and directed to execute such Contract for and on behalf of the  
39 Town of Breckenridge.

40  
41 Section 2. This resolution shall become effective upon its adoption.

42  
43 RESOLUTION APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
44 2014.

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TOWN OF BRECKENRIDGE:

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

ATTEST:

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

APPROVED IN FORM

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

Highway 9 Maintenance Contract Resolution

### CONTRACT

**THIS CONTRACT** made this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the “**State**” and the Town of Breckenridge PO Box 168 Breckenridge Colorado, 80424 hereinafter referred to as the “**Local Agency**” (or “**Contractor**” in the Special Provisions).

#### **RECITALS**

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Function: 2400, GL Account: 4541000020, Cost Center: R3200-010, (Contract Encumbrance Amount: \$27,000.00).
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Section 43-2-135(1)(i) C.R.S., as amended, requires the State to install, operate, maintain and control, at State expense, all traffic control devices on the state highway system within cities and incorporated towns; and;
4. The parties desire to enter this Contract for the Contractor to provide some or all of the certain Highway maintenance services on state highways that are the responsibility of the State under applicable law, and for the State to pay the Contractor a reasonable negotiated fixed rate for such services;
5. The parties also intend that the Contractor shall remain responsible to perform any services and duties on state highways that are the responsibility of the Contractor under applicable law, at its own cost;
6. The State and the Contractor have the authority, as provided in Sections 29-1-203, 43-1-106, 43-2-103, 43-2-104, and 43-2-144 C.R.S., as amended, and in applicable ordinance or resolution duly passed and adopted by the Contractor, to enter into contract with the Contractor for the purpose of maintenance of traffic control devices on the state highway system as hereinafter set forth.
7. The Contractor has adequate facilities to perform the desired maintenance services on State highways within its jurisdiction.

#### **THE PARTIES NOW AGREE THAT:**

##### **Section 1. Scope of Work**

The Local Agency shall perform all Maintenance Services for the specified locations located within the Local Agency's jurisdiction and described in **Exhibit A**. Such services and highways are further detailed in Section 5.

##### **Section 2. Order of Precedence**

In the event of conflicts or inconsistencies between this Contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in section 22 of this Contract
2. This Contract
3. **Exhibit A** (Scope of Work)
4. **Exhibit C** (Option Letter)
5. **Exhibit D** (Encumbrance Letter).

##### **Section 3. Term**

This contract shall be effective upon the date signed/approved by the State Controller. The term of this contract shall be for a **term of FIVE (5) years**. Provided, however, that the State's financial obligation for each subsequent, consecutive fiscal year of that term after the first fiscal year shall be subject to and contingent upon funds for each subsequent year being appropriated, budgeted, and otherwise made available therefor.

##### **Section 4. Project Funding and Payment Provisions**

- A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract

and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.

- B. Subject to the terms of this Contract, for the satisfactory performance of the Maintenance Services on the Highways, as described in Section 5, the State shall pay the Local Agency on a lump sum basis, payable in monthly installments, upon receipt of the Local Agency's statements, as provided herein.
- C. The Local Agency will provide Maintenance Services as described in **Exhibit A**, for a **total maximum amount of \$27,000.00 per State fiscal year, and a maximum contract total shall not exceed the cumulative five-year total of \$135,000.00** The negotiated rate per mile shall remain fixed for the full five-year term of the contract, unless this rate is renegotiated in accord with the procedure set forth herein in Section 17. The total payments to the Local Agency during the term of this contract shall not exceed that maximum amount, unless this contract is amended. The Local Agency will bill the State monthly and the State will pay such bills within 45 days.
- D. The State shall pay the Local Agency for the satisfactory operation and maintenance of traffic control devices under this agreement at the rates described in **Exhibit A**.
- E. The statements submitted by the Local Agency for which payment is requested shall contain an adequate description of the type(s) and the quantity(ies) of the Maintenance Services performed, the date(s) of that performance, and on which specific sections of the Highways such services were performed, in accord with standard Local Agency billing standards.
- F. If the Local Agency fails to satisfactorily perform the Maintenance Services or if the statement submitted by the Local Agency does not adequately document the payment requested, after notice thereof from the State, the State may deduct and retain a proportionate amount from the monthly payment, based on the above rate, for that segment or portion.

#### **Section 5: State & Local Agency Commitments:**

- A. The Local Agency shall perform the Maintenance Services for the certain State Highway System locations described herein. Such services and locations are detailed in **Exhibit A**.
- B. The Local Agency shall operate and maintain the highway miles as listed on **Exhibit A**. As used herein the term "maintenance services" shall mean only those maintenance services normally performed by the State to comply with its responsibility under §§43-2-102 and 43-2-135, C.R.S., as described in the State's then current "Maintenance Management Information Manual", as amended, which is incorporated herein by this reference. The Local Agency shall obtain a copy of that Manual from the State before it performs any Maintenance Services under this contract. Maintenance Services do not include reconstruction of portions of the highways destroyed by major disasters, fires, floods, or Acts of God. Provided, however, that the Local Agency shall give the State immediate notice of the existence of any such conditions on the Highways.)
  - 1. Maintenance Services to be performed by the Local Agency, at State expense, for the Highways under this contract shall include (without limitation) the following services:
    - a. Removal of snow, sanding and salting.
    - b. Minor patching (any patching that does not require a lay-down machine or large roller), making safe, repairing, spot reconditioning, spot stabilization and spot seal coating, including shoulders, and damage caused by ordinary washouts. Should the amount of patching become extensive the Town will contact CDOT to inspect and determine how to complete the patching.
    - c. For graffiti removal within the contract limits.
    - d. Painting of bridges, of other structures, and of highway appurtenances.
    - e. Warning the State's representative of any "dangerous condition" (as defined in §24-10-103(1) C.R.S., as amended), and/or repairing that condition.
    - f. Inspecting State Highway signing and regulatory devices on the Highways at least weekly and notifying the State's Regional Transportation Director as soon as the Local Agency has notice of any State Highway signing and regulatory devices in need of repair.
  - 2. Local Agency shall also continue to perform, at its own expense, all activities/duties on the Highways that Local Agency is required to perform by §43-2-135 (1) (a) and (e), C.R.S., as amended, including, but not limited to: cutting weeds and grasses within the State's right of way; fence maintenance; cleaning of roadways, including storm sewer inlets and catch basins; cleaning of ditches; and repairing of drainage structures, excluding storm sewers.
- C. The Local Agency shall perform all Maintenance Services on an annual basis. The Local Agency's performance of such services shall comply with the same standards that are currently used by the State for the State's performance of such services, for similar type highways with similar use, in that year, as determined by

the State. The State's Regional Transportation Director, or their representative, shall determine the then current applicable maintenance standards for the Maintenance Services. Any standards/directions provided by the State's representative to the Local Agency concerning the Maintenance Services shall be in writing. The Local Agency shall contact the State Region office and obtain those standards before the Local Agency performs such services.

- D. The Local Agency shall perform the Maintenance Services in a satisfactory manner and in accordance with the terms of this contract. The State reserves the right to determine the proper quantity and quality of the Maintenance Services performed by the Local Agency, as well as the adequacy of such services, under this contract. The State may withhold payment, if necessary, until Local Agency performs the Maintenance Services to the State's satisfaction. The State will notify the Local Agency in writing of any deficiency in the Maintenance Services. The Local Agency shall commence corrective action within 24 hours of receiving actual or constructive notice of such deficiency: a) from the State; b) from its own observation; or c) by any other means. In the event the Local Agency, for any reason, does not or cannot correct the deficiency within 24 hours, the State reserves the right to correct the deficiency and to deduct the actual cost of such work from the subsequent payments to the Local Agency, or to bill the Local Agency for such work.

### **Section 6. Record Keeping**

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State and FHWA to inspect the project and to inspect, review and audit the project records.

### **Section 7. Termination Provisions**

This contract may be terminated as follows:

- A. This Contract may be terminated by either party, but only at the end of the State fiscal year (June 30), and only upon written notice thereof sent by registered, prepaid mail and received by the non-terminating party, not later than 30 calendar days before the end of that fiscal year. In that event, the State shall be responsible to pay the Local Agency only for that portion of the highway Maintenance Services actually and satisfactorily performed up to the effective date of that termination, and the Local Agency shall be responsible to provide such services up to that date, and the parties shall have no other obligations or liabilities resulting from that termination.

Notwithstanding subparagraph A above, this contract may also be terminated as follows:

- B. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.
- C. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.

Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.

If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

D. Termination Due to Loss of Funding. The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

**Section 8. Legal Authority**

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

**Section 9. Representatives and Notice**

The State will provide liaison with the Local Agency through the State's Region Director, Region ZCDOTREGION, ZREGIONADDR1. Said Region Director will also be responsible for coordinating the State's activities under this contract and will also issue a "Notice to Proceed" to the Local Agency for commencement of the Work. All communications relating to the day-to-day activities for the work shall be exchanged between representatives of the State's Transportation Region ZCDOTREGION and the Local Agency. All communication, notices, and correspondence shall be addressed to the individuals identified below. Either party may from time to time designate in writing new or substitute representatives.

**If to State**

CDOT Region: 3  
Michael Goolsby  
Maintenance Superintendent  
606 South 9<sup>th</sup> Street  
Grand Junction, CO 81501  
970-683-6306

**If to the Local Agency**

Town of Breckenridge  
Tim Gagen  
Town Manager  
PO Box 168  
Breckenridge, CO 80424  
970-547-3166

**Section 10. Successors**

Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**Section 11. Third Party Beneficiaries**

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

**Section 12. Governmental Immunity**

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

**Section 13. Severability**

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

#### **Section 14. Waiver**

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

#### **Section 15. Entire Understanding**

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

#### **Section 16. Survival of Contract Terms**

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

#### **Section 17. Modification and Amendment**

This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

##### **A. Amendment**

Either party may suggest renegotiation of the terms of this contract, provided that the contract shall not be subject to renegotiation more often than annually, and that neither party shall be required to renegotiate. If the parties agree to change the provisions of this contract, the renegotiated terms shall not be effective until this Contract is amended/modified accordingly in writing. Provided, however, that the rates will be modified in accordance with applicable cost accounting principles and standards (including sections 24-107-101, et seq., C.R.S. and implementing regulations), and be based on an increase/decrease in the "allowable costs" of performing the Work. Any such proposed renegotiation shall not be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved by the State Controller or delegee. Any such rate change will go into effect on the first day of the first month following the amendment execution date.

##### **B. Option Letter**

- a. The State may increase/decrease the quantity of goods/services described in **Exhibit A** at the same unit prices (rates) originally established in the contract. The State may exercise the option by written notice to the Local Agency in a form substantially equivalent to **Exhibit C**.
- b. As a result of increasing/decreasing the locations, the State may also unilaterally increase/decrease the maximum amount payable under this contract based upon the unit prices (rates) originally established in the contract and the schedule of services required, as set by the terms of this contract. The State may exercise the option by providing a fully executed option to the Local Agency, in a form substantially equivalent to **Exhibit C**, immediately upon signature of the State Controller or an authorized delegate. The Option Letter shall not be deemed valid until signed by the State Controller or an authorized delegate. Any such rate change will go into effect on the first day of the first month following the option letter execution date.

##### **C. State Encumbrance Letter**

The State may encumber the funds up to the maximum amount allowed during a given fiscal year by unilateral execution of an encumbrance letter in a form substantially equivalent to **Exhibit D**. The State shall provide a fully executed encumbrance letter to the Local Agency after execution. Delivery/performance of the goods/services shall continue at the same rate and under the same terms as established in the contract.

#### **Section 18. Disputes**

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract, which is not disposed of by agreement, will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of

receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

#### **Section 19. Does not supersede other agreements**

This contract is not intended to supersede or affect in any way any other agreement (if any) that is currently in effect between the State and the Local Agency for other "maintenance services" on State Highway rights-of-way within the jurisdiction of the Local Agency. Also, the Local Agency shall also continue to perform, at its own expense, all such activities/duties (if any) on such State Highway rights-of-ways that the Local Agency is required by applicable law to perform.

#### **Section 20. Subcontractors**

The Local Agency may subcontract for any part of the performance required under this contract, subject to the Local Agency first obtaining approval from the State for any particular subcontractor. The State understands that the Local Agency may intend to perform some or all of the services required under this contract through a subcontractor. The Local Agency agrees not to assign rights or delegate duties under this contract [or subcontract any part of the performance required under the contract] without the express, written consent of the State; which shall not be unreasonably withheld. Except as herein otherwise provided, this agreement shall inure to the benefit of and be binding only upon the parties hereto and their respective successors and assigns.

#### **Section 21. Statewide Contract Management System**

If the maximum amount payable to Local Agency under this contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this **§Statewide Contract Management System** applies.

Local Agency agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of Local Agency performance on state contracts and inclusion of contract performance information in a statewide contract management system.

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

Should the final performance Evaluation and Review determine that Local Agency demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation, and showing of good cause, may debar Local Agency and prohibit Local Agency from bidding on future contracts. Local Agency may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Local Agency, by the Executive Director, upon showing of good cause.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

## Section 22. Special Provisions

**These Special Provisions apply to all contracts except where noted in *italics*.**

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This Contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

- 10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.** *[Not Applicable to intergovernmental agreements]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
- 11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.** *[Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
- 12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09

**Section 24. SIGNATURE PAGE**

Agreement Routing Number: **15 HA3 72666**

**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

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

<p style="text-align: center;"><b>THE LOCAL AGENCY</b> <b>Town of Breckenridge</b></p> <p>Print: _____</p> <p>Title: _____</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b> <b>John W. Hickenlooper, GOVERNOR</b> Colorado Department of Transportation <b>Donald E. Hunt, Executive Director</b></p> <p>_____</p> <p>By: <b>Joshua Laipply, PE, Chief Engineer</b></p> <p>Date: _____</p>
<p>2nd Local Agency Signature if needed</p> <p>Print: _____</p> <p>Title: _____</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;"><b>LEGAL REVIEW</b> <b>John W. Suthers, Attorney General</b></p> <p>By: _____</p> <p style="text-align: center;">Signature - Assistant Attorney General</p> <p>Date: _____</p>

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

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

<p style="text-align: center;"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____</p> <p style="text-align: center;">Colorado Department of Transportation</p> <p>Date: _____</p>
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## SCOPE OF WORK

### Highway Maintenance

The Contractor shall perform all Maintenance Services on State Highway 9, from Boreas Pass Road (MP 86.3) to Valley Brooke Road (MP 87.0) segments described herein, located within the Contractor's jurisdiction for a total length of 7.47 lane miles ("the Highways").

Maintenance Services to be performed by the Contractor, at State expense, for the Highways under this Contract shall include (without limitation) the following services:

Removal of snow, sanding and salting

- a. Minor patching (any patching that does not require a lay-down machine or large roller), making safe, repairing, spot reconditioning, spot stabilization and spot seal coating, including shoulders, and damage caused by ordinary washouts. Should the amount of patching become extensive the Town will contact CDOT to inspect and determine how to complete the patching.
- b. For graffiti removal within the contract limits.
- c. Warning the State's representative of any "dangerous condition" (as that term is defined in §24-10-103(1) C.R.S., as amended), and/or repairing that condition.
- d. Inspecting State Highway signing and regulatory devices on the Highways at least weekly and notifying the State's Regional Transportation Director as soon as the Contractor has notice of any State Highway signing and regulatory devices in need of repair.

The rate negotiated by the parties per mile for this Contract is \$3,395.00 per mile, and the number of miles of the Highways for which the Contractor will provide Maintenance Services is 7.74 lane miles, for a total maximum amount of \$27,000 per fiscal year. This price shall remain fixed for the full 5 year term of the Contract; the total payment to the Contractor during the term of this Contract shall not exceed that maximum amount of \$135,000.00.

**LOCAL AGENCY  
ORDINANCE  
or  
RESOLUTION**

**SAMPLE IGA OPTION LETTER  
Highway Maintenance**

Date: [ ]	State Fiscal Year: [ ]	Option Letter No. [ ]	Routing #: [ ]
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**Vendor Name:**

**1) SUBJECT: (Please choose either A or B below and place in the subject line)**

- A. Change in the highway locations and the Maximum Amount Payable.
- B. Change in the traffic locations and the Maximum Amount Payable.

**2) REQUIRED PROVISIONS:**

In accordance with Section 17 of contract routing number [ ] (Agreement), between the State of Colorado Department of Transportation, and [ ] the state hereby exercises the option to an [ ] amount of goods/services at the same rate(s) specified in **Exhibit A** of the Agreement and in **Exhibit A-1**, attached hereto.

The amount of the current Fiscal Year contract value (encumbrance) is [ ] by \$[ ] to satisfy the Maintenance Services ordered under the contract for the current fiscal year [ ] Section 4.C (for Highway Maintenance) or Section 4.D (for Traffic Maintenance) shall be modified to show the annual not to exceed amount to \$[ ] and the Contract (five-year term) not to exceed amount shall be modified to \$[ ].

The total contract value to include all previous amendments, option letters, etc. is \$[ ].

**3) EFFECTIVE DATE:**

The effective date of this Option Letter is upon approval of the State Controller or delegate, whichever is later.

**APPROVALS:**

**State of Colorado:**

**John W. Hickenlooper, GOVERNOR**

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

\_\_\_\_\_, Colorado Department of Transportation

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

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

**STATE CONTROLLER  
Robert Jaros, CPA, MBA, JD**

By: \_\_\_\_\_  
(Controller Delegate, Department of Transportation)

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

**Updated: April 2014**

**Form date: August 16, 2013**

**ENCUMBRANCE LETTER**

<b>Date:</b> [ ]	<b>State Fiscal Year:</b> [ ]	<b>Encumbrance Letter No.</b> [ ]	<b>Routing #:</b> [ ]
		<b>Orig. IGA:</b> [ ]	<b>PO:</b> [ ]

1) **Encumber fiscal year funding in the contract.**

2) **PROVISIONS:** In accordance with Section 4 C and **Exhibit C** of the original Contract routing number [ ] between the State of Colorado, Department of Transportation, and [ ], covering the term July 1, ZIGA\_OPT\_FY through June 30, [ ], the State hereby encumbers funds for the goods/services specified in the contract for fiscal year [ ].

The amount to be encumbered by this Encumbrance Letter is \$[ ]. The Total contract (encumbrance) amount, including all previous amendments, option letters, etc. is \$[ ].

<b>Fiscal Year</b>	<b>Amount</b>

3) **EFFECTIVE DATE.** The effective date of this Encumbrance Letter is upon approval of the State Controller.

<p><b>STATE OF COLORADO</b>  <b>ZGOVERNOR, GOVERNOR</b>                  Department of Transportation</p> <p>By: _____                  (For): Donald E. Hunt, Executive Director</p> <p>Date: _____</p>
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**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

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

<p><b>STATE CONTROLLER</b>  <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____                  Controller Delegate, Department of Transportation</p> <p>Date: _____</p>
--

Updated: April 2014

## Memorandum

**TO:** TOWN COUNCIL  
**FROM:** Dale Stein, Assistant Town Engineer  
**DATE:** November 5, 2014  
**RE:** Public Projects Update

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### **Breckenridge Grand Vacations Community Center**

Work on the final “finish” phase of the rehabilitation of the historic building on Harris Street is continuing with crews working evenings and weekends in an effort to complete the project by mid-December. A “Grand Opening Celebration” event for the community center has been set for January 10, 2015. The project staff is focusing on having the building completed by mid-December to allow for an opening of the Speakeasy Movie Theatre on December 17<sup>th</sup> and a “soft” opening of the library on December 29<sup>th</sup>.

Xcel Energy recently set the new electrical service and meter for the building allowing for the start-up of the HVAC system, allowing us to energize the exterior parking lights, and activation of other electrical items in the building.

Ongoing work throughout the building includes final drywall finish in the addition, finish painting and staining throughout the 1909 and 1921 areas, new carpet flooring in the library, wood trim, electrical equipment installation and trim, HVAC balancing, Audio / Video installation in the Speakeasy, installation of ceiling acoustics, and installation of the new steel stairs and railing at both the interior and exterior reading areas.

Notable upcoming schedule items include the installation of the seating and digital projection system in the theater (prior to December 8<sup>th</sup>), final installation of millwork in the movie concessions and coffee shop areas (prior to December 8<sup>th</sup>), installation of the new library shelving (starting week of December 1), installation of the BHA archive system (prior to November 21), installation of the upper floor BHA mural (week of December 1<sup>st</sup>) and final painting, carpeting and clean-up (prior to December 15<sup>th</sup>).

The installation of the sculpture at the exterior movie plaza has been rescheduled to later in November or early December pending good weather.

## **Prospector Park on North Main Street**

This year's portion of the Prospector Park construction is nearly complete. Snow is being cleared from the site so that several miscellaneous items can be completed this week. The contractor is waiting for two street lights and a handrail to be fabricated; these items will be installed in early December. The sidewalk which connects Main Street to the Carter Museum is currently being cleared and opened for pedestrian use this winter. The landscaping work for the project will be bid in the spring of 2015, while landscaping work and playground equipment installation will be completed in the summer of 2015.



Final grading operations are being completed for the playground area. Next year, wood fiber will be placed inside the play area and playground equipment will be installed.



## **Breckenridge Theater Addition**

Staff has been meeting with the Backstage Theatre team to finalize the design for the theater addition and remodel. These meetings have been very productive and are resulting in some great final direction for the building design. Staff will bring the updated plans to Council at a work session once the plans are completed. Proposals for the Construction Manager General Contractor (CMGC) are due on December 12<sup>th</sup> and we anticipate the contractor will be selected and under contract in mid-January. A cost estimate of the project will be performed to further evaluate the budget and design, prior to completion of the Construction Documents. Construction is targeted to begin in spring of 2015.

## **Old Masonic Hall**

The surprisingly cold weather temporarily slowed down work at the Old Masonic Hall project. But with a little bit of sun and warmer temperatures this week, we were able to pour the curb, gutter, and sidewalk in the alley and in front of Fuqua. The warmer temperatures also allowed the electricians to begin pulling wire. Staff is evaluating cost implications to pouring the remainder of the sidewalk on the north side of Washington Avenue.



Interior framing of the sunny southern entrance to the addition.



Architect and contractor discuss plumbing and kitchen layout.

**MEMO**

**TO:** Mayor & Town Council  
**FROM:** Tim Gagen, Town Manager  
**DATE:** November 20, 2014  
**SUBJECT:** Committee Reports for 11-25-2014 Council Packet

*No committee reports were submitted at this time.*

<b>Committees</b>	<b>Representative</b>	<b>Report Status</b>
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
Liquor Licensing Authority*	Taryn Power	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
CMC Advisory Committee	Tim Gagen	No Meeting/Report
Recreation Advisory Committee	Mike Barney	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.*



## October 31, 2014 Financial Report



Halloween

Finance & Municipal Services Division

## Executive Summary

October 31, 2014

This report covers the year to date as of 10-31-2014.

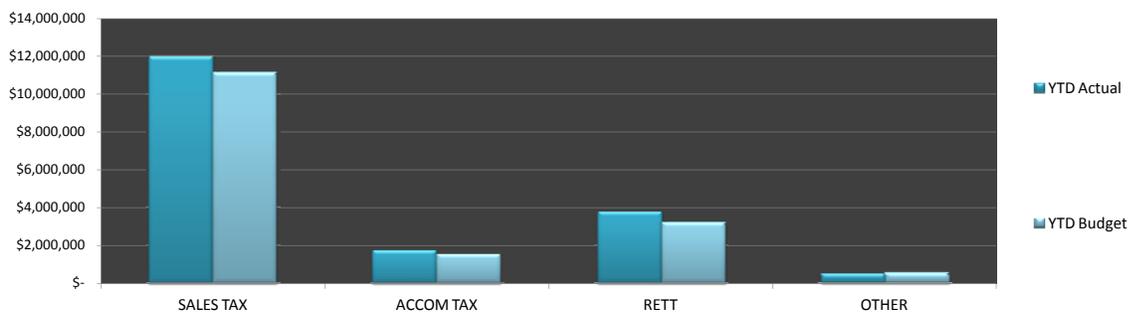
Revenues continue to be strong: Excise Fund revenue is ahead of budget by \$1.57M or 10% at \$18,012,988 vs. budget of \$16,444,698.

Sales Tax, Accommodations Tax and Real Estate Transfer Tax are ahead of budget (see table below for details)

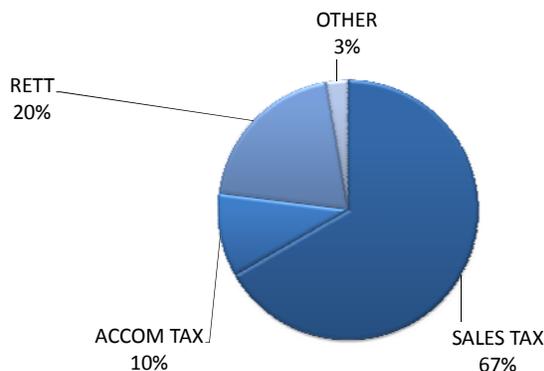
For more information on tax revenues (by month and business sector), please see the Tax Basics section of the Financials.

Staff will be available at the November 25 work session to answer any questions you may have.

### Excise YTD Actual vs. Budget - by Source



### YTD Actual Revenues - Excise



	YTD Actual	YTD Budget	% of Budget	Annual Budget	Current Year Projected	Prior YTD Actual	Prior Annual Actual
SALES TAX	\$ 11,992,561	\$ 11,148,610	108%	\$ 15,198,907	\$ 16,824,039	\$ 10,799,755	\$ 14,839,044
ACCOMMODATIONS TAX	1,758,911	1,566,038	112%	2,018,536	2,430,819	1,537,289	2,006,571
REAL ESTATE TRANSFER	3,778,475	3,213,905	118%	3,800,001	4,240,681	3,730,801	4,462,232
OTHER*	483,041	516,145	94%	761,138	660,557	590,461	810,708
<b>TOTAL</b>	<b>\$ 18,012,988</b>	<b>\$ 16,444,698</b>	<b>110%</b>	<b>\$ 21,778,582</b>	<b>\$ 24,156,096</b>	<b>\$ 16,658,306</b>	<b>\$ 22,118,556</b>

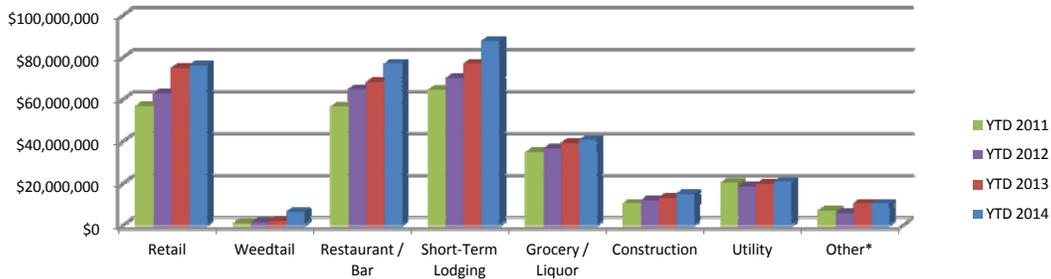
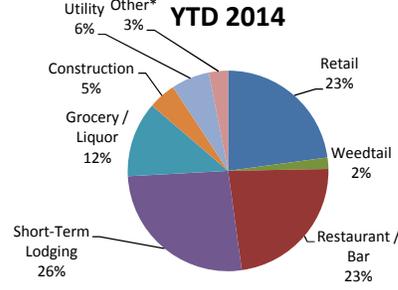
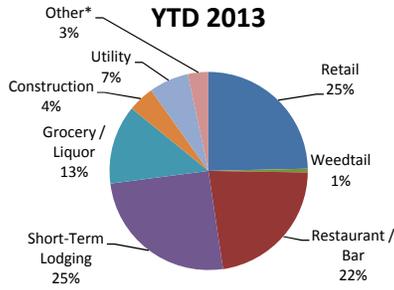
\* Other includes Franchise Fees (Telephone, Public Service and Cable), Cigarette Tax, and Investment Income

## The Tax Basics

### Net Taxable Sales by Industry-YTD

Description	YTD 2011	YTD 2012	YTD 2013	2013		2013/2014		2014
				% of Total	YTD 2014	\$ Change	% Change	
Retail	\$56,572,788	\$62,715,600	\$74,668,126	24.64%	\$75,975,843	\$1,307,717	1.75%	22.87%
Weedtail	\$834,730	\$1,304,486	\$1,806,496	0.60%	\$6,147,240	\$4,340,744	240.29%	1.85%
Restaurant / Bar	\$56,251,402	\$64,601,379	\$67,922,978	22.42%	\$76,676,942	\$8,753,964	12.89%	23.08%
Short-Term Lodging	\$64,292,905	\$69,771,447	\$76,693,317	25.31%	\$87,558,091	\$10,864,774	14.17%	26.35%
Grocery / Liquor	\$34,677,043	\$36,351,420	\$39,133,678	12.92%	\$40,355,229	\$1,221,551	3.12%	12.15%
Construction	\$10,267,304	\$11,753,526	\$12,961,017	4.28%	\$14,817,111	\$1,856,094	14.32%	4.46%
Utility	\$19,950,776	\$18,329,616	\$19,580,231	6.46%	\$20,485,254	\$905,022	4.62%	6.17%
Other*	\$6,750,598	\$5,723,698	\$10,228,579	3.38%	\$10,244,797	\$16,218	0.16%	3.08%
<b>Total</b>	<b>\$249,597,546</b>	<b>\$270,551,171</b>	<b>\$302,994,423</b>	<b>100.00%</b>	<b>\$332,260,507</b>	<b>\$29,266,084</b>	<b>9.66%</b>	<b>100.00%</b>

\* Other includes activities in Automobiles and Undefined Sales.



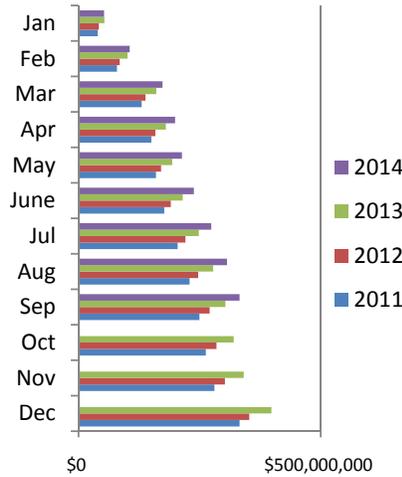
#### New Items of Note:

- September net taxable sales are currently ahead of 2013 by 3.07%.
- Year-to-date net taxable sales are currently ahead of 2013 by 9.66%.
- Restaurant and Lodging fell behind September prior year sales, but are still up year-to-date.
- While Construction was up 0.81% over September 2013, the sector was still down from 2005-2008.
- The growth over prior year in the Grocery/Liquor sector began to slow in May. However, the sector is beginning to show improvement.
- Grocery/Liquor, Retail, and Weedtail fared better than the aggregate of all sectors. This is a significant change from August sales.

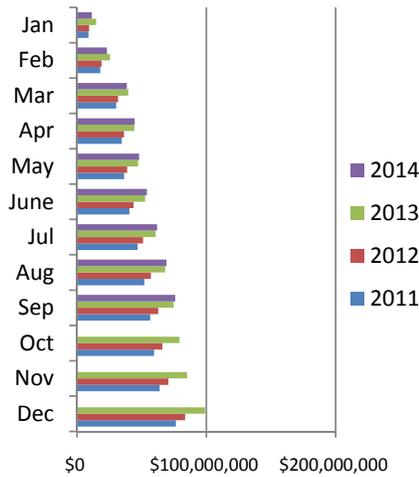
#### Continuing Items of Note:

- In 2014, a new category was added to the Sales by Sector pages for the Weedtail sector. The category encompasses all legal marijuana sales, regardless of medical or recreational designation. The Retail sector has been adjusted to remove the sales previously reported in this category. The jump in sales from 2013 to 2014 can be attributed to the legalization of sales of recreational marijuana.
- A section on Disposable Bag Fees was added in 2014.
- Taxes collected from the customer by the vendor are remitted to the Town on the 20<sup>th</sup> of the following month.
- Quarterly taxes are reported in the last month of the period. For example, taxes collected in the first quarter of the year (January – March), are include on the report for the period of March.
- Net Taxable Sales are continually updated as late tax returns are submitted to the Town of Breckenridge. Therefore, you may notice slight changes in prior months, in addition to the reporting for the current month.

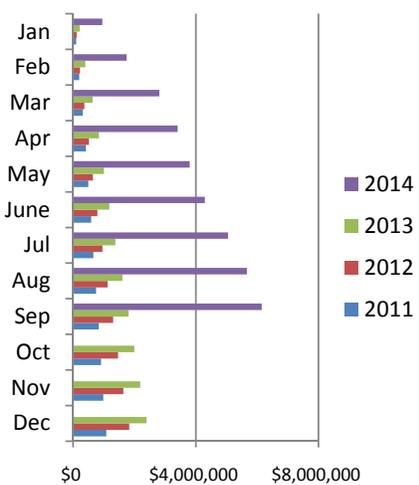
## Net Taxable Sales by Sector - Town of Breckenridge Tax Base



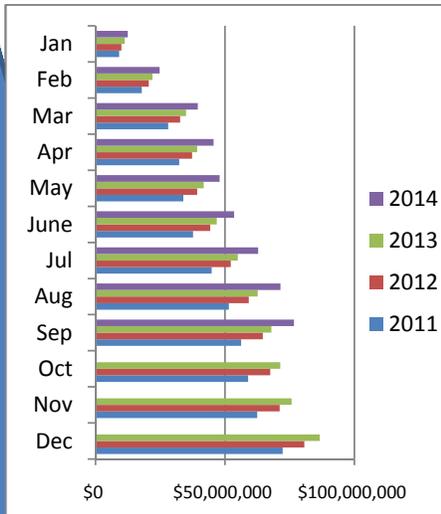
Total Net Taxable Sales					
	2011	2012	2013	2014 from PY	% change
Jan	\$39,457,505	\$41,718,482	\$53,336,557	\$52,688,130	-1.22%
Feb	\$39,794,165	\$43,279,998	\$47,661,413	\$52,916,161	11.03%
Mar	\$51,127,532	\$53,068,463	\$59,322,595	\$67,800,006	14.29%
Apr	\$19,740,992	\$20,550,689	\$19,835,788	\$25,817,970	30.16%
May	\$9,607,534	\$11,552,549	\$13,043,792	\$14,092,762	8.04%
Jun	\$17,133,963	\$20,161,932	\$21,824,324	\$24,869,830	13.95%
Jul	\$27,600,727	\$30,306,091	\$33,233,133	\$35,736,936	7.53%
Aug	\$24,681,057	\$26,378,253	\$29,614,066	\$32,444,476	9.56%
Sep	\$20,454,070	\$23,534,713	\$25,122,756	\$25,894,236	3.07%
Oct	\$13,185,469	\$14,052,583	\$17,154,744	\$0	n/a
Nov	\$17,694,164	\$17,500,298	\$20,680,131	\$0	n/a
Dec	\$51,828,677	\$50,233,000	\$57,472,993	\$0	n/a
<b>Total</b>	<b>\$332,305,855</b>	<b>\$352,337,052</b>	<b>\$398,302,290</b>	<b>\$332,260,507</b>	



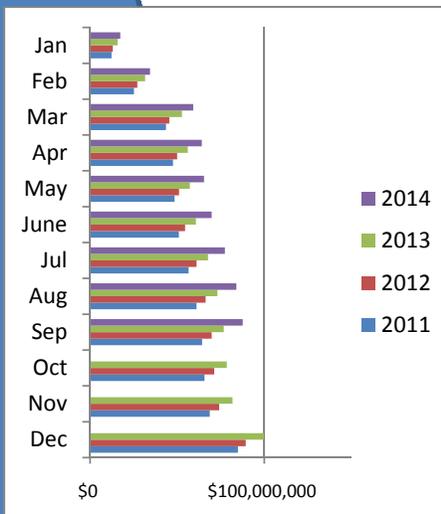
Retail					
	2011	2012	2013	2014 from PY	% change
Jan	\$8,873,745	\$9,332,951	\$14,740,883	\$11,368,774	-22.88%
Feb	\$9,025,467	\$9,561,486	\$10,714,990	\$11,727,549	9.45%
Mar	\$12,371,926	\$12,894,030	\$14,199,893	\$15,406,870	8.50%
Apr	\$4,281,042	\$4,535,877	\$4,640,272	\$6,089,379	31.23%
May	\$1,874,691	\$2,460,868	\$2,945,458	\$3,372,801	14.51%
Jun	\$4,051,674	\$4,935,052	\$5,421,774	\$6,087,997	12.29%
Jul	\$6,378,646	\$7,291,230	\$8,155,359	\$7,900,671	-3.12%
Aug	\$5,206,454	\$6,103,157	\$7,322,388	\$7,204,459	-1.61%
Sep	\$4,509,144	\$5,600,950	\$6,527,107	\$6,817,342	4.45%
Oct	\$2,949,134	\$3,253,812	\$4,563,566	\$0	n/a
Nov	\$4,372,344	\$4,647,092	\$5,843,691	\$0	n/a
Dec	\$12,521,962	\$12,981,465	\$13,828,152	\$0	n/a
<b>Total</b>	<b>\$76,416,228</b>	<b>\$83,597,969</b>	<b>\$98,903,536</b>	<b>\$75,975,843</b>	



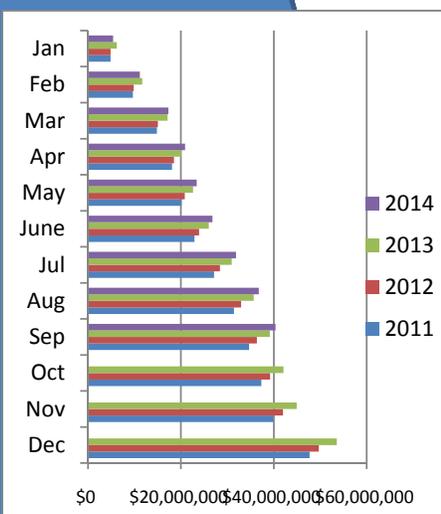
Weedtail					
	2011	2012	2013	2014 from PY	% change
Jan	\$98,400	\$112,836	\$213,016	\$951,609	346.73%
Feb	\$101,156	\$112,024	\$182,322	\$787,796	332.09%
Mar	\$114,141	\$138,857	\$236,589	\$1,068,198	351.50%
Apr	\$101,758	\$151,697	\$207,583	\$597,513	187.84%
May	\$79,694	\$130,681	\$165,344	\$397,864	140.63%
Jun	\$90,530	\$143,525	\$173,564	\$493,672	184.43%
Jul	\$74,297	\$166,596	\$198,017	\$755,747	281.66%
Aug	\$87,638	\$167,634	\$226,347	\$612,329	170.53%
Sep	\$87,116	\$180,635	\$203,715	\$482,512	136.86%
Oct	\$74,763	\$160,677	\$189,368	\$0	n/a
Nov	\$73,632	\$171,386	\$192,819	\$0	n/a
Dec	\$97,903	\$189,064	\$205,254	\$0	n/a
<b>Total</b>	<b>\$1,081,028</b>	<b>\$1,825,612</b>	<b>\$2,393,937</b>	<b>\$6,147,240</b>	



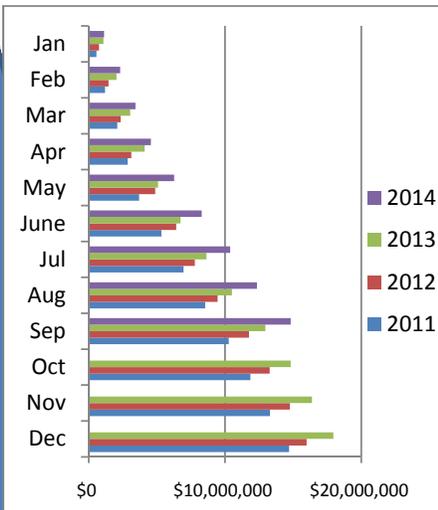
Restaurant / Bar					
	2011	2012	2013	2014	% change from PY
Jan	\$9,132,858	\$10,000,475	\$11,273,850	\$12,448,962	10.42%
Feb	\$8,708,081	\$10,576,852	\$10,704,428	\$12,281,889	14.74%
Mar	\$10,231,641	\$12,086,391	\$12,967,189	\$14,759,829	13.82%
Apr	\$4,227,322	\$4,662,012	\$4,310,574	\$6,111,111	41.77%
May	\$1,629,285	\$1,975,658	\$2,552,517	\$2,341,889	-8.25%
Jun	\$3,761,795	\$5,006,301	\$5,004,564	\$5,623,693	12.37%
Jul	\$7,179,297	\$7,964,540	\$8,164,898	\$9,240,264	13.17%
Aug	\$6,655,377	\$6,905,724	\$7,690,278	\$8,626,324	12.17%
Sep	\$4,725,746	\$5,423,426	\$5,254,681	\$5,242,981	-0.22%
Oct	\$2,675,462	\$2,924,663	\$3,457,580	\$0	n/a
Nov	\$3,522,382	\$3,613,665	\$4,385,744	\$0	n/a
Dec	\$9,843,423	\$9,534,760	\$10,871,039	\$0	n/a
Total	\$72,292,669	\$80,674,467	\$86,637,342	\$76,676,942	



Short-Term Lodging					
	2011	2012	2013	2014	% change from PY
Jan	\$12,273,406	\$12,980,188	\$15,698,448	\$17,237,693	9.81%
Feb	\$12,861,701	\$14,098,863	\$15,860,278	\$17,175,537	8.29%
Mar	\$18,399,939	\$18,334,344	\$21,139,859	\$24,760,238	17.13%
Apr	\$4,053,070	\$4,477,551	\$3,303,068	\$4,952,810	49.95%
May	\$832,715	\$1,088,308	\$1,263,021	\$1,275,885	1.02%
Jun	\$2,532,271	\$3,498,126	\$3,489,236	\$4,316,118	23.70%
Jul	\$5,513,083	\$6,619,464	\$6,874,194	\$7,615,319	10.78%
Aug	\$4,617,400	\$5,172,991	\$5,384,872	\$6,629,560	23.11%
Sep	\$3,209,320	\$3,501,612	\$3,680,342	\$3,594,930	-2.32%
Oct	\$1,353,845	\$1,495,331	\$1,780,132	\$0	n/a
Nov	\$2,982,078	\$2,764,095	\$3,266,469	\$0	n/a
Dec	\$16,181,397	\$15,265,907	\$18,041,999	\$0	n/a
Total	\$84,810,225	\$89,296,780	\$99,781,916	\$87,558,091	



Grocery / Liquor					
	2011	2012	2013	2014	% change from PY
Jan	\$4,853,813	\$4,857,276	\$6,202,934	\$5,396,830	-13.00%
Feb	\$4,803,009	\$4,962,402	\$5,467,845	\$5,757,737	5.30%
Mar	\$5,179,766	\$5,219,990	\$5,450,296	\$6,142,330	12.70%
Apr	\$3,261,348	\$3,469,430	\$2,961,839	\$3,595,478	21.39%
May	\$2,053,046	\$2,309,947	\$2,527,526	\$2,494,945	-1.29%
Jun	\$2,757,191	\$3,097,820	\$3,378,083	\$3,390,191	0.36%
Jul	\$4,219,220	\$4,489,506	\$4,954,547	\$5,095,848	2.85%
Aug	\$4,271,490	\$4,540,829	\$4,724,946	\$4,876,297	3.20%
Sep	\$3,278,161	\$3,404,220	\$3,465,662	\$3,605,574	4.04%
Oct	\$2,647,930	\$2,855,324	\$2,930,066	\$0	n/a
Nov	\$2,598,982	\$2,778,270	\$2,869,441	\$0	n/a
Dec	\$7,776,073	\$7,705,640	\$8,615,254	\$0	n/a
Total	\$47,700,028	\$49,690,652	\$53,548,439	\$40,355,229	

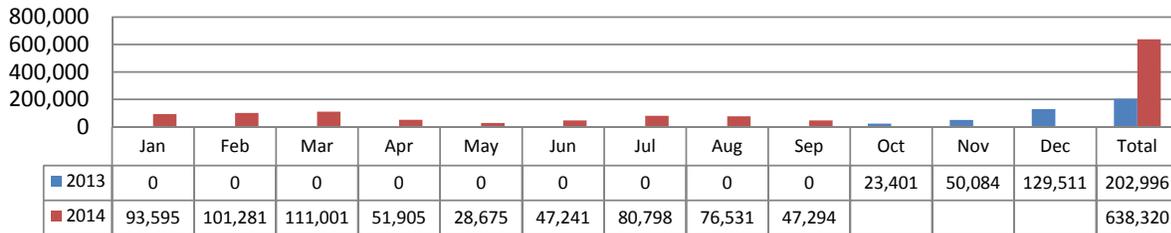


Construction					
	2011	2012	2013	2014	% change from PY
Jan	\$563,647	\$752,255	\$1,072,239	\$1,129,003	5.29%
Feb	\$633,474	\$703,811	\$964,673	\$1,171,370	21.43%
Mar	\$890,826	\$881,518	\$1,008,645	\$1,121,396	11.18%
Apr	\$770,474	\$779,206	\$1,055,938	\$1,140,743	8.03%
May	\$836,918	\$1,761,256	\$978,334	\$1,699,762	73.74%
Jun	\$1,630,112	\$1,540,822	\$1,653,588	\$2,027,078	22.59%
Jul	\$1,625,460	\$1,366,520	\$1,903,161	\$2,084,178	9.51%
Aug	\$1,594,166	\$1,670,785	\$1,870,078	\$1,969,423	5.31%
Sep	\$1,722,226	\$2,297,356	\$2,454,362	\$2,474,159	0.81%
Oct	\$1,595,351	\$1,521,388	\$1,858,158	\$0	n/a
Nov	\$1,437,391	\$1,482,393	\$1,555,679	\$0	n/a
Dec	\$1,392,964	\$1,226,412	\$1,568,060	\$0	n/a
<b>Total</b>	<b>\$14,693,010</b>	<b>\$15,983,720</b>	<b>\$17,942,915</b>	<b>\$14,817,111</b>	

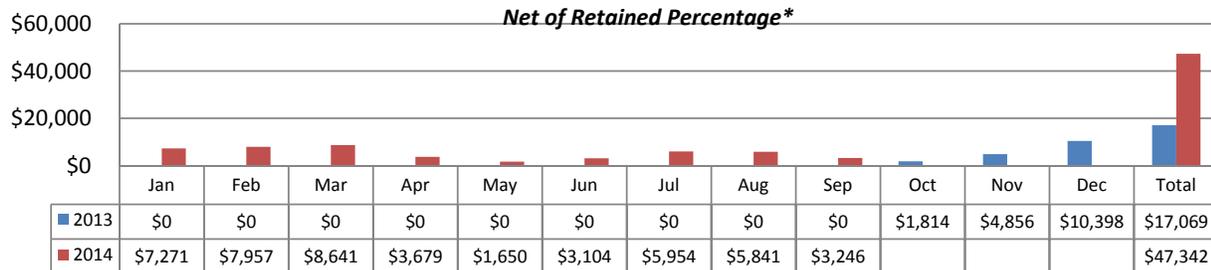
## Disposable Bag Fees

The Town adopted an ordinance April 9, 2013 (effective October 15, 2013) to discourage the use of disposable bags and achieve a goal of the SustainableBreck Plan. The ten cent fee applies to most plastic and paper bags given out at retail and grocery stores in Breckenridge. The program is intended to encourage the use of reusable bags and discourage the use of disposable bags, thereby furthering the Town's sustainability efforts. Revenues from the fee are used to provide public information about the program and promote the use of reusable bags. Retailers are permitted to retain 50% of the fee (up to \$1000/month through October 31, 2014; \$100/month beginning November 1, 2014) in order to offset expenses incurred related to the program.

## # of Disposable Bags Reported by Month



## Bag Fees Remitted by Month



\*Retailers are permitted to retain 50% of the fee (up to \$1000/month through October 31, 2014; \$100/month beginning November 1, 2014) in order to offset expenses incurred related to the program. The retained percent may be used by the retail store to provide educational information to customers; provide required signage; train staff; alter infrastructure; fee administration; develop/display informational signage; encourage the use of reusable bags or promote recycling of disposable bags; and improve infrastructure to increase disposable bag recycling.

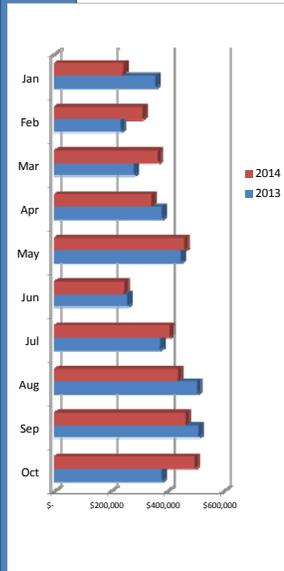
## Real Estate Transfer Tax

### New Items of Note:

- Revenue for the month of October was ahead of prior year by 30.01%, and surpassed the monthly budget by \$167,351.
- YTD Collections are up 3.74% from prior year, and ahead of budget by \$564,470 (through 10/31).
- We still lag behind prior year churn by 5.44% year to date (through 10/31).
- Single Family Home sales now account for the majority of the sales (32.64%), with Condominiums now representing the next highest sales (26.34%) subject to the tax. Timeshare sales, which previously represented the second highest portion of sales, have fallen to third position.

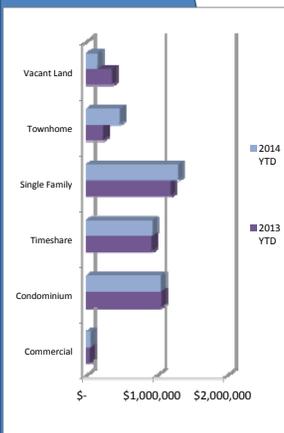
### Continuing Items of Note:

- 2014 Real Estate Transfer Tax budget is based upon the monthly distribution for 2013.

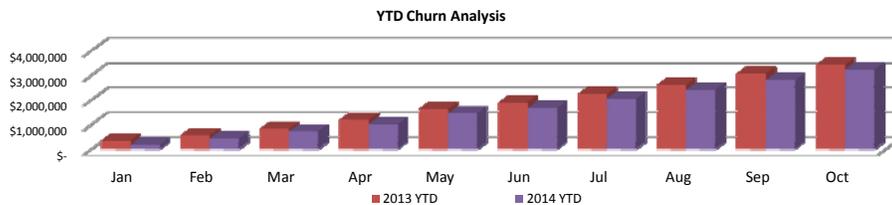


Total RETT						
	2012	2013	2014	% change	2014 Budget	+/- Budget
Jan	\$132,557	\$358,948	\$242,770	-32.37%	\$309,216	-\$66,446
Feb	\$234,630	\$234,357	\$311,353	32.85%	\$201,887	\$109,466
Mar	\$114,921	\$281,202	\$367,107	30.55%	\$242,242	\$124,865
Apr	\$174,514	\$380,279	\$343,886	-9.57%	\$327,592	\$16,294
May	\$292,708	\$446,840	\$461,783	3.34%	\$384,931	\$76,852
Jun	\$251,397	\$259,659	\$246,452	-5.09%	\$223,684	\$22,768
Jul	\$252,104	\$373,510	\$409,671	9.68%	\$321,761	\$87,910
Aug	\$388,749	\$504,694	\$436,174	-13.58%	\$434,769	\$1,405
Sep	\$311,285	\$509,838	\$463,305	-9.13%	\$439,201	\$24,104
Oct	\$387,028	\$381,475	\$495,973	30.01%	\$328,622	\$167,351
Nov	\$389,275	\$403,015	\$208,036	-48.38%	\$347,178	-\$139,142
Dec	\$761,919	\$328,416	\$0	n/a	\$238,918	n/a
Total	\$3,691,087	\$4,462,232	\$3,986,511		\$3,800,000	\$425,428

\*November #s are as of 11/13/2014



by Category					
Description	2013 YTD	2014 YTD	\$ change	% change	% of Total
Commercial	\$ 53,115	\$ 66,522	13,407	25.24%	1.67%
Condominium	1,061,168	1,050,263	(10,905)	-1.03%	26.35%
Timeshare	924,394	935,004	10,609	1.15%	23.45%
Single Family	1,202,200	1,301,363	99,163	8.25%	32.64%
Townhome	234,937	473,605	238,668	101.59%	11.88%
Vacant Land	367,185	159,755	(207,431)	-56.49%	4.01%
Total	\$ 3,842,999	\$ 3,986,511	143,512	3.73%	100.00%



# General Fund Revenues Summary

October 31, 2014

These next two pages report on results in our General Fund. This area contains most "Government Services," such as public works, police, planning, recreation facilities, and administrative function.

**General Fund Revenue:** At the end of October, the Town's General Fund was at 107% of YTD budget (\$19.0 million actual vs. \$17.8 million budgeted). The variances are described below.

**Variance Explanations:**

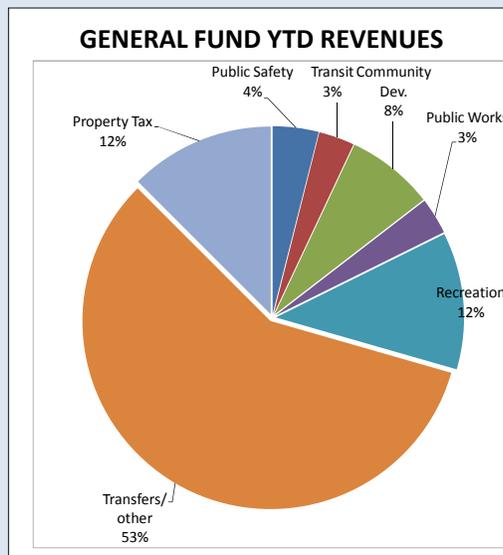
Transit: over budget due to Summit Stage billing-timing.

Community Development: over budget primarily due to building permits and plan check fees.

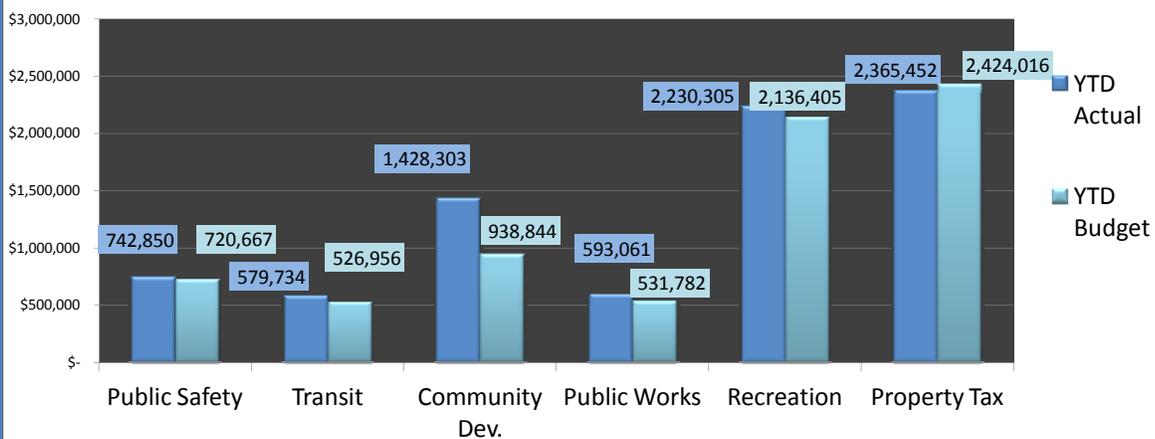
Public Works: over budget due to miscellaneous income such as Ice Castles.

Recreation: ahead of budget due to Summer Recreation Fees, Resident Passes, and Sleigh Ride Royalty.

Property tax-timing. Most payments have been received. Late payments will continue to trickle in.



Gen. Fund YTD Revenue Act vs. Bud - by Program



## General Fund Expenditures Summary

October 31, 2014

This page details the expense side of the General Fund. These figures represent the cost of providing the services contained in this fund (Public Safety, Transit, Recreation, Public Works, Community Development, and Administration).

The General Fund actual expenditures through October 31, 2014 were under budget by 5% at \$16,798,738 vs. budget of \$17,600,996 .

### Variance Explanations:

Public Safety under budget due to wages (open positions) .

Admin under budget due to legal services and wages.

Transit under budget due to wages (open positions) .

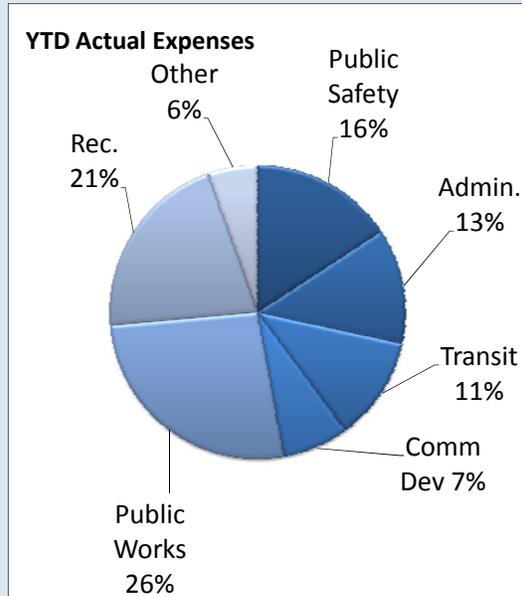
Comm Dev under budget due to wages and training.

Public Works slightly over budget due to last winter's large snowfall.

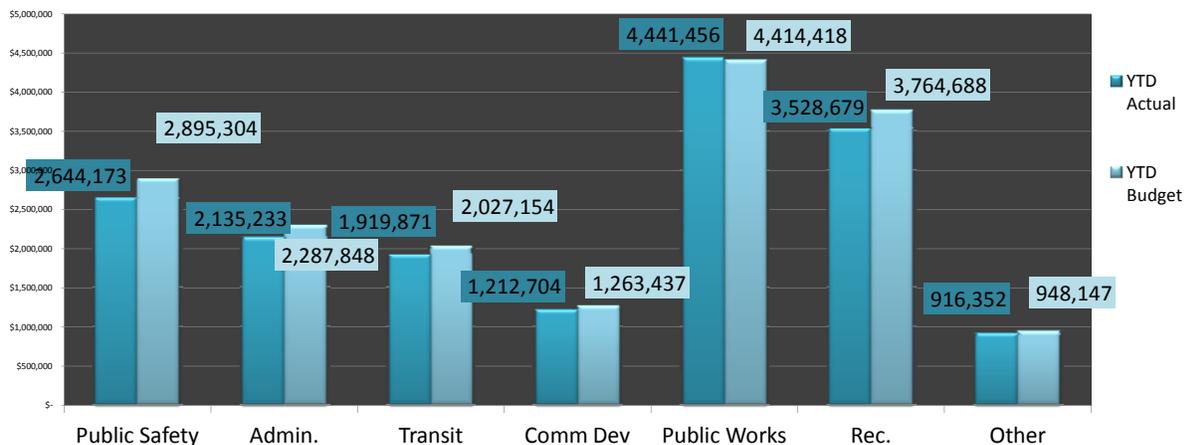
Recreation under budget due to a number of operational items (wages, advertising, utilities and janitorial services).

"Other" category:

- Nordic Center financing-did not draw as much as anticipated for new lodge construction project.
- Green Team: purchases of reuseable bags (not yet spent)



### Gen. Fund YTD Expenditures Act. vs. Bud. - by Program



## Combined Statement of Revenues and Expenditures

### All Funds October 31, 2014

REVENUE	YTD Actual	YTD Budget	% of YTD Bud.	Annual Bud.
<b>General Governmental</b>				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 32,486,639	\$ 29,785,617	109%	\$ 36,499,818
2 Special Revenue	9,594,784	9,338,599	103%	10,838,918
3 Internal Service	2,889,851	2,849,644	101%	3,461,464
<b>4 Subtotal General Governmental</b>	<b>\$ 44,971,274</b>	<b>\$ 41,973,860</b>	<b>107%</b>	<b>\$ 50,800,200</b>
5 Capital Projects	1,416,681	1,096,500	129%	1,110,000*
<b>Enterprise Funds</b>				
6 Utility Fund	3,558,627	3,295,758	108%	4,284,789
7 Golf	2,106,316	2,114,806	100%	2,137,530
8 Cemetery	26,025	19,466	134%	22,518
<b>9 Subtotal Enterprise Funds</b>	<b>\$ 5,690,969</b>	<b>\$ 5,430,030</b>	<b>105%</b>	<b>\$ 6,444,837</b>
<b>10 TOTAL REVENUE</b>	<b>52,078,923</b>	<b>48,500,390</b>	<b>107%</b>	<b>58,355,037</b>
11 Internal Transfers	27,237,565	27,132,239	100%	29,999,374
<b>12 TOTAL REVENUE incl. x-fers</b>	<b>\$ 79,316,488</b>	<b>\$ 75,632,629</b>	<b>105%</b>	<b>\$ 88,354,411</b>
<b>EXPENDITURES</b>				
	YTD Actual	YTD Budget	% of Bud.	Annual Bud.
<b>General Governmental</b>				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 21,793,411	\$ 23,338,823	93%	\$ 27,481,706
2 Special Revenue	6,646,157	8,779,588	76%	9,709,682
3 Internal Service	2,273,964	2,951,994	77%	3,514,128
<b>4 Subtotal General Governmental</b>	<b>\$ 30,713,532</b>	<b>\$ 35,070,405</b>	<b>88%</b>	<b>\$ 40,705,516</b>
5 Capital Projects	12,497,651	9,747,683	128%	9,747,683**
<b>Enterprise Funds</b>				
6 Utility Fund	2,342,699	2,457,783	95%	3,005,074
7 Golf	1,507,923	1,549,488	97%	1,757,661
8 Cemetery	0	11,310	0%	13,572
<b>9 Subtotal Enterprise Funds</b>	<b>\$ 3,850,621</b>	<b>\$ 4,018,581</b>	<b>96%</b>	<b>\$ 4,776,307</b>
<b>10 TOTAL EXPENDITURES</b>	<b>47,061,804</b>	<b>48,836,669</b>	<b>96%</b>	<b>55,229,506</b>
11 Internal Transfers	27,237,565	27,132,229	100%	29,999,374
<b>12 TOTAL EXPENDITURES incl. x-fers</b>	<b>\$ 74,299,369</b>	<b>\$ 75,968,898</b>	<b>98%</b>	<b>\$ 85,228,880</b>
<b>13 TOTAL REVENUE less EXPEND.</b>	<b>\$ 5,017,119</b>	<b>\$ (336,269)</b>	<b>N/A</b>	<b>\$ 3,125,531</b>

\*Capital fund revenue in excess of budget due to County revenue for Harris St. bldg. construction.

\*\*Capital Fund expenses over budget due to projects authorized and funded in 2013.

**General Governmental Funds** - General, Excise, Child Care, Marijuana and Special Projects

**Special Revenue Funds** - Marketing, Affordable Housing, Open Space, and Conservation Trust

**Internal Service Funds** - Garage, Information Technology (IT), and Facilities

## ALL FUNDS REPORT

October 31, 2014

As stated in the Executive Summary section of this month's report, tax revenues are ahead of budget.

Most other revenue variances are due to timing.

**Capital Fund:**

- Revenue:
  - Over budget due to County contributions for Harris Street building (timing-was budgeted in 2013) as well as other fundraising for this project
- Expense:
  - Over budget due to expenditure of prior year appropriated expenditures for Harris St. building. Spending authority in the Capital Fund does not expire annually. In 2014, projects appropriated and funded in the prior year are being completed.

**Special Revenue Funds:**

- Revenue:
  - Marketing Fund ahead of budget due to sales tax, accommodation tax and business licenses
  - Affordable Housing under budget due to sales of assets budgeted but have not taken place.
  - Open Space ahead of budget due to sales tax.
- Expense:
  - Overall, Special Revenue Funds are under budget due to timing of capital expenditures. There is one exception-the Marketing Fund is ahead of budget due to the change in payment schedule for GoBreck payments (timing).

**Utility:**

- Revenue:
  - Ahead of budget due to water rents, bulk water (ice castle) and PIF's.

**Internal Service Funds:**

- Revenue: ahead of budget due to insurance recoveries
- Expense: under budget due to timing of capital expenditures

**Fund Descriptions:**

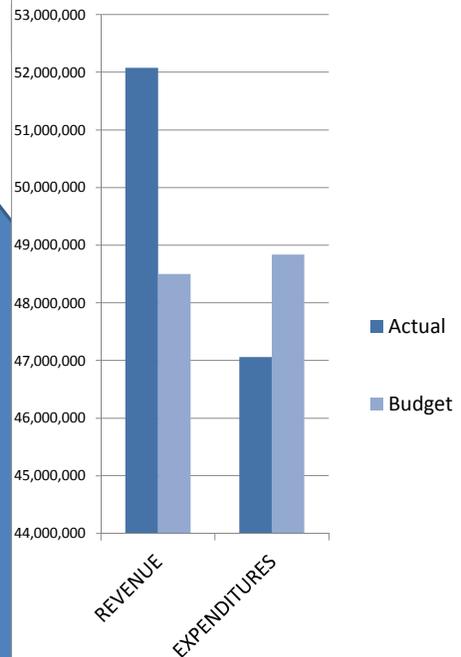
General Governmental - General, Excise, Capital, Special Projects, Child Care, Marijuana

Special Revenue Funds - Marketing, Affordable Housing, Open Space, and Conservation Trust

Enterprise Funds: Golf, Utility, Cemetery

Internal Service Funds - Garage, Information Technology (IT), and

YTD Actual Revenues and Expenditures vs. Budget



# MEMORANDUM

**To:** Mayor and Town Council  
**From:** Shannon Haynes, Chief of Police  
**Date:** November 18<sup>th</sup>, 2014  
**Subject:** Update on Short Term Parking Goals

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For the past month staff has been collecting data and brainstorming strategies designed to meet, in the short term, Council goals related to way-finding, decreasing traffic circulation & congestion, and education. Below I have provided a summary of our efforts, including a brief description of the short term way-finding improvements staff is planning to implement over the next month.

## Task Force

Many local community members have volunteered to sit on the Parking & Transit Task Force. The group is diverse and includes members from the following facets of the community: Lodging, Transportation (private & public), Retail, Realtors, Ski Resort, and Restaurants. The group's first meeting is scheduled for Thursday, December 4<sup>th</sup> from 10am to 12pm at the Police Department.

## Education

The first Roundtable discussion was held on Wednesday, November 5<sup>th</sup>. The discussion was organized by GoBreck and attended by 17 individuals. The group was provided with a history of parking and traffic management, and an overview of Council goals. The group was engaged and actively participated in a discussion about both parking and transit.

Staff will be attending the next Restaurant Association meeting to speak about the Parking and Transit initiative and invite Restaurant Association members to attend a second Roundtable discussion to take place in early January 2015.

## Way-finding

Police Department staff is finalizing plans for an overall improvement to way-finding. In assessing the issues associated with way-finding staff identified the following problems and are working on the corresponding solutions:

- Current signage is small and difficult to read.  
Signs will be updated to use larger, common size letters (all capitals), consistent language, and consistent colors.
- Many large signs are only one sided.  
Where appropriate, the back of signs will be utilized to provide additional way-finding information.
- Signs do not provide consistent messaging.  
Where parking is located ahead of the sign, verbiage will be changed to note the name of the lot with an arrow and the "P" parking symbol will be included. The size of the "P" will be increased for easy identification.

- Several signs do not have a clearly identifiable blue “P”.  
The “P” parking symbol will be updated or added and will be large enough for easy identification.
- Open and full signs.  
“Open” and “Full” signs will be purchased and a plan for deployment will be developed.
- Several signs, including the current Satellite Lot metal sign are inconsistent with standard Town of Breckenridge signs.  
Signs will be replaced with new signs consistent in look, style and messaging.
- There are several signs in the area of Park Avenue advertising Peak 7 and Peak 8.  
Staff will be working with Community Development and the Breckenridge Ski Resort (BSR) to determine the need for these signs.
- Maps located on partner sites are outdated.  
Staff will work with our partners to ensure updated maps and directions are available.

In addition, BSR parking staff has agreed to allow the Town to add signage to their new lot signs at the North & South Gondolas. Staff has worked with BSR to develop signage that is similar in look and style to the signage currently being used. BSR has agreed to have the signs made by their sign shop. The signs will be hung on the established structures advertising “Additional Parking” with an arrow directing individuals to the Tiger Dredge lot and F Lot. Additional temporary signage will be placed near Ski Hill Road and at the entrance to both of the stated lots. Staff expects the new signs to be completed within the next two weeks.

In addition to providing an update, staff would like to take time to request feedback from Council on any additional items to work on in the short term.

I will be available at the work session on November 25<sup>th</sup> to answer questions.



November 19, 2014

TO: Breckenridge Town Council

CC: Tim Gagen, Rick Holman, Tom Daugherty

FROM: Maribeth Lewis-Baker, Transit Manager & James Phelps, Asst Director Public Works

RE: Free Ride Transit 2014 On-Board Rider Survey

---

Attached for review is the final report of the 2014 On-Board Survey Results for the Free Ride.

The purpose of an on-board passenger survey is to gather data regarding Free Ride passenger demographics, socioeconomic data, and trip characteristics. The information is used for transit planning and for our Title VI requirements. Because the Town is a recipient of Federal Financial Assistance (FFA) Grant Funding through the Federal Transit Administration (FTA) the Town is required to conduct an on-board passenger survey a minimum of every two years.

The survey was conducted on March 28, 2014, utilizing contract survey administrators to keep the survey both scientific and credible.

Overall, we had a response rate of 10.26% of the daily ridership completing a survey. The response rate was -6.54% lower than our last bi-annual on-board passenger survey percentage sampling amount conducted in 2012. Many surveys were not fully completed and invalidated.

There were few material changes in the data between the survey intervals. The survey validated characteristics of our Limited English Proficiency (LEP) population and low-income, transit dependent ridership, which is important for Title VI Civil Rights reporting requirements.

Of note from the 2014 on-board passenger survey, is the customer satisfaction rating scale. For the first time, the Free Ride asked people to rate their service satisfaction on a scale of one to ten, with ten being the most satisfied.

Only (6) six survey respondents (or 1.7%) ranked our service with something less than a 7 for a satisfaction score. 43% of the survey respondents gave the Breckenridge Free Ride a score of 10 for their overall service satisfaction score.



**Free Ride Transit System**  
**2014 On-Board Passenger Survey**

**March 28, 2014**

## INTRODUCTION

The last on-board passenger survey was conducted by the Breckenridge Free Ride on March 30, 2012. The 2012 survey had a 16.8% response rate of a total daily ridership of 3,043 passengers.

The purpose of an on-board passenger survey is to gather data regarding Free Ride passenger demographics, socioeconomic data, and trip characteristics. The information is used for transit planning and for our Title VI requirements. A recipient of Federal Financial Assistance (FFA) Grant Funding through the Federal Transit Administration (FTA) is required to conduct an on-board passenger survey a minimum of every two years.

The Free Ride Transit System receives FFA from two formula grant programs of the FTA; Section 5339 and Section 5311. These funds are used for bus purchases, bus refurbishments, capital equipment purchases, and operating assistance.

The surveys were administered in both English and Spanish. Uncharacteristic to both of the 2008 and 2010 studies (where 11 percent of the surveys were completed in Spanish), in 2012 only 2.9% of the surveys were completed in Spanish and in 2014 only 1.5% were completed in Spanish.

Consistent with our Limited English Proficiency (LEP) Plan of our filed Title VI Plan, outreach was performed by offering surveys in Spanish, flyers were posted in Spanish to inform passengers that an on-board survey was in progress, and bilingual survey administrators were used for the collection process.

The current survey was conducted on March 28, 2014. Surveys were conducted on each route and also at Breckenridge Station. Respondents were instructed to write on the reverse side of the survey if there was any place the bus did not go that was desired by them or any other comments they may have about the system. Daily ridership for the survey day was 4,105 passengers. Non-rider surveys were also obtained on Main Street.

Overall, we had a response rate of 10.26% of the daily ridership completing a survey. The response rate was 6.54% lower than our 2012 passenger survey percentage sampling amount.

400 useable responses were received. This sample provides an error range of +/- 1.7 percent at the 97% confidence level. The Orange Route had the highest percentage

sampling, followed by the Purple Route. Following is a table that breaks down the sampling response rate by route.

**Free Ride Transit System - 2014 Passenger Survey  
Response Rate**

<b>Route</b>	<b>Total Boardings</b>	<b>Number of Responses</b>	<b>Response Rate</b>
Main Street/ Station	0	50	
Yellow	2,176	114	5.23%
Orange/Black PM	237	54	22.78%
Purple	467	83	17.77%
Brown	1,225	99	8.08%
<b>SYSTEM</b>	<b>4,105</b>	<b>400</b>	<b>10.26%</b>

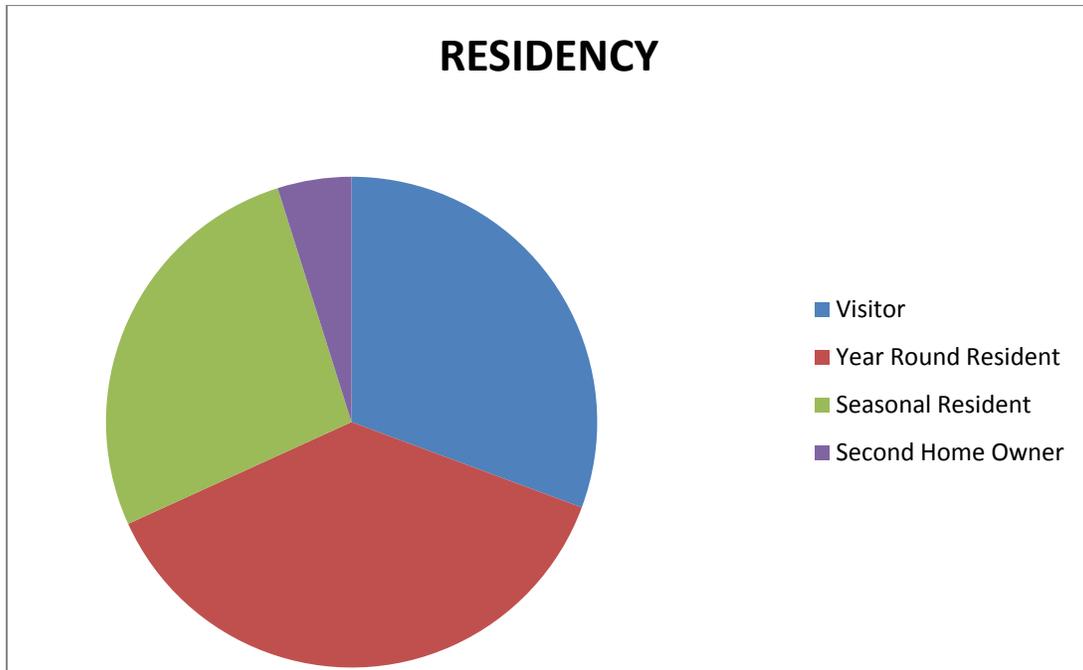
## DEMOGRAPHIC CHARACTERISTICS

There were a number of questions asked on the survey questionnaire to determine demographic characteristics of Free Ride passengers.

### Residency

The first consideration is the residency status of passengers. Passengers were asked to indicate whether they were a visitor/tourist, year-round resident, seasonal resident, or a second homeowner.

<b>Residency Status</b>	<b>TOTAL</b>
<b>Visitor</b>	30.7%
<b>Year Round Resident</b>	37.5%
<b>Seasonal Resident</b>	26.9%
<b>Second Home Owner</b>	4.9%
	100.0%



### Gender

65.9% of the survey respondents were males, and 34.1% female. This survey showed a 3% reduction in female respondents from the 2012 sampling. Ridership in each bi-annual survey period from 2008-2014 has trended predominantly with a higher percentage rate of male ridership.

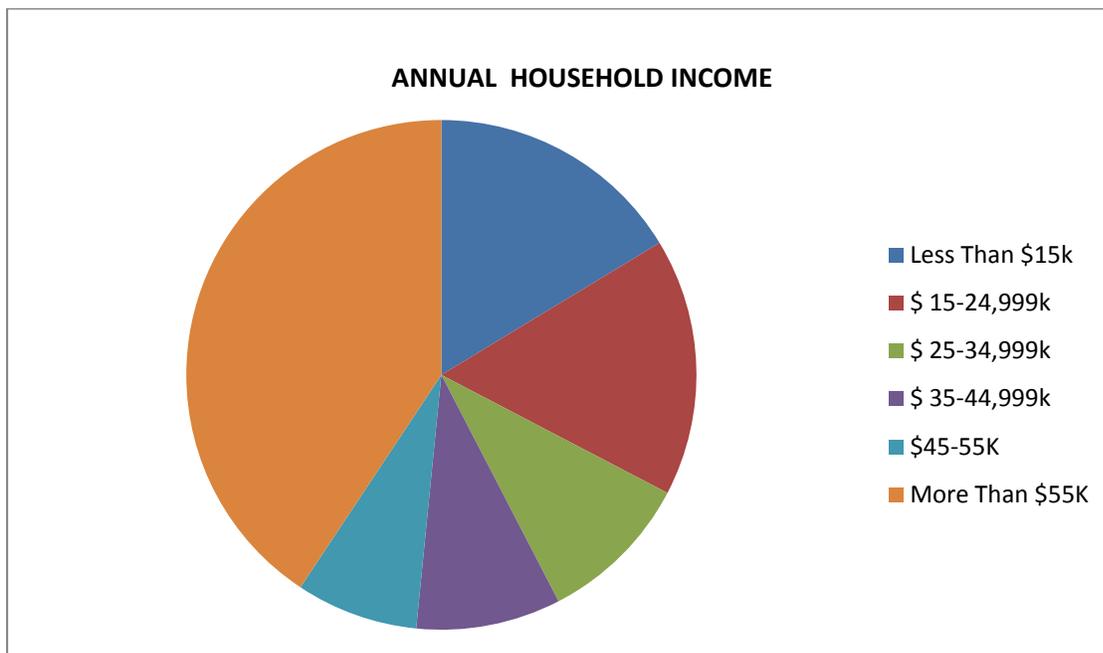
### Income

Income does play an important role in determining transit ridership, transit needs, and transit trends within Breckenridge.

Generally, public transportation trends indicate that low-income market segments have a higher dependence upon transit service than other income groups. However, high-income market segments will use transit service if it is convenient and saves them time.

32.6% of the total survey sampling earns less than \$25,000 per year.

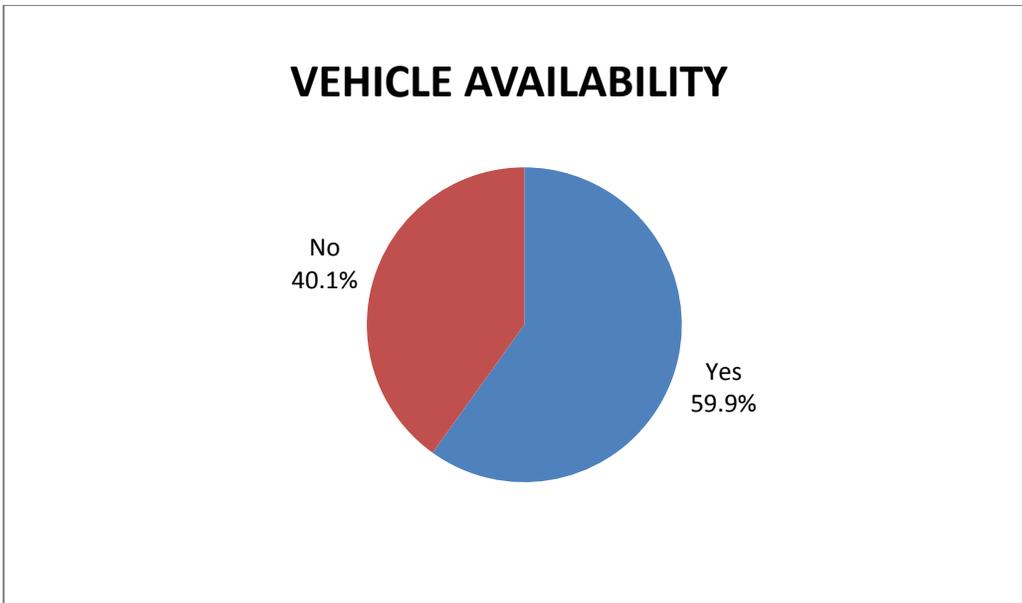
Annual Household Income	
Less Than \$15k	16.3%
\$ 15-24,999k	16.3%
\$ 25-34,999k	9.7%
\$ 35-44,999k	9.2%
\$45-55K	7.7%
More Than \$55K	40.7%



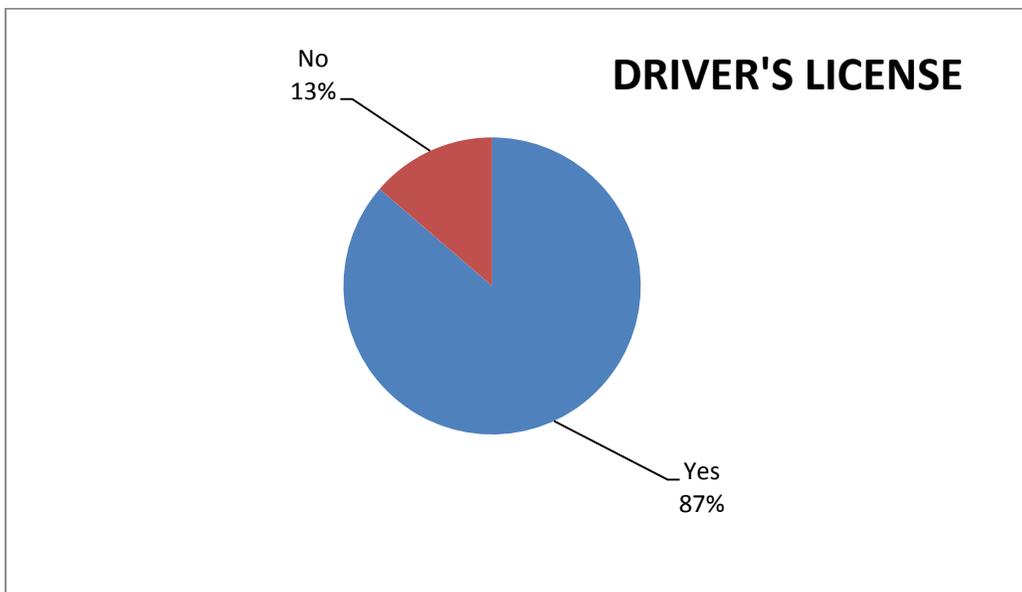
### Choice Ridership

Vehicle availability for households and visitors, as well as the ability to drive, play key roles in the demand for public transportation. The lack of a privately owned vehicle and/or the inability to drive highly influences people to use public transportation. This comparison provides an indication of the number of “choice riders”, versus those who are transit-dependent.

59.9% of the sampling had a vehicle available but chose to ride the bus. This is an 11.1% increase over the 2012 survey sample.



The proportion of licensed drivers increased by .7% in 2014.

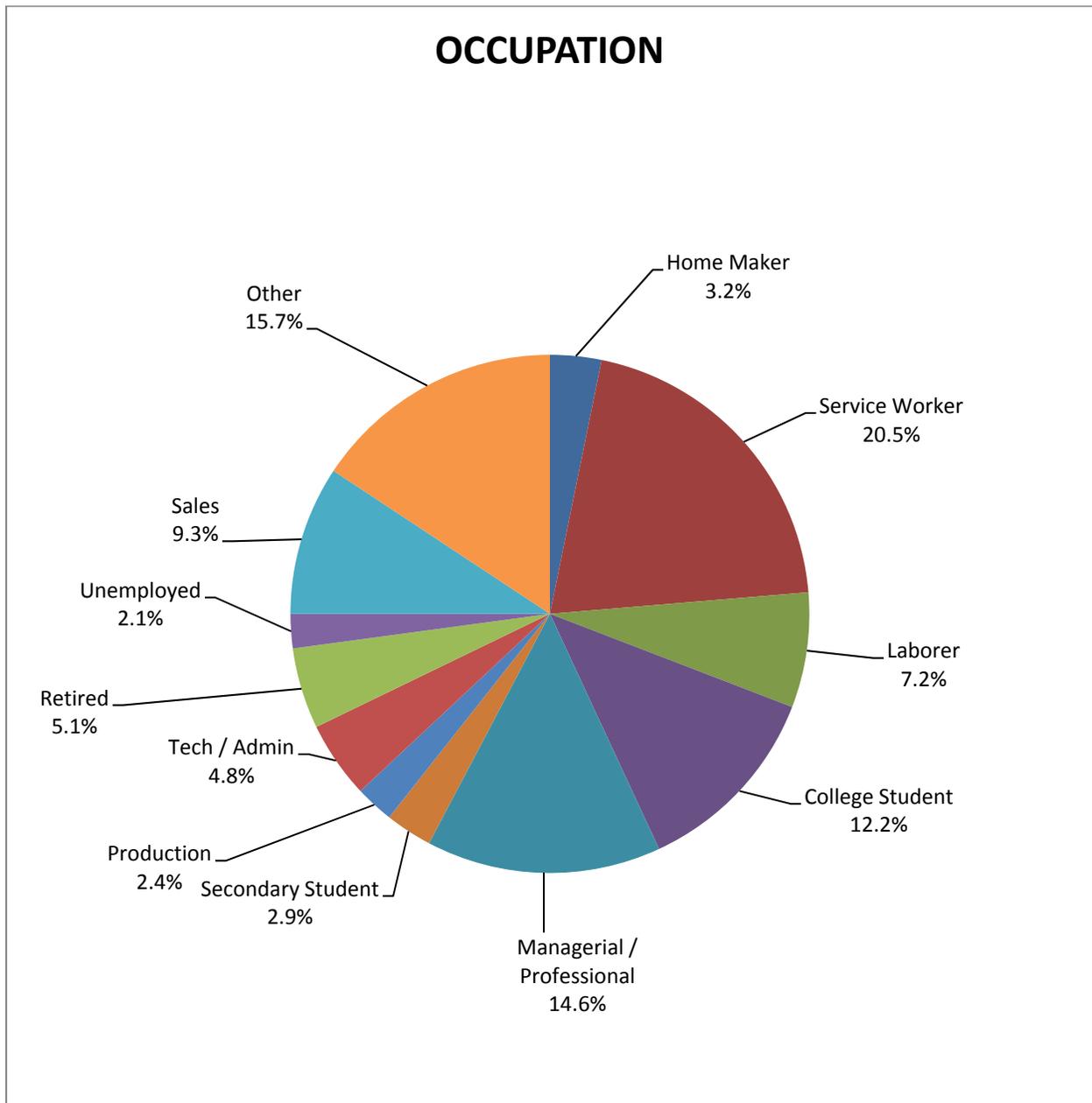


By comparing these two demographics, we are able to see that the Free Ride Transit System does have a high percentage of "choice riders" compared to those who are dependent upon transit for their travel. This high percentage of "choice riders" is somewhat atypical for public transportation in general.

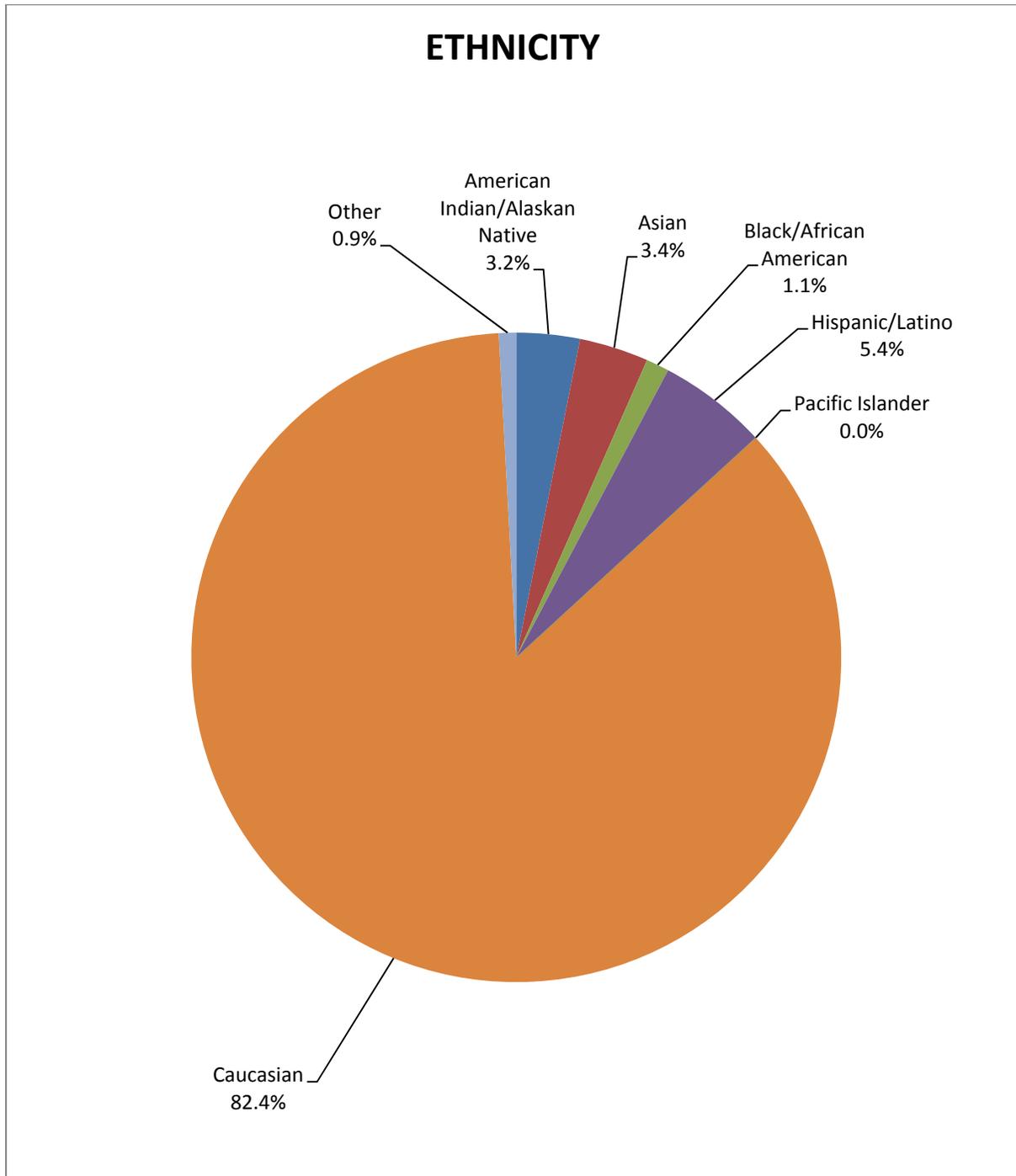
Prior survey results from the Summit Stage indicated that they have a large percentage of riders who do not have a vehicle available that have a daily job access commute to and from Breckenridge. Those transit dependent job access commuters feed to the Free Ride Transit System for transportation to their final destination. Although the Summit

Stage has not conducted any recent demographic surveys, we believe this trend continues to hold. Data from the Free Ride survey samplings support a large number of job access commuters on the Yellow Route who are transit dependent. The Brown and Black routes also have transit dependent riders without a car. The data also indicates that the majority of the transit dependent passengers belong to the low-income demographic.

Occupation



Ethnicity

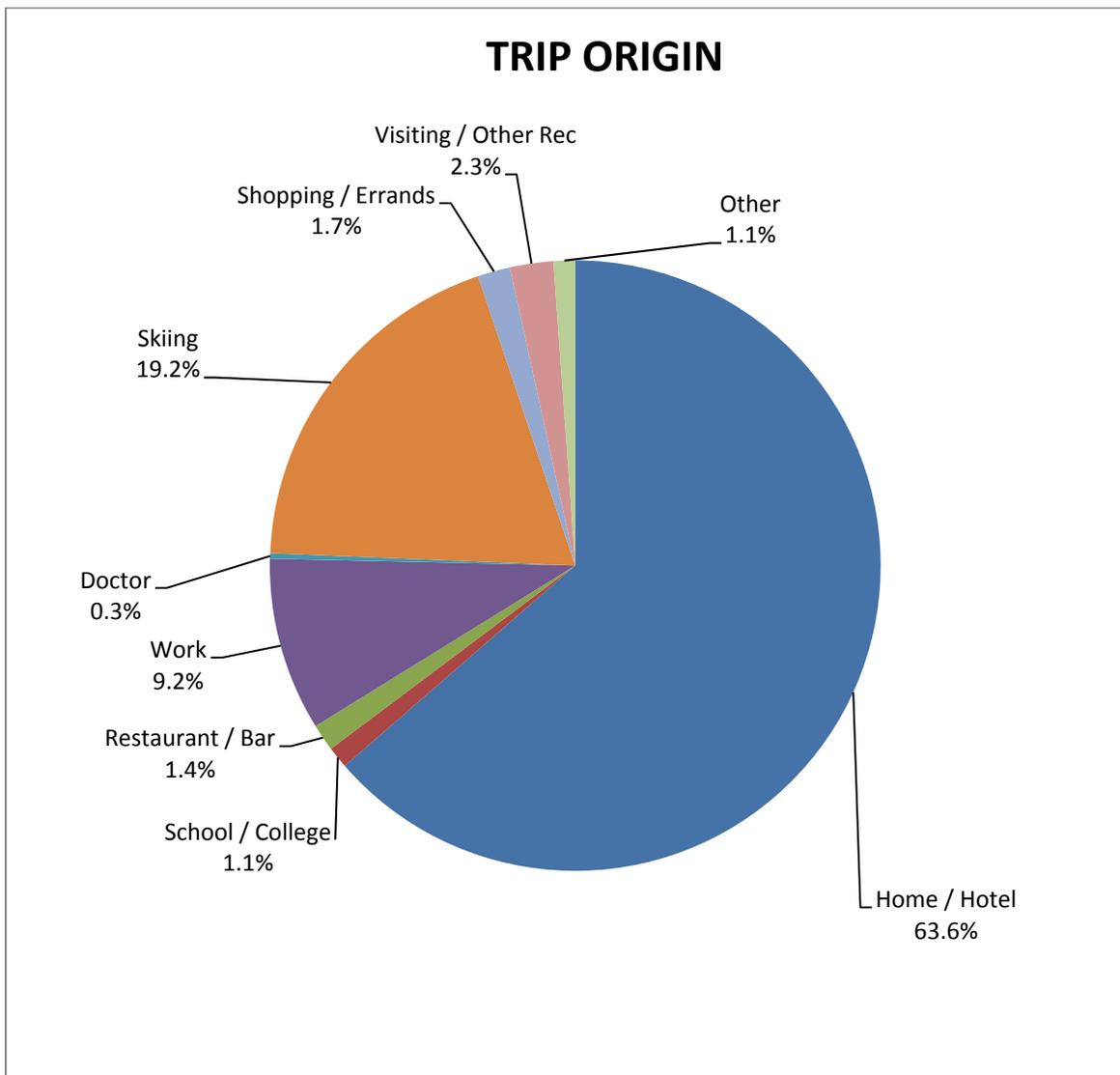


## TRIP CHARACTERISTICS

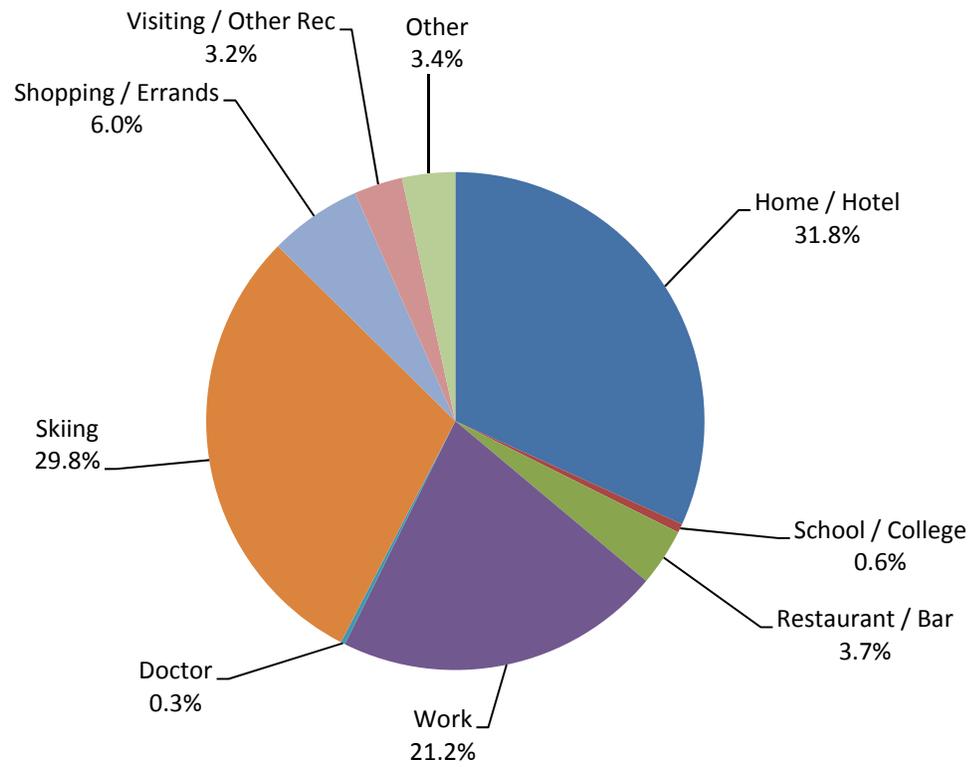
The survey asked passengers to provide information about the trip they were making on the Free Ride Transit System. Trip purpose: where they were coming from (origin), where they were going to (destination), and what other modes of transportation they used in combination with their ride on the bus during the survey for their total trip. Other items in this section include the average number of days per week ridden, the reason for riding, and reported places they ride the bus to as a frequent destination.

The following charts reflect the total system sampling results.

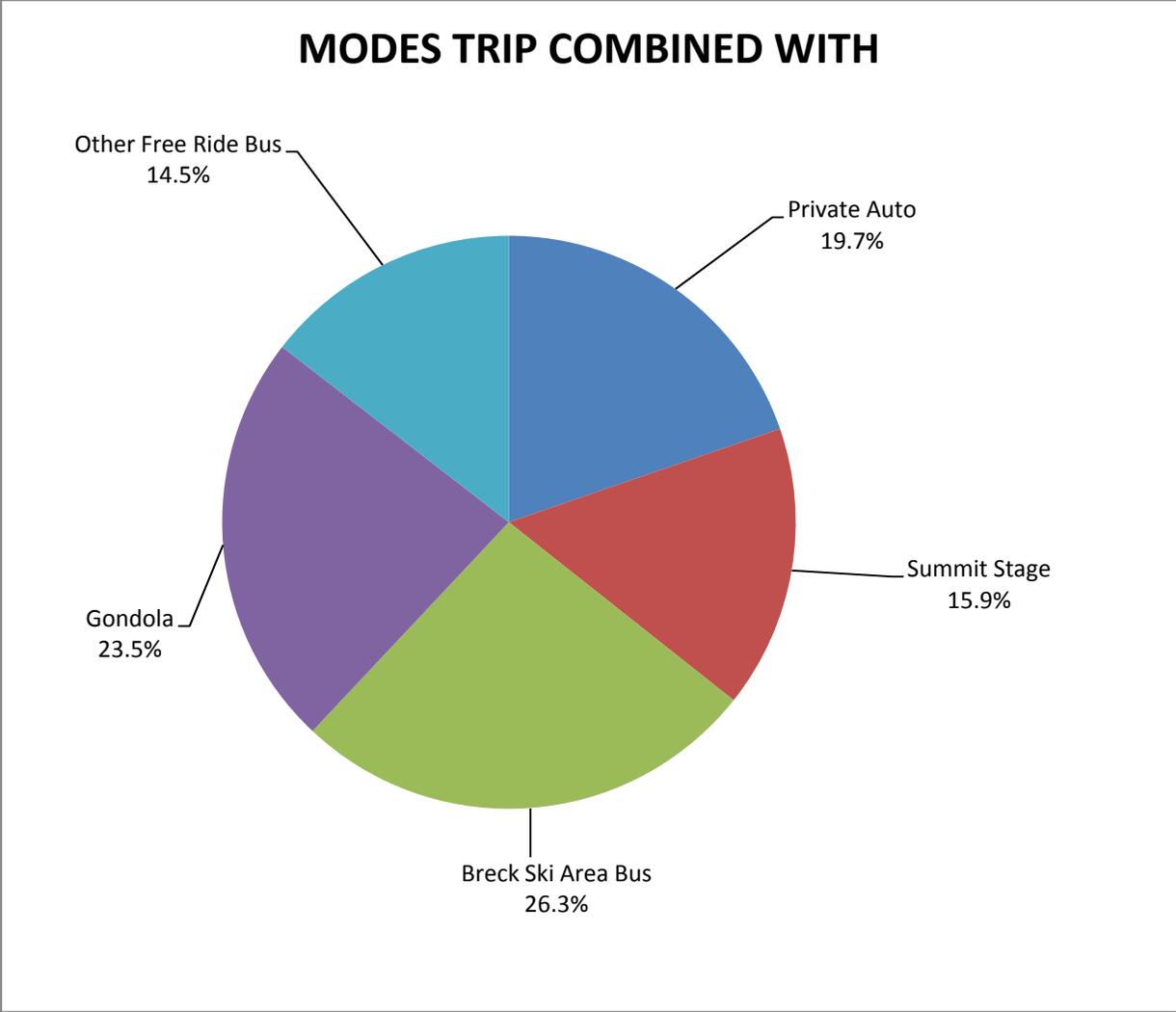
### DATA SPECIFIC TO THE TRIP TAKEN ON SURVEY DAY



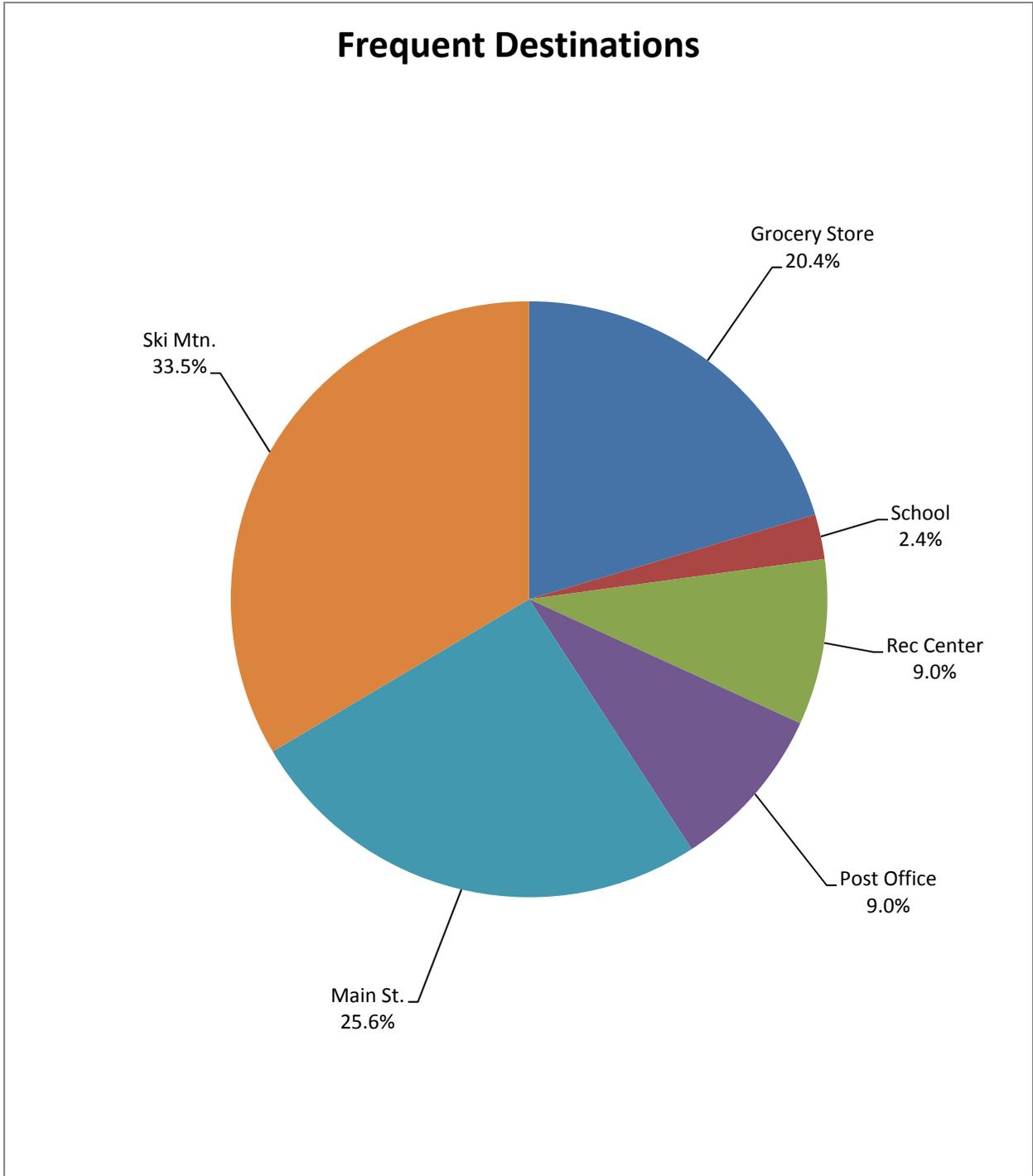
## TRIP DESTINATION



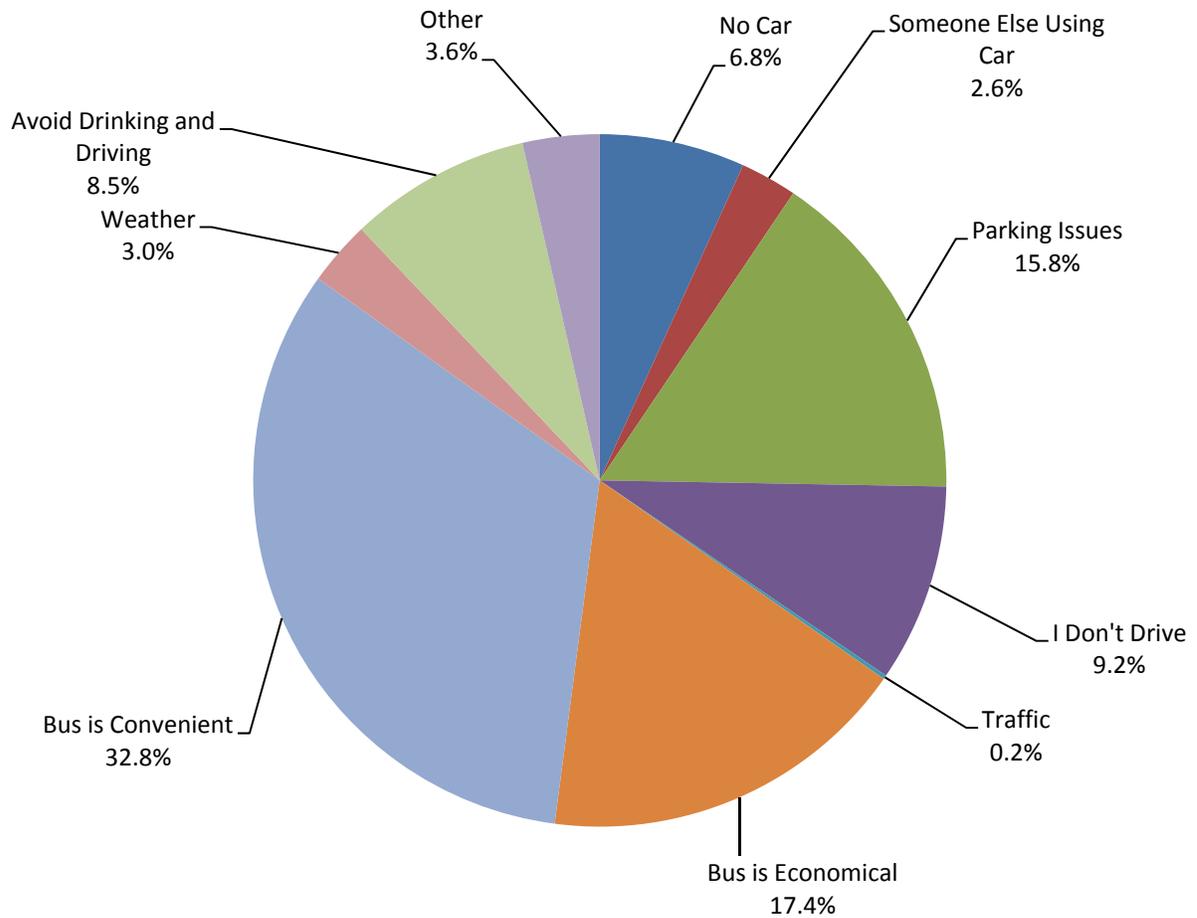
The respondents indicated that they also used this mode of transportation (in conjunction with the Free Ride bus they were on) to complete their total trip during the survey.



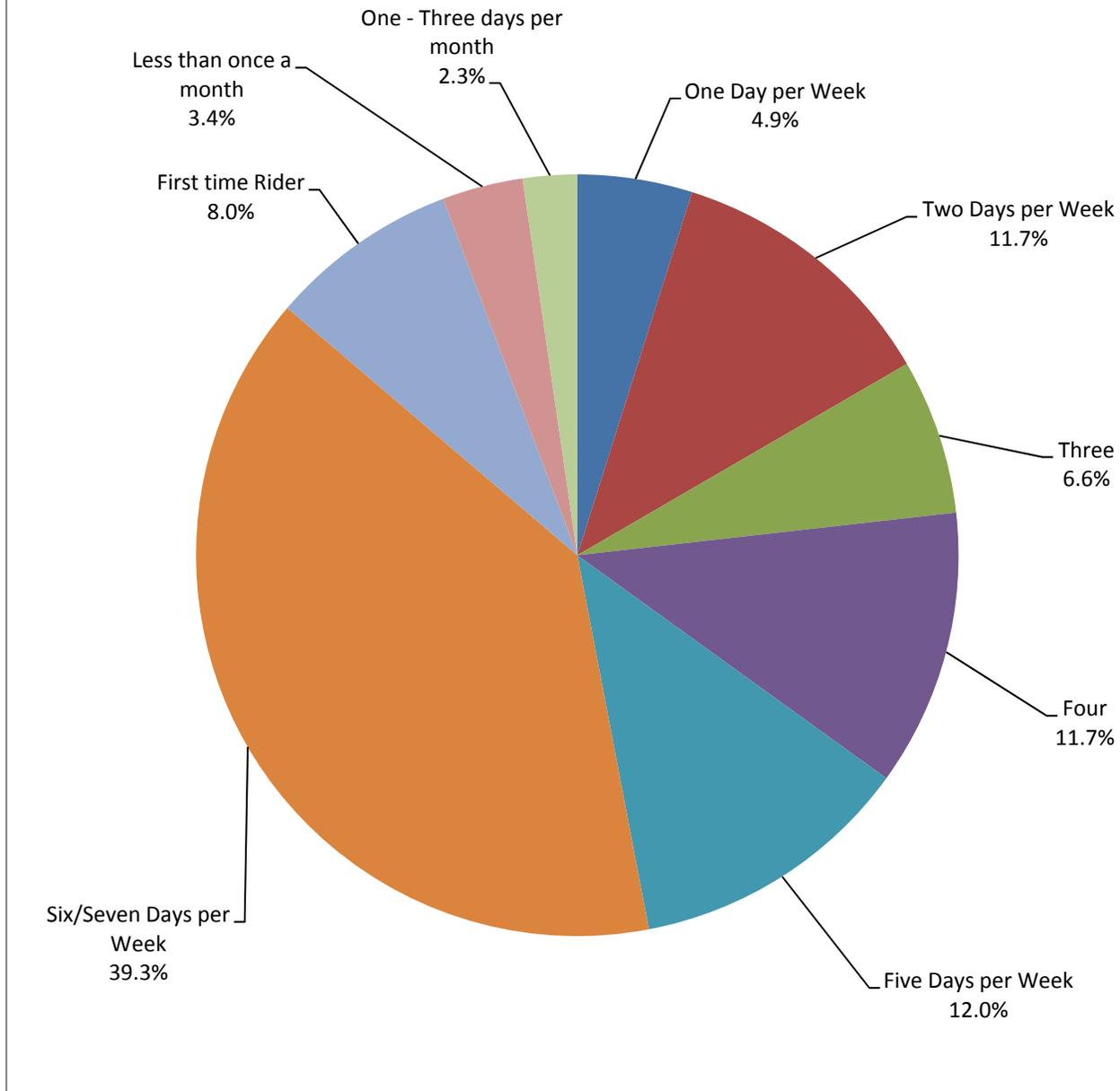
# GENERAL TRIP CHARACTERISTIC DATA



## Reasons for Using Public Transit



## Ridership Frequency



This table shows the average number of days the respondent rides.

## ROUTE CHARACTERISTICS

Residency Status by Route						
Residency Status	Station & Main St	BROWN ROUTE	YELLOW/BLACK ROUTE	PURPLE	ORANGE	TOTAL
Visitor	37.5%	39.4%	26.0%	16.9%	47.8%	30.7%
Year Round Resident	33.3%	34.3%	24.0%	57.8%	43.5%	37.5%
Seasonal Resident	20.8%	21.2%	46.9%	20.5%	4.3%	26.9%
Second Home Owner	8.3%	5.1%	3.1%	4.8%	4.3%	4.9%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

All second homeowners listed an annual income of \$45,000 per year or more.

Gender by Route						
Gender	Station & Main St	Brown Route	Yellow/ Black	Purple	Orange	Total
Male	70.8%	61.6%	60.4%	73.5%	69.6%	65.9%
Female	29.2%	38.4%	39.6%	26.5%	30.4%	34.1%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Annual Household Income by Route						
Annual Household Income	Station & Main St	Brown Route	Yellow/ Black	Purple	Orange	Total
Less Than \$15k	4.2%	11.1%	34.4%	13.3%	0.0%	16.3%
\$ 15-24,999k	25.0%	14.1%	10.4%	18.1%	26.1%	16.3%
\$ 25-34,999k	8.3%	9.1%	6.3%	16.9%	4.3%	9.7%
\$ 35-44,999k	18.8%	5.1%	13.5%	4.8%	4.3%	9.2%
\$45-55K	4.2%	8.1%	5.2%	9.6%	17.4%	7.7%
More Than \$55K	39.6%	52.5%	30.2%	37.3%	47.8%	40.7%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Vehicle Availability by Route</b>						
<b>Vehicle Availability</b>	<b>Station &amp; Main St</b>	<b>Brown</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Yes	60.4%	68.7%	50.0%	61.4%	56.5%	59.9%
No	39.6%	31.3%	50.0%	38.6%	43.5%	40.1%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Licensed Driver by Route</b>						
<b>Licensed Driver</b>	<b>Station &amp; Main St</b>	<b>Brown</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Yes	81.3%	96.0%	94.8%	84.3%	87.0%	87.0%
No	18.8%	4.0%	5.2%	15.7%	13.0%	13.0%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Occupation by Route</b>						
<b>Occupation</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Home Maker	8.0%	2.0%	2.9%	3.1%	0.0%	3.2%
Service Worker	14.0%	19.6%	23.8%	21.9%	17.4%	20.5%
Laborer	2.0%	5.9%	14.3%	5.2%	0.0%	7.2%
College Student	12.0%	12.7%	14.3%	10.4%	8.7%	12.2%
Managerial / Professional	24.0%	18.6%	9.5%	9.4%	21.7%	14.6%
Secondary Student	0.0%	2.9%	2.9%	5.2%	0.0%	2.9%
Production	4.0%	0.0%	0.0%	7.3%	0.0%	2.4%
Tech / Admin	6.0%	8.8%	0.0%	3.1%	13.0%	4.8%
Retired	8.0%	8.8%	3.8%	2.1%	0.0%	5.1%
Unemployed	2.0%	0.0%	1.9%	5.2%	0.0%	2.1%
Sales	10.0%	5.9%	10.5%	6.3%	30.4%	9.3%
Other	10.0%	14.7%	16.2%	20.8%	8.7%	15.7%

<b>Ethnicity by Route</b>						
<b>Ethnicity</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
American Indian/Alaskan Native	0.0%	3.0%	2.1%	6.0%	4.3%	3.2%
Asian	2.1%	2.0%	6.3%	2.4%	4.3%	3.4%
Black/African American	0.0%	2.0%	0.0%	2.4%	0.0%	1.1%
Hispanic/Latino	6.3%	2.0%	7.3%	4.8%	13.0%	5.4%
Pacific Islander	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
White	91.7%	87.9%	84.4%	84.3%	78.3%	86.0%
Other	0.0%	3.0%	0.0%	0.0%	0.0%	0.9%

<b>Trip Origin Point by Route</b>						
<b>Trip Origin Point</b>	<b>Station &amp; Main St</b>	<b>Brown</b>	<b>Yellow Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Home / Hotel	64.6%	66.7%	60.4%	69.9%	39.1%	63.6%
School / College	2.1%	1.0%	2.1%	0.0%	0.0%	1.1%
Restaurant / Bar	0.0%	2.0%	1.0%	1.2%	4.3%	1.4%
Work	4.2%	8.1%	14.6%	7.2%	8.7%	9.2%
Doctor	0.0%	0.0%	1.0%	0.0%	0.0%	0.3%
Skiing	20.8%	19.2%	14.6%	18.1%	39.1%	19.2%
Shopping / Errands	2.1%	1.0%	1.0%	3.6%	0.0%	1.7%
Visiting / Other Rec	4.2%	1.0%	4.2%	0.0%	4.3%	2.3%
Other	2.1%	1.0%	1.0%	0.0%	4.3%	0.3%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Trip Destination Point by Route</b>						
<b>Trip Destination</b>	<b>Station &amp; Main St</b>	<b>Brown</b>	<b>Yellow Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Home / Hotel	33.3%	30.3%	26.0%	39.8%	30.4%	31.8%
School / College	2.1%	1.0%	0.0%	0.0%	0.0%	0.6%
Restaurant / Bar	6.3%	2.0%	4.2%	1.2%	13.0%	3.7%
Work	33.3%	15.2%	24.0%	22.9%	4.3%	21.2%
Doctor	0.0%	0.0%	1.0%	0.0%	0.0%	0.3%
Skiing	14.6%	44.4%	22.9%	32.5%	17.4%	29.8%
Shopping / Errands	4.2%	4.0%	8.3%	1.2%	26.1%	6.0%
Visiting / Other Rec	6.3%	0.0%	6.3%	1.2%	4.3%	3.2%
Other	0.0%	3.0%	7.3%	1.2%	4.3%	3.4%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Modes of Transportation Used (as Part of the Trip) By Route</b>						
<b>Modes of Transportation</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/ Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Private Auto	19.5%	27.2%	15.3%	15.3%	21.1%	19.7%
Summit Stage	26.0%	11.7%	14.0%	16.8%	18.4%	15.9%
BSR	23.4%	30.2%	27.3%	22.9%	23.7%	26.3%
Gondola	16.9%	17.9%	26.0%	31.3%	23.7%	23.5%
Other Free Ride Bus	14.3%	13.0%	17.3%	13.7%	13.2%	14.5%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Frequent Trip Destinations by Route</b>						
<b>Trip Destination</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/ Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
Grocery Store	20.5%	18.8%	23.2%	18.5%	24.1%	20.4%
School	2.4%	0.9%	2.3%	4.3%	1.9%	2.4%
Rec Center	9.6%	8.5%	10.9%	7.3%	9.3%	9.0%
Post Office	3.6%	9.0%	6.4%	13.8%	7.4%	9.0%
Main St.	26.5%	25.6%	25.9%	24.6%	27.8%	25.6%
Ski Mtn.	37.3%	37.2%	31.4%	31.5%	29.6%	33.5%

<b>Reasons for Riding the Bus by Route</b>						
<b>Reasons for Riding the Bus</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
No Car	7.5%	5.0%	7.1%	8.1%	6.3%	7.3%
Someone Else Using Car	3.0%	0.6%	3.8%	2.4%	6.3%	2.2%
Parking Issues	14.9%	16.1%	14.1%	19.4%	6.3%	12.8%
I Don't Drive	11.9%	4.3%	9.6%	13.7%	6.3%	7.4%
Traffic	1.5%	0.6%	2.6%	4.0%	0.0%	2.5%
Bus is Economical	19.4%	19.3%	15.4%	11.3%	31.3%	20.1%
Bus is Convenient	25.4%	39.1%	30.1%	28.2%	37.5%	27.9%
Weather	4.5%	3.1%	3.2%	1.6%	3.1%	2.7%
Avoid Drinking and Driving	9.0%	8.7%	10.3%	6.5%	3.1%	13.5%
Other	3.0%	3.1%	3.8%	4.8%	0.0%	3.5%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

<b>Frequency - Number of Days You Ride by Route</b>						
<b>Number of Days You Ride</b>	<b>Station &amp; Main St</b>	<b>Brown Route</b>	<b>Yellow/Black</b>	<b>Purple</b>	<b>Orange</b>	<b>Total</b>
One Day per Week	6.3%	2.0%	1.0%	9.6%	13.0%	4.9%
Two Days per Week	10.4%	7.1%	9.4%	19.3%	17.4%	11.7%
Three Days per Week	8.3%	7.1%	7.3%	3.6%	8.7%	6.6%
Four Days per Week	16.7%	13.1%	11.5%	7.2%	13.0%	11.7%
Five Days per Week	14.6%	15.2%	11.5%	9.6%	4.3%	12.0%
Six/Seven Days per Week	25.0%	38.4%	46.9%	43.4%	26.1%	39.3%
First time Rider	8.3%	11.1%	8.3%	2.4%	13.0%	8.0%
Less than once a month	6.3%	4.0%	2.1%	2.4%	4.3%	3.4%
One - Three days per month	4.2%	2.0%	2.1%	2.4%	0.0%	2.3%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

## LIMITED ENGLISH PROFICIENCY (LEP) CHARACTERISTICS

### An analysis of the surveys completed in Spanish indicates the following trends:

Some Spanish surveys showed a trend of people traveling from work to work, which would indicate that they had second jobs. We did not see this in other segments.

Most Spanish surveys indicated that they did not have a car for use or did not have a driver's license and listed that as their main reason for using the Free Ride.

Very few Spanish surveys listed that they were headed to the ski mountain.

All of the Spanish surveys listed that they ride 6-7 days per week.

Many Spanish surveys indicated a transfer utilizing the Summit Stage or another Free Ride Bus.

Of the Spanish surveys that indicated they had a driver's license, they also listed themselves in the \$15,000 - \$24,000 per year income bracket.

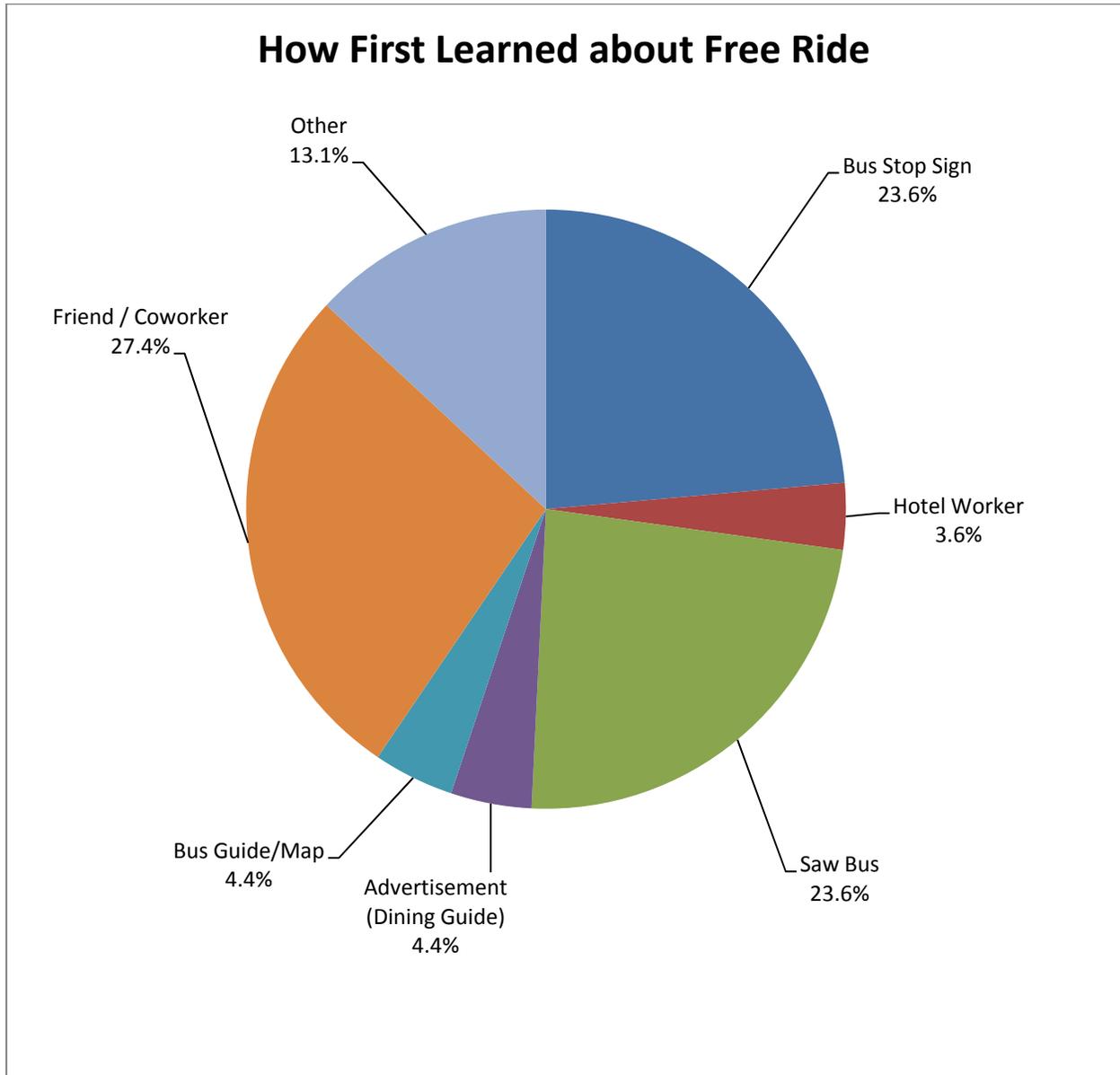
Almost all of the Spanish surveys that did not have a driver's license also listed themselves as earning less than \$15,000 per year.

The Spanish survey sampling shows a large number of job access commuters on the Yellow Route who are transit dependent.

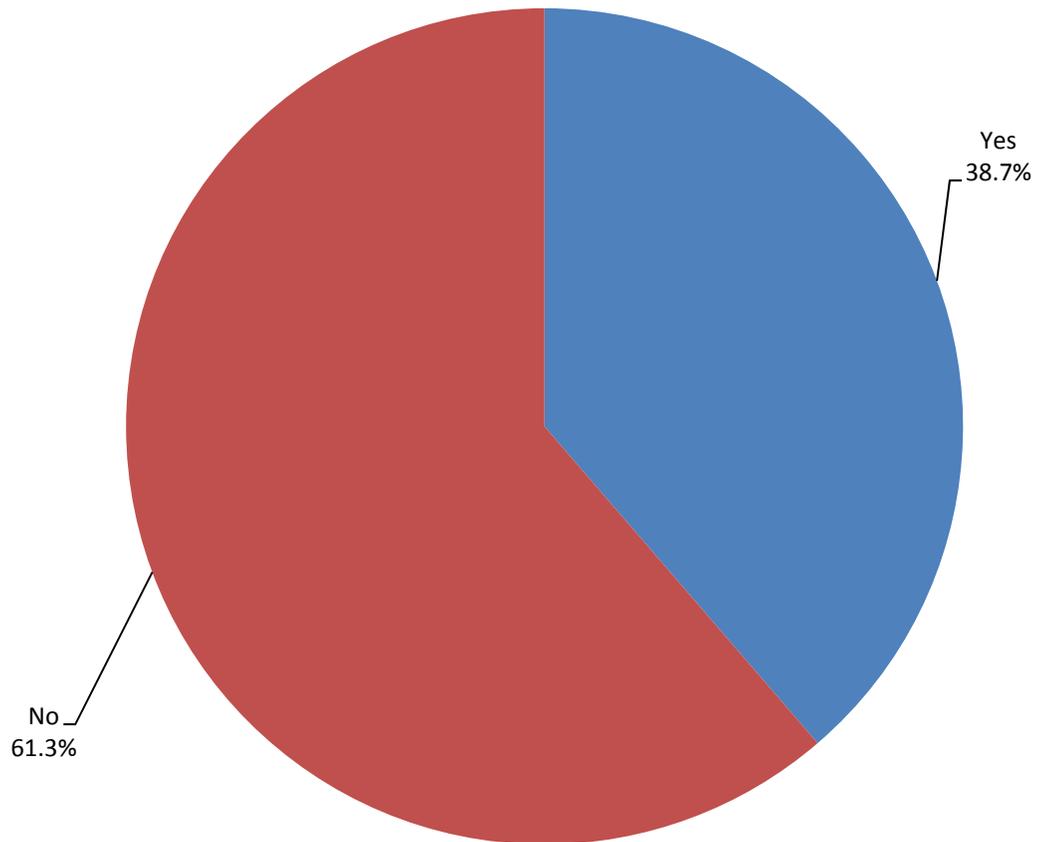
These characteristics of LEP trends have been consistent since our first bi-annual on-board survey in 2008 and have carried through on each subsequent survey.

## MARKETING INFORMATION

In an effort to better understand marketing trends for our transit system, we captured data on how they first learned of the Free Ride Transit System, if they had they visited the Town website for transit information, and if they have subscribed to our new Twitter feed for up-to-the minute service alerts.

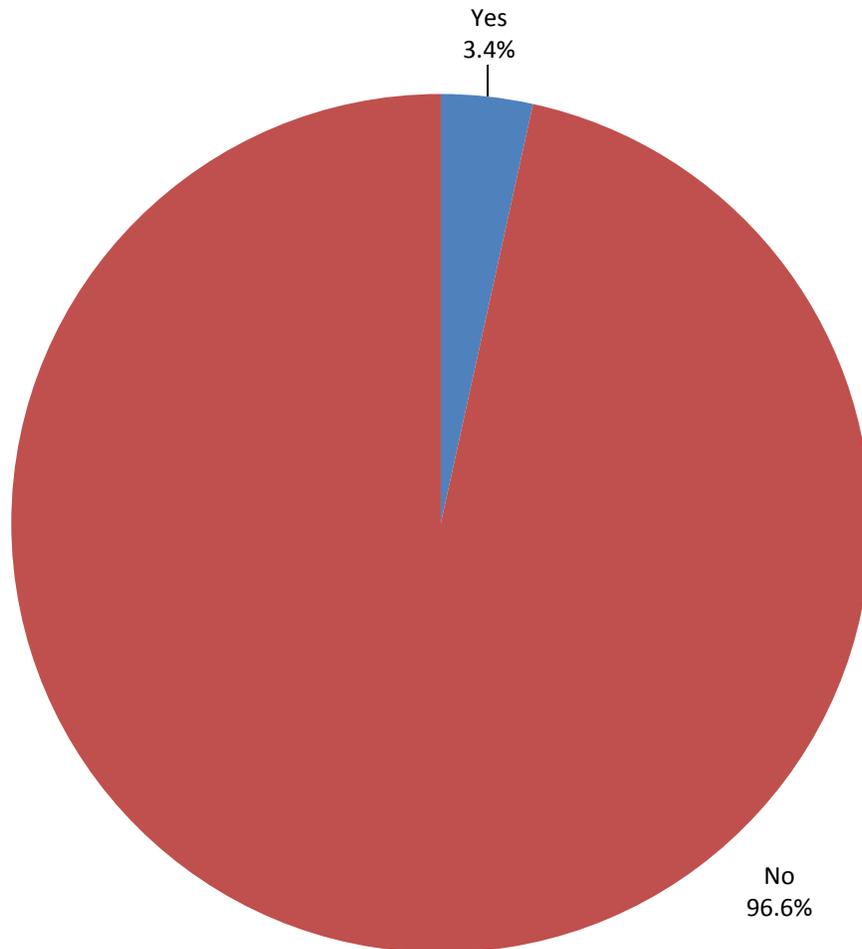


## Transit Website Usage



Our next bi-annual on-board survey will break this question down into website usage versus the 'Where's My Bus?' information.

## Subscribes to Twitter Service Alerts



The Twitter feed is relatively new, so we have some education and promotion to do about this feature. This will provide us a baseline to gauge the outreach efforts.

## GUEST SATISFACTION

For the first time, we asked people to rate their service satisfaction on a scale of one to ten, with ten being the most satisfied.

Only (6) six survey respondents (or 1.7%) ranked our service with something less than a 7 for a satisfaction score. And as you can see from the table below, 43% of our survey respondents gave the Breckenridge Free Ride a score of 10 for their overall satisfaction score. That is unbelievable and very humbling.

Satisfaction Scale	Total
1	0.0%
2	0.0%
3	0.6%
4	0.0%
5	1.1%
6	0.0%
7	7.4%
8	23.5%
9	24.4%
10	43.0%
	100.0%



**Standard Industry Guidelines**  
**Performance Metric for "Good Transit Service" is a customer satisfaction score of "7"**

## **Any Place You Cannot Get To On Bus?**

For the first time, we specifically asked if there were destinations that people desired but were unable to get to on our current routing configuration. Survey respondents were asked to list the destination on the reverse side of the survey.

For the most part, an overwhelming majority responded that the current routing configuration serves their needs.

Is there any place you cannot get to on the bus?

Yes	20.9%
No	79.1%
	100.0%

The vast majority of the comments belong to the Summit Stage:

Nine survey respondents indicated that they desire bus service to Blue River.

One respondent wants a stop at Keystone Lodge prior to the Swan Mountain Flyer returning to Breckenridge and wants later hours on the Swan Mountain Flyer.

One respondent wants service to the Peak 7 Neighborhood (American Way/Barton Road)

The following comments are applicable to the Free Ride:

One respondent indicated that they desired service to Harris Street. This will actually be put in place this winter with the opening of the Breckenridge Grand Vacation Community Center building.

One respondent indicated "my house after 11:15 pm" as a destination not served. Nine other respondents also indicated a desire for later evening service.

# GENERAL COMMENTS RECEIVED ON THE SURVEY FORMS

## Summary of Themes

Out of 400 completed useable surveys, there were 61 respondents that provided written comments on the reverse side of the survey. That is 15.25% of the respondents that chose to provide comments.

Some of the written comments provided more than one theme, so staff has compiled the table below showing all of the themes of comments and how many times that theme was listed. Because some respondents had multiple themes, the total number of responses will not equal 61.

Comment Theme	# of Responses	% of written comments
Compliment	19	26.39%
Summit Stage comment	11	15.28%
Desire for late night service	10	13.89%
Keep service Free	4	5.56%
Timing suggestion	4	5.56%
30-minute Summer Service/summer service	4	5.56%
Like 15-minute winter service	3	4.17%
Add more Peak Service (winter)	3	4.17%
More detailed response to survey question	2	2.78%
Buses running ahead of schedule	2	2.78%
Go to Harris Street	1	1.39%
Music	1	1.39%
Transfer - don't like	1	1.39%
Still want printed schedules	1	1.39%
Dust at bus stops	1	1.39%
Orange Route to Ski & Racquet	1	1.39%
Red Route not on 'Where's My Bus?'	1	1.38%
Ice on sidewalks	1	1.38%
Green Route confusing	1	1.38%
Like new website & apps	1	1.38%
	72	100.00%

### **Breckenridge Station & Main Street**

(In response to Q18 – Any place you can't get to on bus?) Harris St. - You all used to go there.

Excellent service, Keep it Free!

Keep buses FREE

Drivers are very helpful to tourists, accommodating to riders, very pleased with the service.

Excellent Service!

Run the Swan Mtn Flyer longer & stop by Keystone Lodge on the way back to Breck.

### **Orange Route**

Helpful drivers – great service

Love it!!

### **Purple Route**

I believe the stop times on the purple bus (I use the most) are unreasonable. By no fault of the bus driver they are chronically 3 or more minutes late, even on the first run of the day. Why change the time if there is just no way the bus can get there? (I am speaking of the 21-19 min range at the French Creek stop.

Make "Free Ride" more connectable to "Summit Stage" Cheers!!

(In response to Q18 – Any place you can't get to on bus?) My house after 11:15 p.m.

Go to Blue River!

Great job this year. Thanks for the p.m. extra time on New Year holiday.

Run the bus past bar close. Stop drinking and driving and not having to walk long distance in the cold.

THIS IS A FANTASTIC SERVICE & GREATLY APPRECIATED!!!

The bus is still on the 52 min on my stop not 50 (Vista Point).

(In response to Q7 – What is the most important reason you ride the bus?) It is often the most logical way to commute for many of the reasons above and more.

Running the bus later like Summit Stage would be good

Music

Everything is perfect!! Thanks!!

Drivers are great!!

This is a great service for visitors.

The best I have experienced

Please let purple route run every half hour all year round! Thank you!

Free bus is a great service...keep it up! Buses need to run until 1 p.m. during busy season and limited after that.

(In response to Q18 – Any place you can't get to on bus) Wish there was a direct route to library, no transfers. **Manager's Note: With the library relocation to Harris Street, a transfer from the Purple Route is no longer going to be necessary.**

### **Brown Route**

(In response to Q18 – Any place you can't get to on bus?) Blue River

(In response to Q16 – have you viewed the online transit info?) Yes, but still want printed schedules

(In response to Q18 – Any place you can't get to on bus?) Blue River

It would be great to have a quick route bus that went only to and from the transit stations. The long ride to and from Silvy/Frisco & Breck is a huge deterrent from riding the bus. It would also be great to have a route that goes out to Blue River. Thanks for keeping public transportation free. The bus system rocks!!

The bus kicks up a lot of dust when arriving at some stops. It got in my eyes. Maybe you could use a street sweeper to remove some of the dust near each bus stop.

We ride from Mill Run on the Brown Bus usually. We really appreciate the Brown Bus running every 15 minutes all day – Thank you!!! Drivers are always so very polite and helpful.

Hope Brown route has some summer service, too.

Lisa is an amazing Bus Driver!!

Essentially all drivers are pleasant and will wait a minute or two if they see you running for the bus. Also it's great to have a bus every 15 minutes

During peak weekend/holiday times, the Brown route should skip/bypass the ice rink. Those extra few minutes make it miss the Breck to Frisco transfer of :15 and :45.

Lisa is the best, nicest, coolest bus driver there is! It's no fun catching the bus unless she is driving it.

The bus service is excellent! Thank you. We use it every time we come to Breck!

Blue River Please

All the drivers are on time and great and helpful

Orange route to Ski & Racquet would be nice

Happy with 15 min service on brown route this winter. Hope for Brown service this summer.

Please keep Brown Bus running every ½ hour, ie. winter schedule all year. Should have convenient service in the summer if you want people to use the bus.

### **Yellow Route**

Buses should run later (at least on weekends). Have buses run more frequently during peak hours – mainly 8-10 and 3-5.

Bussing system into Blue River!

A bus to Blue River would be awesome. Other than that the bus system is baller. **Manager's Note: I had to research what "baller" means. The translation is very "cool". According to the Internet, this word is pronounced with a silent "r" on the end of it and the "e" sounds more like a small "a" – "ball-ah".**

If buses are early, please wait until time to leave to leave bus stop. I've missed the bus many times because they leave early especially on the Black and Green Route. Go up Peak 7 and come back down to Airport Road because that neighborhood really needs service.

Red Route stop times and stop locations are not listed in the iphone app.

Route to Blue River

To the Town of Breckenridge: Please try to keep access paths/sidewalks clear of ice. As I walk everywhere the ice (especially this year) is very dangerous! I have been in Breck for 14 years so I feel that I know the area very well.

I love Breck Free Ride. It is very convenient. Thanx. Keep up the great work.

Later Yellow Route bus would be great! I can go to Frisco at 1:30 a.m. but can't get to Airport Rd in Breck after 11:15.

Having 2 green routes is very confusing to visitors. Why does the Green not go to the Station and just be one large loop instead of two different directional routes?

Have the buses run later on weekends, if even for an hour

Blue River needs a bus.

Like the new website and apps 😊

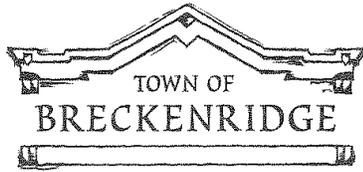
If bus is early at a stop, wait until scheduled bus stop time. Black and Blue go early a lot.

Suggestions: Plan better for busy periods so we aren't late to work when the bus is up to 30 mins late. Run a few late night buses. Most nights out don't finish at 11:20 – particularly to employee housing knowing those people would use it and it would help prevent drunk driving for those that are out late (I've seen it happen too often.)

Have the bus run a little later.

Run later than 11:30.

Employee housing shuttles should run later than they do. Not just on holidays.



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## MEMORANDUM

**TO:** Town Council

**FROM:** Julia Puester, AICP, Senior Planner

**DATE:** November 18, 2014 for meeting of November 25, 2014

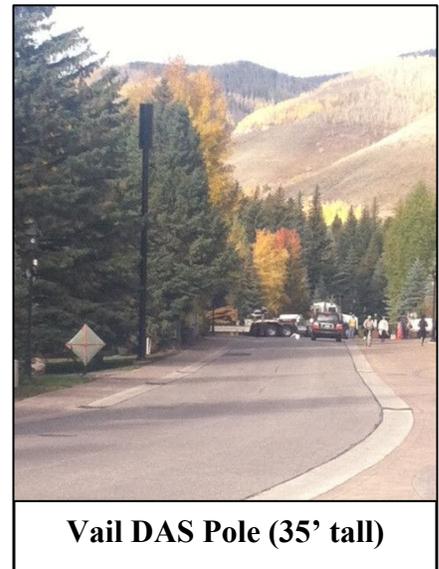
**SUBJECT:** Wireless Communications Facility (WCF) Work Session

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Wireless communication facilities (WCFs) are necessary for providing residents, businesses, visitors and emergency services with adequate data capacity for wireless devices. Recently, planning staff has processed several wireless facility development permits and continues to have pre-application conferences with wireless providers seeking locations in Town. To address this growing demand for increased data capacity and coverage, staff has proposed a wireless communication facility ordinance that would address numerous related topics that are not currently addressed in the Development Code.

Because WCFs are not adequately addressed in the Development Code, providers have had to go through the Development Agreement process to waive points under Policy 6R Building Height and Policy 3R Density (although the Agreements have required the applicants to purchase density through TDRs).

The Planning Commission reviewed this ordinance at their October 7<sup>th</sup> and November 4<sup>th</sup> meetings and to further their knowledge, took a site visit to the Town of Vail to view the town-wide Distributed Antenna System (DAS) October 10<sup>th</sup>. A town-wide DAS system has some appeal to some of the Commissioners and staff. Staff has begun to explore the feasibility of a similar system in Breckenridge with tower companies. If this type of programming is eventually deemed feasible and desirable, and gains traction at the Town Council level, it would take a few years to get to construction of a system. In the meantime however, the Town is required to process incoming WCF applications, thus the need for the timely adoption of an ordinance.



**Vail DAS Pole (35' tall)**

Staff has worked with the Town Attorney to develop the ordinance intended to provide design standards, address height and density related to such structures and installations, and create a review process. The Planning Commission unanimously supported the ordinance and direction to incentivize desired location and design of WCFs, and recommended that the

Town Council approve the ordinance.

Primary issues addressed in the ordinance include:

- A simpler Class D review process as an incentive for locations, types and design of facilities which are preferred (e.g. Outside of the Conservation District; collocation with other carriers; antennas limited to 35 feet in height; and/or DAS). (Section (C)(1), pg. 9)
- A Class A process for WCFs which are not in a preferred location and design. (Section (C)(2), pg. 10)
- Location Criteria to address preferred Land Use Districts and Overlay Districts. Non-preferred locations must include proof that there is a significant gap in coverage for the area (to be verified by a third party hired by the Town). (Section (D) (a-g), pg. 11-12)
- Design Standards (Section G) which include a requirement for all WCFs to be camouflaged and concealed (Section (G)(16)); preferences for collocation (Section (G)(1)); roof or wall mounted preferred over freestanding (Section (G)(2)); concealed with compatible design in the rights of ways (Section (G)(3)); and paint and textured to match the support structure. (Section (G)(10))
- Compliance Report (Section (I), pg. 21) required to ensure Federal Communication Commission (FCC) compliance within 30 days of installation.
- Abandonment and Removal provisions (Section (O), pg. 26) requiring the notification and removal of WCFs abandoned within 120 days. (Section (O) (1, 2)).

Staff wanted to note that there are new federal regulations that came out just a few weeks ago. This ordinance does not address any changes that may result from that, if any. Should the new regulations require changes to the proposed ordinance, it will be done by prior to first reading.

Staff has attached the draft ordinance as a work session item and would like to hear from the Town Council on whether the bulleted topics/items above, highlighting the primary issues are adequately addressed for WCFs.

As this is the Town Council's first discussion on the topic, staff would like to gather feedback and answer any questions Tuesday and has not proposed a first reading for November 25<sup>th</sup>.

1 ***DRAFT September 30, 2014 DRAFT***

2  
3 COUNCIL BILL NO. \_\_\_\_

4  
5 Series 2014

6  
7 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE  
8 TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE,” BY  
9 ADOPTING A NEW POLICY 50 (ABSOLUTE), ENTITLED “WIRELESS  
10 COMMUNICATIONS FACILITIES,” AND MAKING MISCELLANEOUS AMENDMENTS  
11 TO THE BRECKENRIDGE TOWN CODE RELATED TO SUCH NEW DEVELOPMENT  
12 POLICY

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

16  
17 Section 1. Item G in the definition of “Class A Development” in Section 9-1-5 of the  
18 Breckenridge Town Code is amended to read as follows:

19  
20 G. ~~Wireless communication facilities.~~ **Those wireless communication facilities**  
**described in Section 9-1-19-50A(C)(2).**

21  
22 Section 2. The definition of “Class D – Major” development in Section 9-1-5 of the  
23 Breckenridge Town Code is amended by the addition of a new item B, which shall read as  
follows:

**B. Those wireless communication facilities described in Section 9-1-19-50A(C)(1).**

24  
25 Chapter 1 of Title 9 of the Breckenridge Town Code is amended by the addition of the  
26 following new development policy:

27 **9-1-19-50A: POLICY 50 (ABSOLUTE) WIRELESS COMMUNICATIONS**  
28 **FACILITIES:**

29  
30 A. PURPOSE AND INTENT:

- 31 1. The purpose of this policy is to regulate the installation and operation of  
32 various wireless communications facilities in the Town, recognizing the  
33 benefits of wireless communications while reasonably respecting other  
34 important Town needs, including the protection of public health, safety, and  
35 welfare.

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

- 1           2.     The overarching intent of this policy is to make wireless communications  
2           reasonably available while preserving the unique aesthetic character, beauty,  
3           and historic charm of the Town. This will be realized by:
- 4           (a) Minimizing the visual and physical effects of wireless communications  
5           facilities through appropriate design, siting, screening techniques, and  
6           location standards;
- 7           (b) Encouraging the installation of wireless communications facilities at  
8           locations where other such facilities already exist; and
- 9           (c) Encouraging the installation of such facilities where and in a manner such  
10          that potential adverse impacts to the Town are minimized.
- 11          3.     It is not the purpose or intent of this policy to:
- 12          (a) Prohibit or to have the effect of prohibiting wireless communications  
13          services, or to regulate the placement, construction, or modifications of  
14          wireless communications facilities on the basis of the environmental effects  
15          of radio frequency emissions where it is demonstrated that the wireless  
16          communications facilities do or will comply with the applicable FCC  
17          regulations; or
- 18          (b) Unreasonably discriminate among providers of functionally equivalent  
19          wireless communications services.
- 20          4.     This policy does not apply to wireless communications facilities owned by or  
21          exclusively operated for government agencies, amateur radio stations, satellite  
22          dish or other television antennas or other OTARD antennas, or towers as  
23          defined and governed by the Town’s building and technical codes adopted in  
24          Chapter 1 of Title 8 of the Code, except to the extent that such towers may be  
25          used to support wireless communications facilities.
- 26          5.     Nothing in this policy is intended to allow the Town to preempt any state or  
27          federal law or regulation applicable to a wireless communications facility.
- 28          6.     The provisions of this policy are in addition to, and do not replace, obligations  
29          a permittee may have under franchises, licenses, other permits issued by the  
30          Town, or any agreement with the Town.
- 31          7.     In evaluating an application for a wireless communications facility permit, all  
32          relevant absolute and relative development policies of this Chapter shall be  
33          considered by the reviewing authority; provided, however:

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1 (a) Policies 9-1-19-6A “Policy 6 (Absolute) Building Height” and 9-1-19-6R  
2 “Policy 6 (Relative) Building Height” shall not apply to an application to  
3 construct an antenna; and

4 (b) Although density must be provided for a wireless communications facility  
5 to be constructed pursuant to this policy, no negative points shall be  
6 assessed against the application under Policy 9-1-19-3R “Policy 3  
7 (Relative) Compliance With Density/Intensity Guidelines.”

8 B. DEFINITIONS:

9 1. For the purposes of this policy, the following terms shall have the following  
10 meanings:

ADA: The Americans With Disabilities Act of 1990, 42 U.S.C. §12101, et seq. (Public Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory agency, as they may be adopted or amended from time to time.

ANTENNA: A device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to, panel antennas, reflecting discs, panels, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations.

ANTENNA ARRAY: Two or more antennas having active elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

APPLICATION: An application for a wireless communication facilities permit submitted pursuant to this Chapter.

BASE STATION: The antennas, cables, signal modulating and

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demodulation transmission and switching equipment associated with a WCF, but does not include the support structure, wireless tower, or support equipment.

CAMOUFLAGED OR CONCEALED WIRELESS COMMUNICATIONS FACILITY:

A wireless communications facility that:

(i) is integrated as an architectural feature of an existing structure such as a cupola; or (ii) is integrated in an outdoor fixture such as a flagpole; or (iii) uses a design that mimics and is consistent with nearby natural or architectural features, or (iv) is incorporated into or replaces existing permitted facilities (including, but not limited to, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

COLLOCATE:

The mounting or installation of new base station equipment on a support structure or wireless tower to which base station equipment associated with a WCF is already attached by a different legal entity.

DISTRIBUTED ANTENNA SYSTEM OR DAS:

A network of one or more antennas and related fiber optic nodes typically mounted to streetlight poles, or utility poles, which provide access and signal transfer for wireless service providers. DAS also includes the equipment location, sometimes called a “hub” or “hotel,” where the DAS network is interconnected with one or more wireless service provider’s facilities to provide the signal transfer services.

FCC:

The Federal Communications Commission.

LATTICE TOWER:

An open framework structure used to support one or more antennas, typically with three or four support legs.

MINOR MODIFICATION:

An application to alter, or replace an existing

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WCF, or to collocate an existing WCF, or to install a new WCF of a type or in an area described in this policy to be processed as a Class D development permit application: (a) where granting the application would not violate any of the terms or conditions of an existing permit; and (b) where:

- (1) granting the application would not create a safety hazard, whether from wind loading, stress on the support structure or wireless tower, or in any other manner;
- (2) for a camouflaged or concealed WCF, the proposed modification is consistent with the design of the prior-existing camouflaged or concealed WCF, and would not result in a WCF being more visible<sup>1</sup>;
- (3) granting the application would not intrude upon or additionally burden any environmentally sensitive area, or inconvenience the public in its use of any right-of-way;
- (4) the application would not alter the size of any structure or outdoor fixture to which the antenna is attached, and would not change by more than ten percent (10%) in any direction any of the following: the height or width in any direction of any other type of support structure or wireless tower, or the area required for facilities required to support the support structure or wireless tower, such as guy wires. The ten percent (10%) change shall be measured against the size of the wireless tower or support structure at the time a WCF was first attached to it.<sup>2</sup> Notwithstanding this provision, if a wireless tower and support structure was 35 feet or less above ground

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<sup>1</sup> By way of example, an alteration to a wireless communications facility disguised as a tree that made the tree larger than other vegetation in the vicinity would make the wireless communications facility more visible, even if the increase in size is consistent with other provisions of this policy

<sup>2</sup> By way of example, if a collocation had previously been approved that added 10% to the height of a wireless tower, and a subsequent application was filed that would increase the height by an additional 10%, the second application would be treated as a major modification.

level, and the proposed application would increase the size of the wireless tower or support structure so that it is higher than 35 feet above ground level, the modification shall be not be considered a Minor Modification;

(5) the application would not result in an antenna extending more than six feet vertically from the support structure or wireless tower. Notwithstanding this provision, if the highest point of an antenna was 35 feet or less above ground level, and the proposed application would result in an antenna whose highest point is higher than 35 feet above ground level, the modification shall not be considered a Minor Modification;

(6) the application would not require changing by more than ten percent (10%) any of the height or area encompassed within any structure or object enclosing a WCF, or a part of a WCF such as a fence or line of bushes;

(7) the application would not require changing any of an existing antenna or antenna array depth, circumference, or horizontal radius (whether by addition of antennas or modification of the existing antennas) in any direction by more than ten percent (10%);

(8) the application would not increase the visibility of any part of the base station or support equipment other than the antenna, or require installation of three or more new cabinets or enclosures, but excluding equipment and cabinets that will be installed underground; and

(9) the application would not result in an alteration of a structure or support structure otherwise inconsistent with this policy.

Notwithstanding the foregoing, a Minor Modification includes any modification deemed by the Director to have little or no negative visual effect.

MONOPOLE:	A single freestanding pole used to act as or support an externally mounted antenna or antenna arrays.
OTARD ANTENNAS:	Antennas covered by the “Over-the-Air Reception Devices” rule in 47 C.F.R. Section 1.4000 et seq., as may be amended or replaced from time to time.
PERMITTEE:	The holder of a WCF permit.
PUBLIC PROPERTY:	Property owned or under the control of the Town and specifically excludes the Town’s right-of-way. By way of example and not limitation, public property includes structures and outdoor fixtures owned by the Town.
RF:	Radio frequency.
RADOME:	A visually-opaque, radio frequency transparent enclosure which may contain one or more antennas, cables, and related facilities therein.
REVIEWING AUTHORITY:	The Director with respect to a Class D permit application, or the Planning Commission or Town Council with respect to a Class A permit application.
RIGHT-OF-WAY:	Any publicly-owned or controlled street, roadway, alley, sidewalk, and other public way.
STRUCTURE:	That which is built or constructed.
SUPPORT EQUIPMENT:	The physical, electrical, and/or electronic equipment included within a WCF used to house, power, and/or process signals from or to the WCFs antenna or antennas, but specifically excluding the base station.
SUPPORT STRUCTURE(S):	A structure, outdoor fixture, tower (as defined in the Town’s building and technical codes

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	adopted in Chapter 1 of Title 8 of the Code), or utility pole capable of safely supporting a WCF, but does not include a wireless tower.
TEMPORARY WIRELESS COMMUNICATIONS FACILITY:	A WCF that is designed and intended to be used for a limited period of time, not to exceed six (6) months.
TOWN:	Has the meaning provided in Section 1-3-2 of the Code.
TOWN CODE OR THIS CODE:	Has the meaning provided in Section 1-3-2 of the Code.
TOWN COUNCIL:	Has the meaning provided in Section 1-3-2 of the Code.
TOWN MASTER PLAN:	The comprehensive plan for the development of the Town adopted by the Town Council pursuant to Chapter 4 of Title 9 of the Code.
UNIPOLE:	A uniform width pole with one or more antennas and associated equipment and cables contained within the interior of the pole, and with a Radome at the top of the pole being the same width as the pole.
UTILITY POLE:	A steel or wood pole or structure located in the right-of-way and dedicated to use by multiple utilities and providers of communications franchised by the Town.
WHIP ANTENNA:	A vertically-oriented omni-directional antenna.
WIRELESS COMMUNICATIONS FACILITY (WCF):	A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a

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facility entirely enclosed within a permitted building outside of the right-of-way where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF consists of an antenna or antennas, including, but not limited to, directional, omnidirectional and parabolic antennas, base station, support equipment, and (if applicable) a wireless tower. It does not include the support structure to which the WCF or its components is attached. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the application of this policy.

WCF PERMIT OR PERMIT: A permit for the placement of a WCF issued pursuant to this Chapter and policy.

WIRELESS TOWER: Any structure, such as a lattice tower, monopole or unipole, built for the sole or primary purpose of supporting a WCF. A support structure which is modified or replaced to allow for the installation of all or a portion of a WCF retains its prior use as its primary use, and the wireless use is only a secondary use thereof, even if the WCF is the only attachment to the support structure.

- 1  
2           2.       Terms not defined in this policy are to be given their common meaning.

3           C. PERMIT CLASSIFICATIONS:

- 4           1.       Class D Development Permit. The following permit applications submitted  
5           under this policy are classified as Class D development permit applications:

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- 1 (a) An application to construct a WCF at one of the preferred locations as set  
2 forth in Section (D)(1) of this policy that meets the applicable design  
3 requirements of this policy;
- 4 (b) An application to collocate several WCFs that meets the requirements of  
5 Section 29-27-404(2), C.R.S., if the applicant so elects; provided,  
6 however, that if such application includes the construction of a new WCF  
7 that is 35 feet in height or taller, such application shall be classified as a  
8 Class A development permit application; and
- 9 (c) An application for a Temporary WCF that will be operational for a period  
10 of time not longer than thirty (30) days.
- 11 (d) An application to construct a WCF that is part of a DAS, and is  
12 camouflaged consistent with the design requirements contained in this  
13 policy.
- 14 (e) An application for a Minor Modification to an existing WCF permit.

15 The procedures for processing a Class D development permit application set  
16 forth in Section 9-1-18-4 of the Code shall apply to a Class D development  
17 permit application submitted pursuant to this policy.

18 2. Class A Development Permit. The following permit applications submitted  
19 under this policy are classified as Class A development permit applications:

- 20 (a) All applications to construct a WCF in the Conservation District,  
21 including, but not limited to, that part of the Conservation District known  
22 as the Historic District.
- 23 (b) All applications to modify an existing WCF that is not a Minor  
24 Modification.
- 25 (c) An application for a Temporary WCF that will be operational for a period  
26 of time more than thirty (30) but less than one hundred eighty (180) days.  
27 The Director shall not accept an application for a Temporary WCF under  
28 this subsection (c): (i) that is not filed concurrently with an application for a  
29 permanent WCF; and (ii) that will be operational for one hundred eighty  
30 days (180) or longer.
- 31 (d) All other applications to construct a WCF that are not classified as a Class  
32 D development permit application pursuant to Section C(1), above.

1 The procedures for processing a Class A development permit application set  
2 forth in Section 9-1-18-1 of the Code shall apply to a Class A development  
3 permit application submitted pursuant to this policy.

- 4 3. Director Authority to Reclassify. The authority of the Director to reclassify a  
5 development permit application as provided in the definition of  
6 “Classification” in Section 9-1-5 of this Chapter shall apply to an application  
7 for a WCF filed under this policy.

8 D. LOCATION CRITERIA FOR WCFs: The following criteria shall be utilized by the  
9 Director to determine the type of WCF permit that is required for a proposed WCF:

- 10 1. WCFs are encouraged to locate on existing buildings and structures due to  
11 aesthetics and land use compatibility. Proposed WCFs should be located in the  
12 following areas of the Town that are determined to be the most appropriate  
13 locations. The preferred locations which are listed in order of preference:

14 (a) Collocation to existing facilities located in non-residential land use districts  
15 outside of the Conservation District (including that part of the Conservation  
16 District known as the Historic District);

17 (b) Town-owned or operated property and facilities;

18 (c) Other publicly owned property and facilities;

19 (d) Rights-of-way (camouflaged design) - All land use districts;

20 (e) Public and private utility installations – All land use districts;

21 (f) Land use districts where commercial uses are recommended; and

22 (g) Community facilities (such as places of worship, community centers, etc.)  
23 – All land use districts

- 24 2. New WCFs may not be located in any of the following land use districts or  
25 areas unless the applicant demonstrates by technically sufficient and  
26 conclusive proof that: (a) a significant gap in the provider’s service exists; (b)  
27 the proposed WCF is the least visually intrusive means to close the significant  
28 gap; and (c) no feasible alternative exists to close the significant gap except by  
29 the installation of one or more WCF sites in the following land use districts or  
30 areas of Town:

31 (a) The Town’s Conservation District, including, but not limited to, that part of  
32 the Conservation District known as the Historic District;

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- 1 (b) Land Use Districts where single-family residential uses are a recommended  
2 use;
- 3 (c) Within any land use district that that contains a legally established single  
4 family residential use;
- 5 (d) Vacant land;
- 6 (e) Environmentally sensitive habitat;
- 7 (f) On a ridgeline; and
- 8 (g) Any other area of the Town not specifically described as a preferred  
9 location for the placement of a WCF in Section D(1), above.

10 E. PERMIT REQUIRED; ESTIMATED DEPOSITS; PRE-APPLICATION  
11 MEETINGS:

- 12 1. A WCF may not be installed or modified without a permit, except as provided  
13 in this policy. Removal of a WCF does not require a permit under this policy,  
14 but removal must be performed in strict compliance with this policy.
- 15 2. A permit shall not be issued:
  - 16 (a) Unless the applicant shows that it has the necessary permission to place the  
17 WCF as proposed on private property or public property that it proposes to  
18 occupy (including the authority to make modifications to any support  
19 structure or wireless tower associated with the installation or modification);  
20 and
  - 21 (b) In the case of a WCF in the right-of-way unless the applicant holds a  
22 license or similar written authorization from the Town that entitles it to  
23 occupy the right-of-way to install or modify a WCF. Such written  
24 authorization may be included in the development permit.
- 25 3. A permit shall not be effective and shall not authorize installation or  
26 modification of any WCF or installation or modification of a support structure  
27 or wireless tower unless the conditions of this Section are satisfied. A permit  
28 may be revoked prior to its effective date.
- 29 4. An applicant must obtain all other required permits, authorizations, approvals  
30 or declarations that may be required for installation or modification of the  
31 WCF or for installation or modification of the support structure under federal,  
32 state, or local law, including, but not limited to, building permits or FCC

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1 approvals. An application for a Temporary WCF that relates to a special event  
2 for which a permit is required under Chapter 13 of Title 4 of the Code must  
3 also be approved in such a permit. A permit is not in lieu of any other permit  
4 required under the Code, except as specifically provided herein, nor is it a  
5 franchise, license, or other authorization to occupy the right-of-way, or a  
6 license, lease or agreement authorizing occupancy of any other private or  
7 public property. It does not create a vested right in occupying any particular  
8 location, and a permittee may be required to move and remove facilities at its  
9 expense consistent with other provisions of applicable law.

- 10 5. The applicant must provide proof to the Town that it has obtained all  
11 insurance and/or security required by this policy, and must pay any fees owed  
12 to the Town.
- 13 6. A permit issued in error, based on incomplete or false information submitted  
14 by an applicant, or that conflicts with the provisions of this policy is not valid.
- 15 7. The WCF applicant shall submit an application as specified in Section F of  
16 this policy, together with the deposit, estimated by the Director, to cover the  
17 Town's application processing costs.
- 18 8. Where the tendered deposit has been consumed in the processing of the  
19 application, the Director may require the applicant to promptly tender  
20 additional deposit(s).
- 21 9. The WCF applicant shall also deposit with the Town the amount estimated to  
22 pay for any compliance report required under Section E(10), below.
- 23 10. If required by the Director the applicant shall deposit with the Town funds  
24 sufficient to reimburse the Town for third-party review of an application, and  
25 any supplemental deposit required by the Director for the completion of the  
26 third-party review of the application and/or the third-party reviewer providing  
27 analysis and testimony before the Town regarding the application.
- 28 11. Upon the approval, conditional approval, denial, or withdrawal of the WCF  
29 application any unexpended portion of the deposits shall be returned to the  
30 applicant. If the deposits did not cover the Town's costs, the Town will charge  
31 the applicant therefore, and in the event of an approval or conditional approval  
32 of the WCF the Town shall not issue the permit until such charge is fully paid.
- 33 12. Two pre-application meetings with Town staff are required for WCFs. The  
34 first meeting should take place at the earliest stage of site location research,  
35 and should include a service area map and description of the type of WCF

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1 sought. The second meeting should take place after the site is selected, and  
2 should include a preliminary site plan and visual impact drawings.

3 F. APPLICATION REQUIRED; CONTENTS OF PERMIT APPLICATION:

- 4 1. In all cases an applicant for a permit shall utilize the form of application  
5 required by the Town. The Director is authorized to prepare forms of  
6 application, and may develop forms of application that distinguish between  
7 different types of installations and modifications in order to streamline  
8 processing of applications, and to comply with legal requirements.
- 9 2. In addition to the information required for a Class A or Class D development  
10 permit application, whichever is applicable, the application for a permit under  
11 this policy shall also include, but shall not be limited to, the following  
12 information:
- 13 (a) The name of the entity or entities that will own, and be responsible for the  
14 installation and maintenance of the WCF and any support structure  
15 installed as part of the installation of the WCF;
- 16 (b) Whether applicant believes that the WCF is subject to the provisions of 47  
17 U.S.C. Section 332(c)(7)[Section 704 of Federal Telecommunications Act  
18 of 1996], and if so, who the entity is that will be providing personal  
19 wireless services. The reviewing authority shall determine whether the  
20 WCF is subject to 47 U.S.C. Section 332(c)(7);
- 21 (c) Whether and why the applicant believes that the WCF is subject to 47  
22 U.S.C. Section 1455(a) [Sec. 6409 of Middle Class Tax Relief Act]. The  
23 reviewing authority shall determine whether the WCF is subject to 47  
24 U.S.C. Section 1455(a);
- 25 (d) An affirmative election by the applicant to proceed under Section 29-27-  
26 204(1) or (2), C.R.S., if applicable;
- 27 (e) Scaled site plans and elevations, including structural safety information,  
28 and clearly identifying the components and location of the proposed WCF  
29 and the support structure, if any, that will be utilized;
- 30 (f) A written and technically accurate and reliable narrative explaining the  
31 nature of the permit sought (new installation, modification of existing  
32 installation, Minor Modification, other modification); the authorizations  
33 required for the installation or modification, and steps that applicant has  
34 taken to comply with the Code;

- 1 (g) For new installations, or modifications other than Minor Modifications, the  
2 purpose and need for the WCF or for the modification of the WCF, and  
3 whether applicant contends that the WCF or modification of the WCF is  
4 required to close a significant gap in coverage;
- 5 (h) For new installations, or modifications other than Minor Modifications,  
6 signal coverage maps if applicant contends that the WCF or modification of  
7 the WCF is required to close a significant gap in coverage;
- 8 (i) For new installations, or modifications other than Minor Modifications, the  
9 alternatives considered;
- 10 (j) Site photos and visual simulations of the proposed WCF as constructed or  
11 modified;
- 12 (k) Documentation of all current and proposed radio frequency emissions from  
13 the WCF shall be provided on the form found in Appendix A of the FCC  
14 publication "A Local Government Official's Guide to Transmitting antenna  
15 RF Emission Safety: Rules, Procedures, and Practical Guidance" dated  
16 June 2, 2000, or any subsequent edition of such publication, or on a form  
17 that contains all of the same information as in Appendix A of the FCC  
18 publication, or on a form or in a manner promulgated by the FCC;
- 19 (l) Information regarding the ownership of the property and support structure  
20 or wireless tower on which the WCF is proposed to be located, showing the  
21 applicant has authorization from the owner(s) of the property and/or  
22 support structure or wireless tower to pursue the WCF application;
- 23 (m) For installations in the right-of-way, written evidence of any existing ,  
24 license or similar written authorization from the owner of the right-of-way  
25 that entitles the applicant to occupy the right-of-way;
- 26 (n) The application fee for the application as described in Chapter 10 of Title 9  
27 of the Code; and
- 28 (o) Any additional information that the Director reasonably determines to be  
29 necessary in connection with the investigation and review of the  
30 application.
- 31 3. Where a WCF is part of a network of WCFs that will be installed  
32 contemporaneously or sequentially, such as a DAS, the applications for each  
33 of the facilities in the proposed network shall be submitted simultaneously.

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- 1           4.     If an applicant for a “small cell network” as defined in Section 29-27-402(5),  
2           C.R.S., so elects, the Director shall allow the applicant to file a consolidated  
3           application and receive a single permit for the small cell network instead of  
4           filing separate applications for each small cell facility.
  
- 5           5.     If an applicant to collocate several WCFs so elects, the Director shall allow  
6           the applicant to file a single set of documents that will apply to all of the  
7           WCFs to be sited.
  
- 8           6.     The Director shall notify the applicant in writing within thirty (30) days of the  
9           receipt of the application if the application is incomplete. Such notice shall  
10          specify the required information that is missing from or incomplete in the  
11          application. The applicant may resubmit the application within thirty (30)  
12          days of its receipt of the Director’s notice that the application is incomplete, or  
13          such additional period of time as the Director shall allow.
  
- 14          G.    DESIGN STANDARDS: The purpose of this Section is to provide guidance to  
15          prospective applicants as they seek appropriate WCF locations within the Town, and  
16          to provide guidance to the Director in determining the classification of the  
17          application and whether to grant, grant with conditions, or to deny a WCF  
18          application. The design standards set forth in this Section shall apply to the location  
19          of all WCFs that are subject to this policy; provided, however, the reviewing  
20          authority may waive any design standard if it determines the overall intent of this  
21          Policy as described in Section A of this policy will not be served by the  
22          implementation of the particular design standard with respect to a particular WCF or  
23          application.
  
- 24          1.     WCFs should be collocated with existing WCFs, if within 1,500 feet of an  
25          existing WCF, unless the Town determines that the particular design proposed  
26          would not create excessive visual clutter. No permit to construct a new  
27          freestanding WCF shall be granted unless the applicant first demonstrates to  
28          the reasonable satisfaction of the reviewing authority that no existing tower or  
29          structure can accommodate the applicant’s needs.
  
- 30          2.     Wall- or roof-mounted WCFs and DASs are preferred over freestanding  
31          WCFs. An applicant proposing to construct a freestanding WCF that is not a  
32          DAS must first demonstrate to the reasonable satisfaction of the reviewing  
33          authority that a wall- or roof-mounted WCF is not feasible or is inadequate to  
34          provide service. When appropriate, the Tow may require that an alternative  
35          WCF that reflects the character of the surrounding property (developed or  
36          undeveloped) be employed.
  
- 37          3.     A WCF located in the right-of-way:

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- 1 (a) Shall, if to be located on a street light, be compatible with the design of the  
2 existing street lights.
- 3 (b) Shall, with respect to its pole-mounted components, be located on an  
4 existing utility pole serving another utility.
- 5 (c) Shall be located in a concealed WCF consistent with other existing natural  
6 or manmade features in the right-of-way near the location where the WCF  
7 is to be located.
- 8 (d) Shall, with respect to its pole-mounted components, be located on a new  
9 utility pole where other telephone distribution lines are aerial, if there are  
10 no reasonable alternatives, and the applicant is authorized to construct new  
11 utility poles.
- 12 4. The pole-mounted components of a WCF on a utility pole shall, whether in or  
13 outside of the right-of-way, be consistent with the size and shape of pole-  
14 mounted equipment installed by communications companies on utility poles  
15 near the WCF.
- 16 5. The size of a utility box or cabinet that will hold the mechanical equipment  
17 required to operate the WCF shall not exceed the minimum size required for  
18 the individual facility or for a co-located facility.
- 19 6. To the extent permitted aboveground, shall otherwise be appropriately  
20 screened, landscaped, and camouflaged to blend in with the surroundings, and  
21 non-reflective paints shall be used.
- 22 7. Unless it is determined that there is no less intrusive alternative available to  
23 close a significant gap in the service provided by a WCF, or it is determined  
24 that the Town is legally required to approve an application, the reviewing  
25 authority may not approve an application for a WCF whose highest point  
26 would be more than 35 feet above surrounding ground level, except as  
27 follows:
- 28 (a) The support structure or wireless tower to which the WCF would be  
29 attached is an existing support structure or wireless tower, that was taller  
30 than 35 feet above the immediate surrounding ground level on [REDACTED] 1,  
31 2014;
- 32 (b) The WCF will be a concealed WCF, whose height and design is not  
33 substantially inconsistent with the surrounding features it mimics.

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- 1 8. Unless it is determined by the Town that there is no less intrusive alternative  
2 available to close a significant gap in the service provided by a WCF, or it is  
3 determined that the Town is legally required to approve an application, the  
4 Town shall not approve an application for a WCF where the application  
5 proposes a design that would require extensions from any support structure  
6 inconsistent in size with the extensions otherwise permitted under the Code.
- 7 9. A WCF shall be designed and located to minimize the impact on the  
8 surrounding neighborhood, and to maintain the unique aesthetic character,  
9 beauty, and historic charm of the Town, consistent with other provisions of  
10 the Code. To that end, WCFs should:
- 11 (a) Employ the least intrusive design for the proposed location in terms of size,  
12 mass, visual and physical impact, and effects on properties from which the  
13 WCF is visible;
- 14 (b) Accommodate collocation consistent with the other design requirements of  
15 this policy; and
- 16 (c) Be consistent with the Town's Master Plan.
- 17 10. Without limiting the foregoing, all portions of a WCF affixed to a support  
18 structure shall be designed to blend in or be screened from view in a manner  
19 consistent with the support structure's architectural style, color, and materials,  
20 when viewed from any part of the Town. WCFs shall be painted and textured  
21 or otherwise camouflaged to match the color and texture of the support  
22 structure on which they are mounted. Where the support structure is a  
23 building, the WCF, including, without limitation, base station cabinets, remote  
24 transmitters and receivers, and antenna amplifiers, shall be placed within the  
25 building or mounted behind a parapet screened from public view unless that is  
26 not feasible. If the Director determines that such in-building placement is not  
27 feasible, the equipment shall be roof-mounted in an enclosure or otherwise  
28 screened from public view as approved by the Director.
- 29 11. WCFs shall not be lighted except with the authorization of the Director. The  
30 Director may permit lighting at the lowest intensity necessary:
- 31 (a) For proximity-triggered and/or timer-controlled security lighting;
- 32 (b) To comply with regulations for the illumination of the any flag attached to  
33 a WCF; or
- 34 (c) Where such lighting is required by the Director to protect public health or  
35 welfare, or as part of the camouflage for a particular design.

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 Any lighting approved by the Director shall comply with Section 9-1-19-46A,  
2 "Policy 46 (Absolute)(Exterior Lighting)."

- 3
- 4 12. No advertising signage shall be displayed on any WCF, except for  
5 government-required signs shown in the permit application. Additionally site  
6 identification, address, warning, and similar information plates may be  
7 permitted where approved by the Director.
- 8 13. The WCF shall comply with all requirements of the ADA.
- 9 14. The WCF shall be designed so that it does not operate by a generator except  
10 when the permanent power to the WCF is temporarily interrupted.
- 11 15. The WCF shall not inconvenience the public (including without limitation,  
12 persons with disabilities) in its use of any structure, or any portion of the  
13 right-of-way.
- 14 16. All wireless towers shall be concealed. The installation of an uncamouflaged  
15 wireless tower is prohibited.

16 H. APPROVAL OR DISAPPROVAL OF AN APPLICATION:

- 17 1. The reviewing authority shall render a decision on an application within the  
18 time permitted by any applicable state and federal law.
- 19 2. An application submitted under this policy may be lawfully disapproved in  
20 any of the following instances:
- 21 (a) The application does not implement all affected absolute policies of this  
22 Chapter (subject to variance), or if it is allocated a net negative number of  
23 points for the relative policies;
- 24 (b) The applicant has not shown that the application conforms to the  
25 requirements of this policy;
- 26 (c) The applicant has failed to submit any additional information requested by  
27 the Director by the due date specified by the Director; or
- 28 (d) The applicant has not provided to the Town all of the required information  
29 required by this policy to permit the reviewing authority to approve,  
30 conditionally approve, or deny the application taking into account legal  
31 deadlines affecting the Town's consideration of the application.

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

- 1           3.     It is the applicant’s burden to show that a permit should be granted. In  
2 reviewing an application, the reviewing authority may consider the WCF as  
3 proposed, and as it may be modified as a matter of right should the application  
4 be granted. In determining whether to approve, conditionally approve, or deny  
5 an application, the reviewing authority may consider the following and such  
6 other matters as the reviewing authority may be entitled or required to  
7 consider as a matter of law:
- 8           (a) Whether the WCF and support structure additions and modifications  
9 proposed will not adversely affect or alter the unique aesthetic character,  
10 beauty, and historic charm of the Town. If the application is for a location  
11 in the Conservation District, the reviewing authority shall also consider  
12 Section 9-1-19-5A, “Policy 5 (Absolute)(Architectural Compatibility)”;  
13 Section 9-1-19-5R, “Policy 5 (Relative)(Architectural Compatibility)”;  
14 and the “Handbook of Design Standards/Handbook of Design Standards For the  
15 Historic and Conservation Districts”;
- 16           (b) Except as to Minor Modifications, or where the Town is prohibited from  
17 considering it by law, whether the applicant has shown that the proposed  
18 WCF is necessary to close a significant gap in coverage and has further  
19 shown that its proposal is the least intrusive means of closing a significant  
20 gap;
- 21           (c) Whether the WCF and support structure modifications and additions  
22 proposed comply with the design standards of this policy, and other  
23 applicable provisions of this Chapter;
- 24           (d) Whether the WCF and support structure modifications and additions  
25 proposed comply with applicable safety codes and laws (including without  
26 limitation the ADA), interfere with the public’s use of right-of-way, or  
27 create undue risks to persons or property;
- 28           (e) Whether the applicant has made the required affirmation regarding  
29 compliance with the FCC’s RF regulations, as the same may be amended;
- 30           (f) Whether the applicant is authorized to file the application;
- 31           (g) Whether the applicant has or will have necessary local, state, or federal  
32 regulatory approvals required in connection with the WCF; and
- 33           (h) Whether alternative designs or locations would minimize the impact of the  
34 WCF and support structure modifications and additions required.

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

- 1 4. Notwithstanding any other provision of this policy to the contrary, the  
2 reviewing authority may approve an application for a permit under this policy,  
3 notwithstanding that the evidence supported denial of the application, if the  
4 reviewing authority makes a finding that the applicant has demonstrated that  
5 the refusal to grant such an exception and approve the application would  
6 prohibit or have the effect of prohibiting the provision of personal wireless  
7 services within the meaning of 47 U.S.C. Section 332(c)(7), or finds that the  
8 Town authority to deny the application is otherwise preempted or prohibited  
9 by state or federal law.
- 10 5. The thirty (30) day period to appeal the Town's decision on an application  
11 provided in 47 U.S.C. Section 332(c)(7)(B)(v) shall commence on the last to  
12 occur of: (i) the Director's final decision on a Class D development permit  
13 application; (ii) or, with respect to a Class A development permit application,  
14 the Town Council's affirmation of the Planning Commission's written  
15 decision on the application, or the Town Council's own written decision on  
16 the application if the Planning Commission decision is called up by the Town  
17 Council.

18 I. COMPLIANCE REPORT:

- 19 1. Within thirty (30) days after installation of a WCF, the permittee shall  
20 demonstrate to the Director that its WCF as constructed and normally-  
21 operating fully complies with the conditions of the permit, including height  
22 restrictions and applicable safety codes, including, but not limited to,  
23 structural engineering codes. The demonstration shall be provided in writing  
24 to the Director containing all technical details to demonstrate such  
25 compliance, and certified as true and accurate by a qualified professional  
26 engineer or, in the case of height or size restrictions, by a qualified surveyor.  
27 This report shall be prepared by the permittee and reviewed by the Town at  
28 the sole expense of the permittee, which shall promptly reimburse the Town  
29 for its review expenses. The Director may require additional proofs of RF  
30 emission compliance as part of the application process and on an ongoing  
31 basis to the extent the Town may do so consistent with federal law.
- 32 2. If the report required in Section A of this Section shows that the WCF does  
33 not so comply, the permit shall be deemed suspended, and all rights  
34 thereunder of no force and effect, until the permittee demonstrates to the  
35 Town's satisfaction that the WCF is compliant. The permittee shall promptly  
36 reimburse the Town for its compliance review expenses.
- 37 3. If the initial report required by this Section is not submitted within the time  
38 required, the Director or the Director's selected and qualified professionals

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 may, but are not required to, undertake such investigations as are necessary to  
2 prepare the report described in Section A. The permittee shall within five (5)  
3 days after receiving written notice from the Director that the Town is  
4 undertaking the review, deposit such additional funds with the Director to  
5 cover the estimated cost of the Town obtaining the report. Once said report is  
6 obtained by the Town, the Town shall then timely refund any unexpended  
7 portion of the permittee's deposit. The report shall be provided to the  
8 permittee. If the report shows that the permittee is non-compliant, the Town  
9 may suspend the permit until the permittee demonstrates to the Town's  
10 satisfaction that the WCF is compliant. During the suspension period, the  
11 permittee shall be allowed to activate the WCF for short periods, not to exceed  
12 one hundred twenty (120) minutes during any twenty-four (24) hour period,  
13 for the purpose of testing and adjusting the site to come into compliance.

- 14 4. If the WCF is not brought into compliance promptly, the Town may revoke  
15 the permit and require removal of the WCF.

16 J. STANDARD PERMIT CONDITIONS:

- 17 1. Notwithstanding Section 9-1-17-8 of this Chapter, the term of a permit  
18 granted pursuant to this policy shall be ten (10) years from the date of  
19 issuance, unless sooner revoked or terminated as provided in this policy.
- 20 2. As a condition of every permit issued pursuant to this policy, the Director may  
21 establish a reasonable construction build-out period for a WCF.
- 22 3. The permittee shall also comply with all other applicable requirements of the  
23 Code.
- 24 4. The permittee shall obtain and maintain all other applicable permits,  
25 approvals, and agreements necessary to install and operate the WCF in  
26 conformance with federal, state, and local laws, rules, and regulations.
- 27 5. The Town may inspect permitted facilities and property and may enter onto a  
28 site to inspect facilities upon reasonable notice to the permittee. In case of an  
29 emergency or risk of imminent harm to persons or property within the vicinity  
30 of permitted facilities, the Town reserves the right to enter upon the site of the  
31 WCF and to support, disable, or remove those elements of the WCF posing an  
32 immediate threat to public health and safety.
- 33 6. The permittee shall maintain on file with the Town and onsite at the WCF  
34 contact information of all parties responsible for maintenance of the WCF.

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

- 1           7.     The permittee and, if applicable, the private property owner shall defend,  
2           indemnify and hold harmless the Town, its agents, officers, officials, and  
3           employees: (i) from any and all damages, liabilities, injuries, losses, costs and  
4           expenses and from any and all claims, demands, lawsuits, and other actions or  
5           proceedings brought against the Town or its agents, officers, officials, or  
6           employees to challenge, attack, seek to modify, set aside, void or annul the  
7           Town's approval of the permit; and (ii) from any and all damages, liabilities,  
8           injuries, losses, costs and expenses and any and all claims, demands, lawsuits,  
9           or causes of action and other actions or proceedings of any kind or form,  
10          whether for personal injury, death or property damage, arising out of or in  
11          connection with the activities or performance of the permittee or, if  
12          applicable, the private property owner or any of each one's agents, employees,  
13          licensees, contractors, subcontractors, or independent contractors ((i) and (ii)  
14          collectively are "Actions"). Further, permittees shall be strictly liable for  
15          interference caused by their WCFs with the Town's communications systems.  
16          The permittee shall be responsible for costs of determining the source of the  
17          interference, all costs associated with eliminating the interference, and all  
18          costs arising from third party claims against the Town attributable to the  
19          interference ("Claims"). In the event the Town becomes aware of any such  
20          Actions or Claims the Town shall promptly notify the permittee and the  
21          private property owner and shall reasonably cooperate in the defense. It is  
22          expressly agreed that the Town shall have the right to approve, which  
23          approval shall not be unreasonably withheld, the legal counsel providing the  
24          Town's defense, and the property owner and/or permittee (as applicable) shall  
25          reimburse Town for any costs and expenses directly and necessarily incurred  
26          by the Town in the course of the defense.
- 27          8.     The permittee shall file with the Town, and shall maintain in good standing  
28          throughout the term of the permit, proof that the permittee has a policy of  
29          commercial general liability insurance with minimum combined single limits  
30          of liability of not less than One Million Dollars (\$1,000,000) per claim and  
31          One Million Dollars (\$1,000,000) aggregate, or such other limits as may be  
32          acceptable to the Director. The Town shall be named as an additional insured  
33          under such insurance policy.
- 34          9.     If determined to be necessary by the Director in order to adequately protect  
35          the Town, the permittee shall file with the Town, and maintain in good  
36          standing throughout the term of the permit, a performance bond or other  
37          surety or another form of security acceptable to the Town Attorney to pay for  
38          the removal of the WCF in the event that the use is abandoned or the permit  
39          expires, or is revoked, or is otherwise terminated. If required, the security  
40          shall be in the amount equal to one hundred fifteen percent (115%) of the cost

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 of physically removing the WCF and all related facilities and equipment on  
2 the site.

3 10. The permittee shall make a good faith effort to minimize project-related  
4 disruptions to adjacent properties. Site improvement and construction work,  
5 including set-up, loading, or unloading of materials or equipment, performed  
6 as part of this project is subject to the provisions of Section 5-8-6 of the Code.  
7 Emergency maintenance and repairs are exempt from the restricted hours.  
8 Violation of this condition may result in issuance of a Stop Work Order or  
9 other appropriate enforcement action by the Town.

10 11. An acknowledgment by the permittee of the right of the Town to require  
11 relocation of the WCF as provided in Section (O)(7) of this policy.

12 K. OPERATIONAL REGULATIONS: All WCFs within the Town shall be designed,  
13 maintained, and shall be operated at all times to comply with the provisions of this  
14 policy and the following other requirements:

- 15 1. Conditions in any permit or license issued by a local, state, or federal agency,  
16 which has jurisdiction over the WCF;
- 17 2. Rules, regulations, and standards of the state and federal governments,  
18 including, but not limited to the FCC, and the Town, including, but not limited  
19 to, the Code;
- 20 3. Easements, covenants, conditions, and/or restrictions on or applicable to the  
21 underlying real property;
- 22 4. Rules, regulations, and standards of the Town governing underground  
23 utilities; and
- 24 5. All other laws, codes, and regulations applicable to a WCF.
- 25 6. Without limiting the foregoing, all WCFs shall be maintained in good working  
26 condition and to the visual standards established at the time of approval over  
27 the life of the permit. The WCF and surrounding area shall remain free from  
28 trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall  
29 be repaired as soon as is practicable, and in no instance more than thirty (30)  
30 calendar days from the time of notification by the Town or after discovery by  
31 the permittee, weather permitting. If landscaping was required, the  
32 landscaping must be maintained by the permittee.

33 L. MODIFICATION OF A WIRELESS COMMUNICATIONS FACILITY PERMIT:  
34 The following provisions shall apply to the modification of a permit notwithstanding

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 any other provision of this Chapter to the contrary. In the event of a conflict between  
2 the provisions of this Section and any other provision of this Chapter, this Section  
3 shall control.

- 4 1. The Town may modify a permit before its termination date where necessary to  
5 protect public health and safety, or where the permit as issued is no longer  
6 enforceable in accordance with its terms.
- 7 2. A permittee may modify a permit by seeking either a Minor Modification or  
8 other modification. Modifications other than Minor Modifications shall be  
9 treated the same as requests for a new WCF.
- 10 3. Requests for modifications shall be reviewed in accordance with the  
11 provisions of this Chapter that are in effect at the time modification is sought,  
12 and not the provisions of this Chapter that were in effect at the time the permit  
13 was initially issued.

14 M. RENEWAL OF A WIRELESS COMMUNICATIONS: A permit issued pursuant to  
15 this policy may be renewed for additional terms of ten (10) years each. Any renewal  
16 application must be tendered to the Director between three hundred sixty five (365)  
17 days and one hundred eighty (180) days prior to the expiration of the current permit,  
18 and shall be accompanied by all required fees and deposits for a new WCF  
19 application as then in effect. In evaluating an application to renew a WCF permit, all  
20 then-current relevant absolute and relative development policies of this Chapter shall  
21 be considered by the reviewing authority, except as provided in Section (A)(7) of  
22 this policy;

23 N. REVOCATION OF A WIRELESS COMMUNICATIONS FACILITY PERMIT:  
24 The following provisions shall apply to the revocation of a permit notwithstanding  
25 any other provision of this Chapter to the contrary. In the event of a conflict between  
26 the provisions of this Section and any other provision of this Chapter, this Section  
27 shall control.

- 28 1. A permit may be revoked if the Town determines that:
  - 29 (a) the permit was granted based on false, misleading, or incomplete  
30 information;
  - 31 (b) a material provision of the permit is no longer enforceable;
  - 32 (c) the permittee violates a condition of the permit;
  - 33 (d) the permittee fails to comply with any provision of the Code relating to the  
34 permit, or relating to the WCF associated with the permit; or

## WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

- 1 (e) the permittee modifies the WCF or support structures without permission.  
2 Any such event is a “Default Event.”  
3  
4 2. The Director may request the Town Council to revoke a permit only after:  
5 (a) Written notice of the Default Event has been provided to the permittee;  
6 (b) The permittee has been afforded a reasonable opportunity to cure and  
7 comply with its permit, or demonstrate that no Default Event occurred.
- 8 3. If the permittee fails to cure, the Town Council or the Town Council through a  
9 designee, shall conduct a noticed public hearing where the permittee shall be  
10 afforded an opportunity to speak and be heard and to provide written material  
11 prior to the hearing. If the Town Council, after the public hearing, finds that  
12 the WCF or the permittee has violated any law regulating the WCF, or has  
13 failed to comply with the requirements of this policy, the permit, any  
14 applicable agreement, or any condition of approval, the Town Council may  
15 revoke the permit.
- 16 4. Upon revocation, the Town Council may require the removal of the WCF or  
17 take any other legally permissible action or combination of actions necessary  
18 to protect the health and welfare of the Town.

19 O. ABANDONMENT, REMOVAL, OR RELOCATION OF FACILITIES:

- 20 1. Any permittee who abandons or discontinues use of a WCF for a continuous  
21 period of ninety (90) days shall notify the Director by certified mail within  
22 thirty (30) days after the end of the ninety (90) day period.
- 23 2. If the Director believes a WCF has been abandoned or discontinued for a  
24 continuous period of ninety (90) days, the Director shall send a notice of  
25 proposed abandonment or discontinuation to the permittee stating why the  
26 Town believes the WCF to be abandoned or discontinued. Failure of the  
27 permittee to reply to the Director in writing within thirty (30) days after  
28 receiving, rejecting, or returning the Town’s certified letter shall entitle the  
29 Director to make a determination that the WCF is, in fact, abandoned or  
30 discontinued.
- 31 3. Upon declaration of the Director pursuant to Section (O)(2) that the WCF is  
32 abandoned or discontinued, the permittee or, if located on private property,  
33 owner of the affected real property shall have ninety (90) days from the date  
34 of the declaration, weather permitting, or a further reasonable time as may be

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 approved by the Director, within which to complete one of the following  
2 actions:

- 3 (a) Reactivate use of the WCF;
- 4 (b) Transfer the rights to use the WCF to another entity (who shall be subject  
5 to all the provisions of this policy) if the entity immediately commences  
6 use of the WCF; or
- 7 (c) Remove the WCF and any supporting structures installed solely in  
8 connection with the WCF, and restore the site to be consistent with the  
9 then-existing surrounding area.

10 4. If the permittee disputes that the WCF has been abandoned or discontinued for  
11 a continuous period of ninety (90) days, the Town Council at a noticed public  
12 hearing shall consider such matter and the evidence related thereto, and, if the  
13 evidence supports such decision by a preponderance of the evidence, may  
14 declare that the WCF is deemed abandoned. The Director shall provide notice  
15 of such finding to the permittee and to the telecom carrier last known to use  
16 the WCF and, if applicable, to the owner of the affected private real property,  
17 providing thirty (30) days from the date of the notice within which to  
18 complete one of the following actions:

- 19 (a) Reactivate use of the WCF, subject to the terms and conditions of the  
20 applicable permit;
- 21 (b) Transfer the rights to use the WCF to another operator (who shall be  
22 subject to all the provisions of this policy); or
- 23 (c) Remove the WCF and any supporting structures installed solely in  
24 connection with the WCF, and restore the site to be consistent with the  
25 then-existing surrounding area.

26 5. If there is no reactivation, transfer or removal as set forth in Section 4 of this  
27 Section, the Town may thereafter remove the abandoned WCF, repair any and  
28 all damages to the premises caused by such removal, and otherwise restore the  
29 premises as is appropriate to be in compliance with applicable codes. If the  
30 Town removes the WCF, the Town may, but shall not be required to, store the  
31 removed WCF or any part thereof, and may use it, sell it or dispose of it in  
32 any manner deemed by the Town to be appropriate. The entity that abandoned  
33 the WCF, or its successor in interest, and if on private property, the private  
34 property owner, shall be jointly and severally liable for the entire cost of such  
35 removal, repair, restoration and storage and shall remit payment to the Town  
36 promptly after demand therefor is made. In addition, the Town Council, at its

## WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 option, may utilize any financial security required in conjunction with  
2 granting the permit to recover such costs.

3 6. Until the cost of removal, repair, restoration, and storage is paid in full, a lien  
4 shall be placed on the WCF and any related personal property and any private  
5 real property on which the WCF was located for the full amount of the cost of  
6 removal, repair, restoration and storage. The Town Clerk shall cause the lien  
7 to be recorded with the Summit County, Colorado Clerk and Recorder.

8 7. Unless otherwise prohibited by law, after adequate written notice to the  
9 permittee, and without violating any vested right in the permit the permittee  
10 may have, the Town Council may require the relocation, at the permittee's  
11 expense and according to the then-existing standards for WCFs, of any WCF  
12 located in the right-of-way that is necessary in the judgment of the right-of-  
13 way owner for the maintenance or reconfiguration of the right-of-way or for  
14 other public projects, or take any other action or combination of actions  
15 necessary to protect the health and welfare of the Town.

16 8. If an existing utility pole that hosts a WCF must be replaced, the permittee  
17 shall within thirty (30) days after the installation of the replacement pole  
18 either relocate its WCF in the same configuration on the replacement pole, or  
19 remove the prior-existing WCF rather than relocate it, and notify the Director  
20 of the removal, and surrender its permit for cancellation by the Director.

21 9. If the permittee fails to relocate or remove the WCF as required by this  
22 Section, the Town may elect to treat the WCF as a nuisance to be abated as set  
23 forth in Chapter 1 of Title 5 of the Code.

24 P. TRANSFER OF AN INTEREST: A permittee shall not assign or transfer any  
25 interest in its permit for a WCF without advance written notice to the Town. The  
26 notice shall specify the identity of the assignee or transferee of the permit, as well as  
27 the assignee or transferee's address, telephone number, name of primary contact  
28 person(s), and other applicable contact information, such as an e-mail address or  
29 facsimile number. The new assignee or transferee shall comply with all of the  
30 WCF's terms and conditions of approval, and shall submit to the Town a written  
31 acceptance of the permit's terms and conditions and a written assumption of the  
32 obligations thereafter accruing under such permit prior to the date that such  
33 assignment or transfer is intended to take effect.

34 Q. INJUNCTIVE RELIEF: In addition to any other remedies that are available to the  
35 Town, if a WCF is sited, operated, or located anywhere within the Town without a  
36 valid WCF permit issued by the Town pursuant to this policy, or is otherwise sited,  
37 operated, or located in violation of this policy, such action may be enjoined by the

## WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

1 Town in an action brought in the municipal court pursuant to Section 1-8-10 of the  
2 Code, or in any other court of competent jurisdiction. In any case in which the Town  
3 prevails in a civil action initiated pursuant to this Section, the Town may recover its  
4 reasonable attorney fees, together with expert witness fee and costs of the  
5 proceeding.

6 R. CONTROLLING PROVISIONS: In the event of any inconsistency between the  
7 provisions of this policy and any other provision of the Code, the more specific  
8 provision shall control.

9 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the  
10 various secondary codes adopted by reference therein, shall continue in full force and effect.

11  
12 Section 4. The Town Council hereby finds, determines and declares that this ordinance is  
13 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
14 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
15 thereof.

16  
17 Section 5. The Town Council hereby finds, determines and declares that it has the power  
18 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,  
19 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal  
20 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)  
21 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to  
22 home rule municipalities by Article XX of the Colorado Constitution; (vi) the powers contained  
23 in the Breckenridge Town Charter; and (vii) 47 U.S.C. §332(c)(7).

24  
25 Section 6. The Town Council hereby finds, determines and declares that it has the power  
26 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article  
27 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

28  
29 Section 7. This ordinance shall be published and become effective as provided by Section  
30 5.9 of the Breckenridge Town Charter.

31  
32 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
33 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
34 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
35 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
36 Town.

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WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

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TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

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

ATTEST:

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

500-333\WCF Ordinance\_4 (09-30-14)

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

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