



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, April 28, 2015; 3:00 PM

Town Hall Auditorium

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

3:00-3:15pm	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15-4:00pm	II	<u>LEGISLATIVE REVIEW*</u> Off Street Parking Chapter Amendment Special Events Ordinance Amendment Marijuana Licensing Ordinance Ordinance to Approve Cable Television Franchise Agreement with Comcast Cable Television Customer Service Standards Ordinance Comcast Head End Lease Agreement Comcast I-Net Resolution Pinewood Village II Documents Resolution Motion to Cancel May 12, 2015 Regular Town Council Meeting	11 19 44 47 118 137 150 171 176
4:00-4:45pm	III	<u>MANAGERS REPORT</u> Public Projects Update Housing/Childcare Update A. Housing Authority Meeting at Conclusion of Regular Meeting for Pinewood II Document Approval Committee Reports Financials	177 181 182
4:45-6:30pm	IV	<u>OTHER</u> Energy Smart Residential Program Update from HC3 Parking Task Force Update Pricing Philosophy for Non-Profit Town Facility Use Summer Transit Routes	213 215 220 231

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: Julia Puester, Senior Planner

Date: April 22, 2015

Re: Planning Commission Decisions of the April 21, 2015, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF APRIL 21, 2015:

CLASS C APPLICATIONS:

- 1) Hawks Hideaway, PL-2015-0057, 86 New England Drive
Construct a new, single family residence with 5 bedrooms, 6.5 bedrooms, 4,756 sq. ft. of density and 5,471 sq. ft. of mass for a F.A.R. of 1:3.31. *Approved.*
- 2) Liberato Residence Addition, PL-2015-0065, 220 Royal Tiger Road
Addition to existing single family residence to create a total of 4 bedrooms, 3.5 bathrooms, 2,261 sq. ft. of density and 2,895 sq. ft. of mass for a F.A.R. of 1:12.68. *Approved.*

CONTINUED APPLICATIONS:

- 1) Shock Hill Overlook Master Plan Modification, PL-2014-0174, 260 Shock Hill Drive (Class A)
Amend the 2007 Shock Hill Master Plan and, in accordance with Policy 39 of the Development Code, master plan Tract E for the development of up to 20 units in the form of duplexes and/or cluster single-family homes. The modification proposes to utilize no more than 31.25 residential SFEs at 1,600 square feet per SFE of the existing 60.7 SFEs. As a result 29.45 SFEs of residential development rights will be sunsetted. Additionally, none of the 5.3 SFEs of commercial density will be used and will also be sunsetted. *Approved.*
- 2) Shock Hill Overlook Subdivision, PL-2014-0175, 260 Shock Hill Drive (Class B)
Subdivide Tract E of Shock Hill into Tract E-1 (4.361 acres) as the development area and Tract E-2 (2.308 acres) which shall be dedicated as public open space. Future re-subdivisions of footprint lots of each development site will be processed as separate Class C Subdivision permits. *Approved.*

CLASS B APPLICATIONS: None.

CLASS A APPLICATIONS: None.

TOWN PROJECT HEARINGS:

- 1) Summit County Recycling Center Drop Off, PL-2015-0052, 284 Coyne Valley Road
Construct a new recycling center drop off facility to replace the existing facility on County Road 450. *Recommendation that the Town Council approve.*

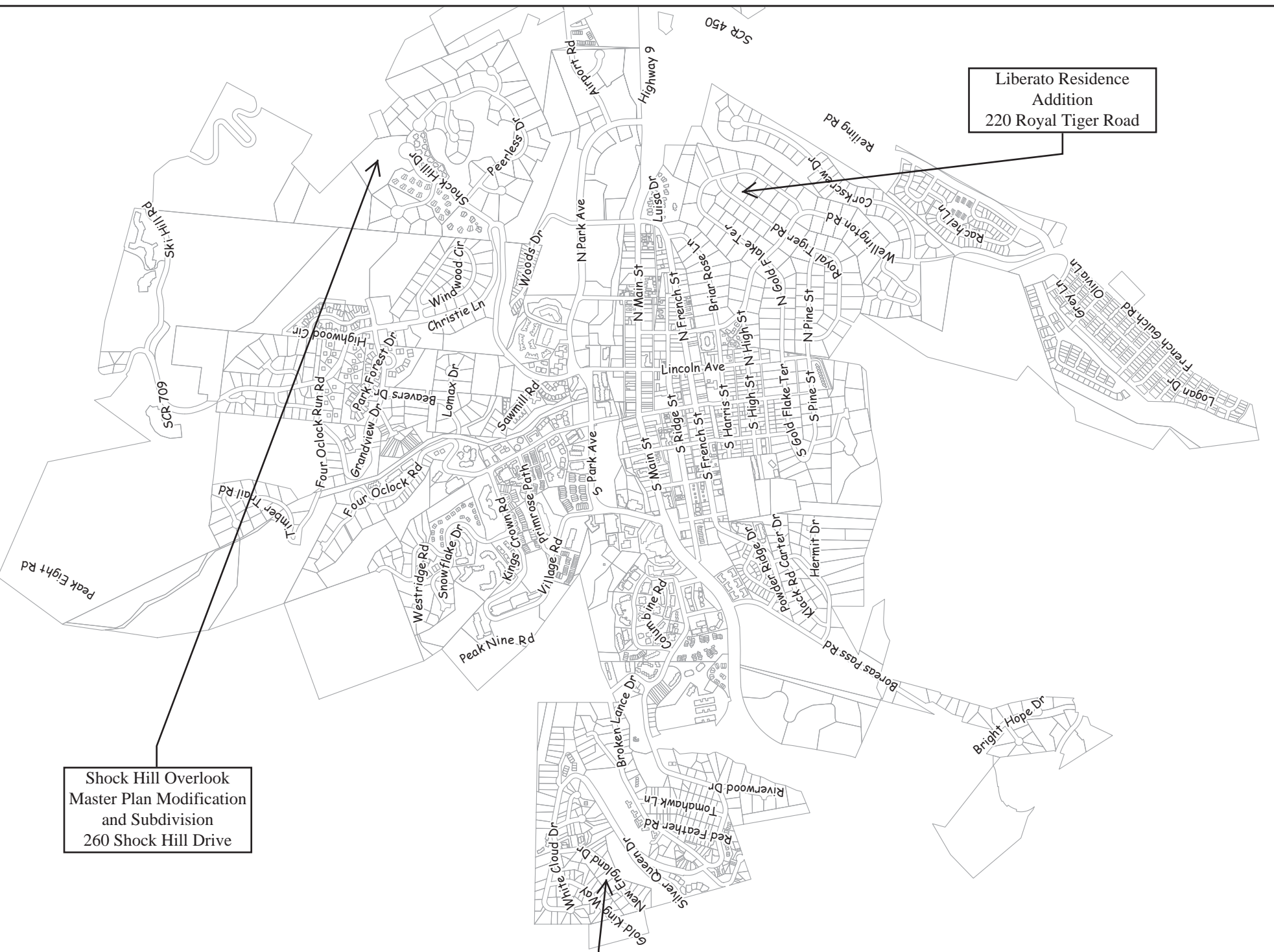
OTHER: None.

Summit County
Recycling Center Drop
Off
284 Coyne Valley Road



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

Breckenridge North



Shock Hill Overlook
Master Plan Modification
and Subdivision
260 Shock Hill Drive

Hawks Hideaway
86 New England Drive

Liberato Residence
Addition
220 Royal Tiger Road

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Kate Christopher Gretchen Dudney Jim Lamb
Ron Schuman Eric Mamula Dan Schroder

Dave Pringle arrived at 7:03pm.

Wendy Wolfe, Town Council Liaison

Also in attendance was Ben Brewer, Town Councilman

APPROVAL OF MINUTES

With no changes, the April 7, 2015, Planning Commission Minutes were approved as presented.

APPROVAL OF AGENDA

With no changes, the April 21, 2015, Planning Commission Agenda was approved as presented.

CONSENT CALENDAR:

- 1) Hawks Hideaway (SG) PL-2015-0057, 86 New England Drive
- 2) Liberato Residence Addition (MGT) PL-2015-0065, 220 Royal Tiger Road

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

TOWN COUNCIL REPORT:

Ms. Wolfe and Mr. Brewer:

- Ms. Wolfe is the new Town representative for Planning Commission, but since she missed the last Town Council meeting Mr. Brewer updated Planning Commission and thanked the Planning Commission for the collaborative work over the past year.
- Discussed off street parking ordinance. Council had some questions, but didn't weigh in very heavily one way or another. Questioned why circular driveways are frowned upon and staff did a good job explaining why and Council was not concerned. Passed at first reading.
- Appointed the three returning candidates to BOSAC out of five great candidates.
- John Warner appointed Town Council members to their new committees. Mr. Brewer is off to sustainability, childcare and grants and Ms. Wolfe is on Planning Commission.
- In regard to the Wellington Neighborhood, there were only 4 members of Council who could vote and they voted unanimously to call up the Wellington Neighborhood master plan. Elizabeth Lawrence and Ben Brewer couldn't vote because they were on the list to buy a house in Lincoln Park, but now Elizabeth is buying a house in the existing neighborhood so there may be more voting Town Council members who can weigh in on the discussion.
- This will be the first call up that Mr. Brewer has experienced as a Council Member. The Planning Commission decision is completely vacated and Council hears the issues again to decide. The bulk of the Planning Commission's work will probably stay in place. Effectively the Town Council will become the Planning Commission in theory on this project now, hearing it all over again. The only thing that is really being considered for change is the phasing for the master plan. You made two decisions: the master plan and the points. The Call Up is next Tuesday at Town Council; it is a public hearing meeting so anyone can attend including Planning Commissioners.

COMBINED HEARINGS:

- 1) Shock Hill Overlook Master Plan Modification (MM) PL-2014-0174, 260 Shock Hill Drive

This project was presented at the April 7 meeting, and public comment was taken at that time. For this meeting, we will just hear final comments from the Commission, and then proceed to a vote on the project.

Commissioner Questions / Comments:

- Mr. Schroder: Since I was absent last meeting it I would like it to be noted that I read the meeting minutes and listened to the last meeting on tape as well as the executive session and read the staff reports.
- Mr. Mamula: I did the same and also spoke to Julia Puester and asked her some questions.
- Ms. Dudney: Question for the staff: was there a resolution to the issue of contemporary architecture? It seemed that the applicant said that it may be contemporary but this seemed like something that the neighborhood did not want. (Ms. Puester: I haven't had any other discussions with the applicant since the last meeting. We will be reviewing development permit application per the Development code policies for Architectural compatibility 5/A and 5/R.) There was also a concern about restricting the numbers of future building of duplex homes/ cluster single family. (Ms. Puester: No further discussions have occurred, but the master plan does allow for both duplex homes and single family as presented without specification of numbers of which type.)
- Ms. Christopher: During the last meeting, we said we would like to see 3 of those homes remain single family but Mr. Moser said you can't do that. (Ms. Puester: The Master Plan as presented would allow the applicant to change the type of housing between duplex and cluster single family homes which would likely happen based on market conditions. The intent of the master plan is not to be a site specific plan. That said, a master plan modification could specify the number of a type of structure such as single family or duplex if the applicant agreed however, again, you would not be locating specifically on the site.) (Mr. Berry: You can't ask the applicants a question at this point in the hearing). I don't think that the exact location was important but I would like to see a number of single family residences and duplex units.
- Ms. Dudney: The Master Plan allows for modifications for the future as long as it complies with density.

Commissioner Final Comments:

- Mr. Pringle: I understand the concerns of the neighbors and Shock Hill residences and I personally may share some of them, but I'm looking at plans tonight that comply with all of the Town requirements.
- Ms. Dudney: I agree with Mr. Pringle. The issue of viability came up and that is not relevant to the Commission decision. The issue with density which we received a legal opinion on it is allowable to use the density even though the uses have changed. Given that, I have to approve the plan. It is too bad that we can't stipulate the three single family homes as shown at this point, but that is the way a Master Plan operates. If they decide to come back and modify it this issue, it can be discussed again. The final issue is the guidelines of the HOA of which we have no control or role in relationship to promises to the HOA. I will vote to approve the Master Plan.
- Mr. Pringle: I didn't get the decision in the packet.
- Mr. Mamula: It came as a separate e-mail (read it now).
- Mr. Lamb: I agree that the economic viability and the HOA Design Standards is something we can't address. This meets code.
- Ms. Christopher: I really like how the development is set up to be heavy on one side and preserves the Cucumber Gulch. I encourage the applicant to build the three single families.
- Mr. Schroder: It meets the code and I support what has been presented by staff.
- Mr. Schuman: I want to thank everyone for their time and effort in being present at these meetings. I do approve this.
- Mr. Mamula: I want to thank Ms. Christopher for doing a good job in my absence last meeting. The applicant is allowed two units per acre, even with the 60 SFE's currently allowed on this property, this is under the 2 UPA for the entire subdivision. The plat going back to 1998 has this site shown as a multi-family and a lodge with 60 SFEs plus. The Master Plan and the

land use guidelines are satisfied. As for density, the 60.7 SFEs has been slated since the original Master Plan. I applaud that there is reduced density and commercial SFEs on this property. This plan has 50,000 sq. ft as compared to 96,000 sq. ft. currently approved as a lodge. This is similar UPA's to Shock Hill Condos and Landing next door and from the Gulch there is a height reduction of 55 feet to 35 feet. It's rare we get to see a reduction in density and this meets a goal of the JUMP (Joint Upper Blue Master Plan). I have a concern about the ridgeline. Sites 3, 4, 5 should come back as Class C's and I ask the Planning Staff to keep this in mind as permit come in. I think it is important that we get a close look at those potential locations. Water monitoring needs to be noted and called out as it is important, it's already a condition here. I understand that a lot of people want a lodge but that is not within our scope. I see no way that the Planning Commission can deny this plan.

- Mr. Pringle: I have one question, in the original drawing of Shock Hill subdivision was there ever a change to Tract E and the ridgeline and the subsequent PMA with a greater set back?
- Mr. Mamula: No I don't think so because with the subdivision of E1 and E2 this is a greater setback than before. The Cucumber Overlay District was done after it was already platted.

Mr. Pringle made a motion to approve the Shock Hill Overlook Master Plan Modification, (an amendment of Tract E of the 2007 Second Amended Shock Hill Master Plan for the Shock Hill Subdivision Property), PL-2014-0174, 260 Shock Hill Drive, with the point analysis and Findings and Conditions Mr. Berry sent under separate cover. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

2) Shock Hill Overlook Subdivision (MM) PL-2014-0175, 260 Shock Hill Drive

This project was presented at the April 7 meeting, and public comment was taken at that time. For this meeting, we will just hear final comments from the Commission, and then proceed to a vote on the project.

Commissioner Final Comments:

- Mr. Pringle: My only question is that the PMA regulations are being addressed with this subdivision. (Ms. Puester: It complies and would comply with development per code.)
- Ms. Dudney: No comment.
- Mr. Lamb: No comment.
- Ms. Christopher: No comment.
- Ms. Schroder: No comment.
- Mr. Schuman: No comment.
- Mr. Mamula: No comment.

Mr. Pringle made a motion to approve the Shock Hill Overlook Subdivision, P6-2014-175, 260 Shock Hill Drive, with the presented point analysis and findings and conditions. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

- Ms. Dudney: Is the opinion of the findings and conditions public, the email that we received?
- Mr. Mamula: Yes, it is public record. (Mr. Berry handed out the finding and conditions to interested parties).

TOWN PROJECT HEARINGS:

1) Summit County Recycling Center Drop Off (JP) PL-2015-0052, 284 Coyne Valley Road

Ms. Puester presented a proposal to construct a new, twenty four hour recycling center drop off facility to replace the existing facility on County Road 450. This is a Town Project pursuant to the ordinance amending the Town Projects Process (Council Bill No. 1, Series 2013). As a result, the Planning Commission is asked to identify any concerns with this project, and any code issues and make a recommendation to the Town Council.

Staff suggested that the Planning Commission recommend approval of the Summit County Recycling Center Drop Off (PL-2015-0051) located at 284 Coyne Valley Road with a passing point analysis of zero (0) points and the presented Findings. Staff welcomed questions from the Commission.

Mr. Mamula opened the hearing to public comment. He acknowledged a letter received from May Siekman Whatley and asked her if she would like to come to the podium to add to the letter. Declining, there was no public comment and the hearing was closed.

Commissioner Questions / Comments:

Ms. Dudney: Is the picture that shows simulated landscaping is that the truly the plan? (The Applicant explained the process of simulating. 6-12' tall trees are shown which is what they are proposing to plant upfront.) Is this possible to receive positive points if they bump up the number of deciduous trees? (Ms. Puester: Yes, if the size of the deciduous trees get larger. Have not addressed this with the applicant).

Ms. Christopher: Is the pedestrian walkway the same grade as the parking? (Ms. Puester: Yes.)

Mr. Schuman: Are you looking for any electricity? (Ms. Puester: Will let the applicant address that.)

Mr. Mamula: Can you explain the 30" wall in the front? (Ms. Puester: It is 30" high drop at the container side and it is a 3'5" tall wall total.)

Ms. Christopher: Will people be stepping up on the wall lip to drop off recyclables?

Applicant Presentation:

Mr. Don Leinweber, Engineer for the Applicant: The 30" drop on the back is with a 1'5" curb on pedestrian side. The 30" is so that it doesn't meet a building code condition for a handrail. We have open at grade access from the parking spaces; there would be no restriction on the site if someone is walking around it carrying recyclables. No trip hazard.

Mr. Leinweber: This is a scaled back version from the earlier plan and serves the recycling function. At the current location there is a lot of conflict for emptying the dumpsters so that was as a priority for designing this site. We over did the snow storage on purpose to show us internally how Aaron's staff can manage it. The fence is very important for Mr. Burn and his staff. Drainage and Water Quality, we worked on a specific site here where it is more industrial.

Commissioner Questions / Comments:

Mr. Pringle: Are you intending to have recycling for oil and how are we going to address spillage since this is adjacent to Blue River? (Mr. Burn: We are considering stopping the oil recycling here. Oil is not something we want to do here moving forward; we do have containment issues. We are seeing large quantities of oil; our intentions are to propose the existing recycling here without the oil.) The fence in front; since the wind comes from the north and northwest, I think it will be beneficial to have a 4 foot fence behind the landscaping also on the south side for trapping the trash. I use the recycling centers and I really like the one in Frisco. I don't know who made the decision to not have lighting. I think it is important to have some even though it should be low.

Ms. Dudney: I think Mr. Pringle makes excellent points.

Mr. Schuman: I do agree with the electricity and lighting. The corner at Airport; are you going to rebuild the entire corner to make it a four way stop? (Mr. Leinweber: Yes, the plan is to make it four way stop and I'd like to see it squared up, the cut is too big right now and tightening it up will make movements safer. On the utility question, we will need to run power for the irrigation system, so there will be a small amount of electricity for now. We did talk about low level pedestrian scale lighting but not proposed here. We may have compacting cardboard dumpsters down the road.)

Mr. Mamula: Please explain the wall. (Mr. Leinweber: At the County Road 450 site, there is a platform between the dumpsters. With the wall proposed, you can effectively walk up and dump your

recyclables. It is a 1' 6" wall on the front and 30" wall on the back by the dumpsters. It will have a structural concrete design with a full footing; it is an engineered retaining wall. One and a half foot curb on the front and screened by the dumpsters on the backside.) Could you stain the concrete? What will stop me from parking in the no parking area? (Mr. Leinweber: Nothing except your good conscience. The issue with putting a curb there is that it becomes a nightmare for snow removal. And we would need one handicap spot but we felt that was restrictive. We feel this is a good compromise, we will do our best to stripe it.) (Mr. Burn: The curb setup, I went to the Breckenridge recycling area and watched people carry so much that they couldn't see where they were walking and I didn't want there to be a trip hazard.) Vehicle / pedestrian conflicts would still be there even if we had a curb. What about bear proofing preventative measures? (Mr. Burn: We have not had any bear issues because recycling is clean at the existing Frisco and Breckenridge sites.)

Mr. Pringle: Are there going to be any duplications of recycling dumpsters? If I had to go to multiple dumpsters, honestly I would move my car. (Mr. Burn: We have more capacity here and we want to move the cans so that it can be as efficient as possible. We will be doubling the capacity of our most popular recyclables. We will be open 24 hours a day, 7 days a week.)

Ms. Dudney: What do you think about the winds blowing and the trash issue? (Mr. Thad Knoll, Assistant Summit County Manager: We originally proposed a fence all the way around and the Town Council said no fence. Yes, a fence is better for trapping trash.) If the Town Council doesn't want to add the fence now for budgetary or aesthetics, could a fence be added later? (Mr. Burn: Yes, we could add the fence later if needed, on the south side of the ditch.)

Ms. Christopher: Has the Town considered putting a regular trash dumpster at the recycling center? Because guests at condos don't have a place to put their trash. (Mr. Burn: Unmanned site, having that access that trash is accepted, we would see trash at that site 7 days a week and a potential bear issue.) There is a problem I see at the Welcome Center that guests are putting trash into the trashcans on the street. (Mr. Knoll: This is a big problem everywhere, but it is the responsibility of the guest.) (Mr. Leinweber: This would be tough.) The fence goes around the back of the property.

Mr. Lamb: I like Ms. Christopher's idea to have trash receptacle but you will have bears and a mess. The existing site doesn't have lighting and it seems to be functioning well without it. I think the screening is good and the layout. I like the size, I think this will work much better.

Mr. Pringle: I appreciate that the landfill is open on Saturday now, because town cleanup day is an issue without a place to put trash. I think we need to be proactive with having a location for oil. People will need to get rid of it. I do recycle late at night and I do like having it lit. The Frisco site is lit with nearby ambient light so I'm a proponent for some sort of subtle lighting even if it is solar. I think that if you put a 4' fence behind the front landscaping that would go a long way to trap the trash and as trees mature they will cover up the fence. I'm looking at the alignment and I don't have a good suggestion except for the barn fence non-defined parking situation; I hope we are not encouraging people to get in their cars and moving down to different spots to recycle. I think it is great. Why can't we find some way to get a fee to pay for this?

Ms. Dudney: No comments; I would encourage the Town Council to approve.

Ms. Christopher: I agree with Mr. Pringle to encourage some lighting and the fence.

Mr. Schroder: I support the project. Staff asked us if we had any issue with policy 7/R with that wall design and I say no concerns.

Mr. Schuman: I don't think policy 7/R applies here. I think it needs electricity. I think it needs better fencing; maybe a public art contest to make the fence look better? I don't think we should have a fee; I pay enough taxes.

Mr. Mamula: I would like to see the concrete wall stained but I'm the only one on that. I think the Council should think about the fence again because I'm worried about the trash blowing. I would like to see lighting here and would like the oil stay at the landfill. I would like to see you put

some cameras up; whether they work or not they will keep people from leaving items that they shouldn't be.

Mr. Pringle made a motion to recommend the Town Council approve the Summit County Recycling Center Drop Off, PL-2015-0052, 284 Coyne Valley Road Town Project, with the presented Findings. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

OTHER:

- 1) Class C Subdivisions Approved for Q1, 2015 (JP) (Memo Only)
- 2) Class D Majors Approved for Q1, 2015 (JP) (Memo Only)

Commissioner Questions / Comments:

No questions or comments.

- 3) Staff Update: Ms. Puester noted that on May 13th, 2015, there would be a County wide Planning Commission training event presented by DOLA from 5:00-7:30pm in Frisco. Location to be announced. Light dinner will be served. Please let Ms. Puester or Ms. Brewster know if you plan to attend. A reminder will be sent out.

ADJOURNMENT:

The meeting was adjourned at 8:38pm.

Eric Mamula, Chair



MEMORANDUM

TO: Town Council

FROM: Julia Puester, AICP, Senior Planner

DATE: April 15, 2015 for April 28, 2015 Council Meeting

SUBJECT: Off Street Parking (Chapter 3) Second Reading

The second reading of the ordinance amending Chapter 3 of the Town's Development Code regarding Off Street Parking is scheduled for your meeting on April 28th. There are no changes proposed to ordinance from first reading.

Staff will be available at the meeting if there are any concerns or comments from the Council.

1 ***FOR WORKSESSION/SECOND READING – APR. 28***

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~
5

6 ***NO CHANGE FROM FIRST READING***

7
8 COUNCIL BILL NO. 10

9
10 Series 2015

11
12 AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE CONCERNING OFF STREET PARKING
14

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

17
18 Section 1. Section 9-3-3 of the Breckenridge Town Code is amended to read as follows:

19
20 9-3-3: AUTHORITY:

21
22 This chapter is adopted pursuant to: ~~one or more of the following authorities: a) the~~
23 ~~authority granted to home rule municipalities in Colorado by article XX of the Colorado~~
24 ~~constitution; b) the powers contained in the Breckenridge town charter; c) the powers~~
25 ~~contained in parts 2 and 3 of article 23 of title 31, Colorado Revised Statutes; and d) the~~
26 ~~Colorado land use enabling act, article 20 of title 29, Colorado Revised Statutes~~ **(a) the**
27 **local government land use control enabling act, article 20 of title 29, Colorado**
28 **Revised Statutes; (b) part 3 of article 23 of title 31, Colorado Revised Statutes**
29 **(concerning municipal zoning powers); (c) section 31-15-103, Colorado Revised**
30 **Statutes (concerning municipal police powers); (d) section 31-15-401, Colorado**
31 **Revised Statutes (concerning municipal police powers); (e) the authority granted to**
32 **home rule municipalities by article XX of the Colorado constitution; and (f) the**
33 **powers contained in the Breckenridge town charter.** The provisions of this chapter
34 shall not be construed to limit the power of the town to utilize other methods authorized
35 under state law or pursuant to other local government powers to accomplish the purposes
36 set forth herein, either in substitution or in conjunction with this chapter
37

38 Section 2. Section 9-3-6 of the Breckenridge Town Code is amended by the addition of
39 the following definition:
40

41
STAGING
AREA:

A section of a driveway designed to allow vehicles to safely stop
before entering the roadway. This is typically the first twenty feet
of a driveway.

1 Section 3. The “Note” located immediately following the table in Section 9-3-8(B) of the
2 Breckenridge Town Code is amended to read as follows:

3 Note: The required number of parking spaces shall be rounded up to the nearest whole
4 number. **Required residential spaces shall be rounded up based on the unit count if**
5 **parking spaces are assigned.**

6 Section 4. Section 9-3-8(C) of the Breckenridge Town Code is amended to read as
7 follows:

8
9 C. Compliance With Parking Requirement Mandatory: No new development **or change of**
10 **use** for which off street parking is required under this chapter may be approved unless
11 compliance with the requirements of this section is achieved.

12 Section 5. Section 9-3-9 of the Breckenridge Town Code is amended to read as follows:

13
14 **9-3-9: DESIGN STANDARDS FOR OFF STREET PARKING FACILITIES:**

15
16 Each off street parking facility constructed pursuant to the requirements of this chapter
17 shall conform to the following design standards:

- 18
19 A. Compliance With Codes Required: The design and structural quality of all off street
20 parking spaces and facilities required by this chapter shall conform to: 1) all applicable
21 standards contained in this chapter; 2) the development code; 3) the Breckenridge street
22 standards ordinance; and 4) other applicable town ordinances. Drainage facilities shall be
23 constructed pursuant to the Breckenridge storm drainage **standards ordinance** and the
24 town's water quality and sediment transport control ordinance.
- 25 B. Width Of Parking Aisles: The following minimum aisle widths shall apply to all off street
26 parking facilities within the town:

Angle Of Parking Stall	Aisle Width
45°	12'
60°	16'
75°	22'
90°	24'

27
28 C. Size Of Parking Stalls: The following minimum sizes shall apply to all off street parking
29 stalls within the town:

	Length	Width	<u>Height</u>

30° _ 90° parking	18'	9'	<u>n/a</u>
Parallel parking	25'	8'	<u>n/a</u>
Enclosed parking	18'	9'	<u>n/a</u>
<u>Stacked Parking</u>	<u>18'</u>	<u>9'</u>	<u>6'5"</u>

D. Ingress And Egress: The ingress and egress provisions for off street parking spaces shall conform to the following standards:

1. Location Of Driveways: No portion of any entrance or exit driveway leading from or to a public street, highway or alley for the purpose of off street parking shall be closer than ~~thirty five feet (35')~~ **thirty feet (30')** to an intersection point of two (2) or more public streets, alleys or highways. The intersection point shall be determined by the crossing of two (2) rights of way, curb lines, or two (2) physically established edges of the public street, alley or highway, whichever is most restrictive.
2. Width Of Driveways: The width of driveway connecting an off street parking area with a public street, alley, or highway shall not exceed ~~thirty feet (30')~~ **twenty feet (20')** at its intersection with the property line, curb line, right of way or the physically established edge of the public street, alley or highway, whichever is most restrictive.

Private driveways shall comply with the standards in the table below.

Private Driveway Standards

<u>Design Element</u>	<u>1 & 2 Family Residential</u>	<u>Multi- family Residential</u>	<u>Commercial</u>
<u>Minimum Width- (ft.)</u>	<u>12</u>	<u>12</u>	<u>12</u>
<u>Maximum Width-including flares (ft.)</u>	<u>20</u>	<u>25</u>	<u>35</u>
<u>Maximum Slope (%)</u>	<u>8</u>	<u>8</u>	<u>8</u>
<u>Maximum Slope for first 20 feet from Road Edge (%)</u>	<u>4</u>	<u>4</u>	<u>4</u>

3. Frequency Of Driveways: No two (2) driveways connecting a public street, alley or highway to an off street parking area shall be within thirty feet (30') of one another at their intersections with the property line, curb line, right of way line or the physically established edge of the public street, alley or highway, whichever is most restrictive. **One driveway shall be allowed per lot unless otherwise permitted by the Town Engineer. Circular driveways consisting of two curb cuts onto a street are not permitted. Existing circular driveways or multiple driveways shall be reduced to one driveway curb cut as a condition of the issuance of a development permit for future development of the subject property in accordance with the following schedule: a)**

1 within the conservation district, whenever a class B minor development permit or
2 higher is issued; and b) outside the conservation district, whenever a class D major
3 development permit or higher is issued.

- 4 4. Angle Of Intersection: All driveways serving off street parking facilities shall intersect
5 public streets and alleyways and other driveways at a ninety degree (90°) angle.
- 6 5. Accessibility: All off street parking stalls shall have legal, unobstructed access to a public
7 street or alleyway.
- 8 6. Backing On To Public Street: Excepting single-family and duplex parking areas all other
9 parking stalls shall be so designed, located and served by maneuvering lanes or spaces
10 that their use will under no circumstances require a backing movement onto any public
11 street.
- 12 7. Visual Clearance: All driveways leading to and from off street spaces that intersect
13 possible pedestrianways shall be visually unobstructed for such distances as not to
14 imperil pedestrians or interfere with vehicular traffic on the street.
- 15 ~~8. Traffic: The location and number of driveways must be so arranged that they will reduce~~
16 ~~the possibilities of traffic hazards as much as possible.~~
- 17
- 18 E. Lighting: All parking facilities containing ten (10) or more parking spaces shall have an
19 average surface illumination of not less than 0.2 foot-candle or more than 1.5 foot-
20 candles. All lights shall be designed, located and arranged so as to reflect the light away
21 from adjacent streets and structures.
- 22 F. Grades: The sustained surface grades for parking areas shall not exceed a minimum of
23 one-half percent (0.5%) or a maximum of four percent (4%). Driveway grades shall not
24 exceed a maximum grade of eight percent (8%). The first five feet of an driveway
25 shall be graded to match the cross slope of the connecting street. For downhill sites,
26 a twenty foot (20') staging area with a maximum grade of negative four percent
27 (-4%) is required (Attachment B). For uphill sites, a twenty foot (20') staging area
28 with the first five (5') feet matching the cross slope of the connecting road and the
29 next fifteen feet (15') at a maximum grade of four percent (4%) is required
30 (Attachment C).
- 31 G. Heated Driveways: Driveway heat systems shall terminate at the property line. If
32 the system extends into the public right of way, a separate zone must be created for
33 that portion of the system and accommodations must be made to reduce the impacts
34 of the melted drainage at the snow/melted interface. A revocable License Agreement
35 acceptable in form and substance to the Town Attorney must be approved by the
36 Town and executed prior to the issuance of a Certificate of Occupancy.
- 37 GH. Drainage: All off street parking facilities shall be graded for proper drainage so that all
38 surface discharge is channeled to a natural or improved drainageway without causing
39 nuisance or damage to other properties or the improvements thereon.

1
2 **HI.** Location: The location of all required off street parking facilities shall be as follows:
3

4 1. Residential Uses: For residential uses, except residences located in buildings adjacent to
5 the “Riverwalk” as defined in section 9-1-19-37A, “Policy 37 (Absolute) Special Areas”,
6 of this title, all required off street parking spaces shall be provided on the same property
7 as the residential units they are intended to serve.

8 2. Nonresidential Uses: Off street parking for nonresidential uses shall be placed totally on
9 the same parcel of land as the use, **unless a fee in lieu is paid to the Town as provided**
10 **in Section 9-3-12.**

11 3. Parking Space Location: No parking space shall be located closer than five feet (5') from
12 any public street, public alley, public pedestrianway or public right of way.

13 **IJ.** Landscaping: A minimum of twenty five (25) square feet per parking stall shall be
14 utilized for landscaping purposes. Any parking facility containing more than two (2) side by
15 side loading spaces shall contain at least two hundred (200) square feet of landscaped area
16 raised a minimum of six inches (6”) above the parking surface for each two (2) side by side
17 loading spaces. Landscaping shall be maintained according to the standards contained in the
18 development code.
19

20 **JK.** Snow Stacking: All off street surface parking facilities shall provide a minimum of sixty
21 (60) square feet of snow stacking space for each parking space. Such space shall be so
22 located as to reasonably facilitate the snowplowing process. The snow stacking space shall be
23 landscaped in such a manner as not to interfere with the snow stacking process.
24

25 **KL.** Signs: The placement of appropriate signs is encouraged according to the provisions of
26 the Breckenridge sign ordinance. Parking lot and circulation directional signs must be
27 approved pursuant to the town's sign ordinance. All signs relating to off street parking
28 facilities shall be reviewed according to the development code.
29

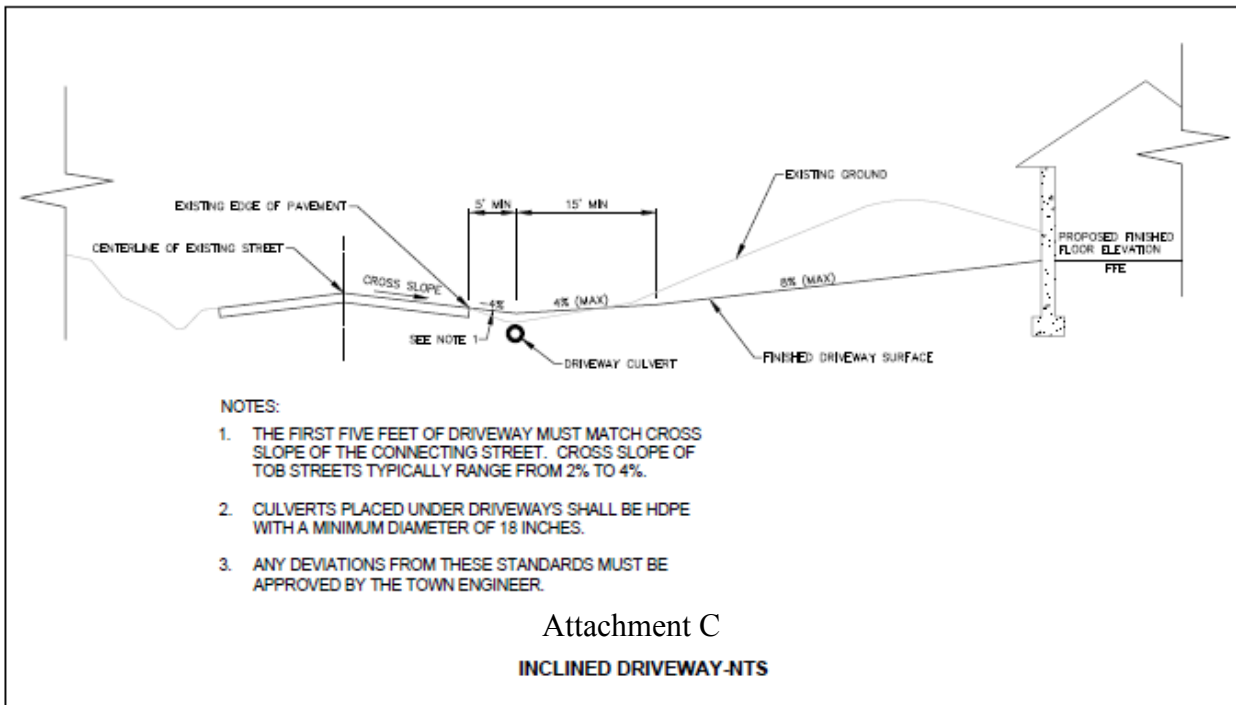
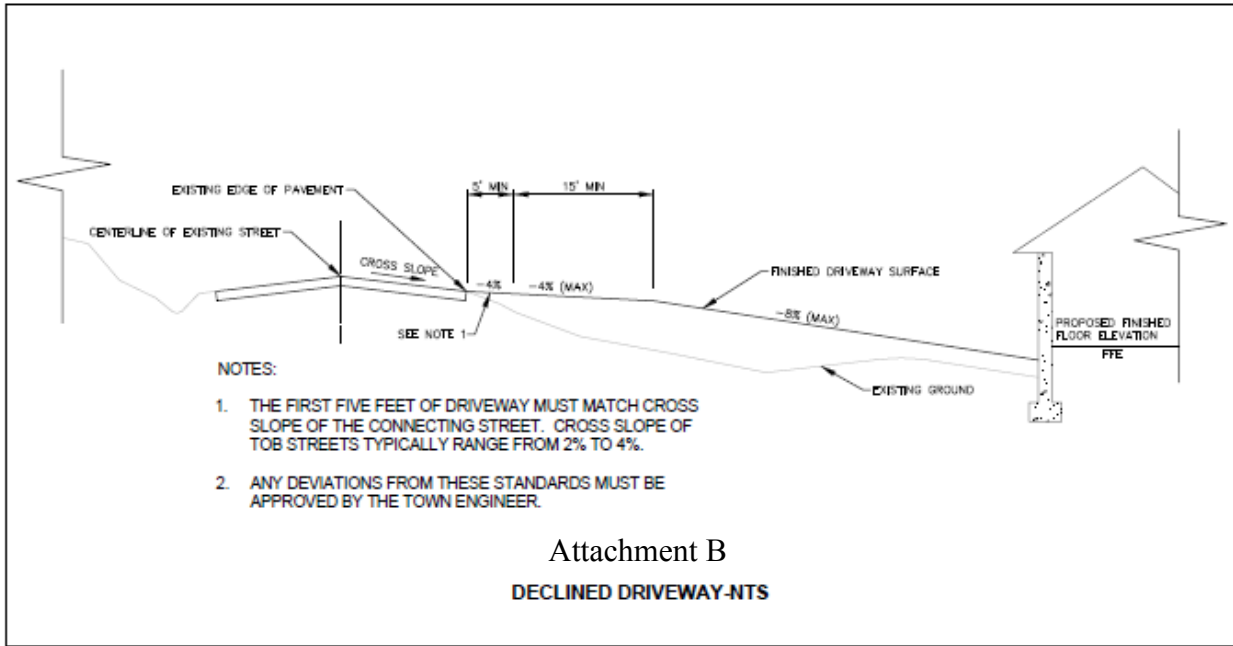
30 **LM.** Paving:

31 1. Off Street Parking Spaces: All off street parking spaces shall be paved.
32

33 2. Driveways: All driveways shall be paved; provided, however, that any unpaved driveway
34 which exists at the time of the adoption of this subsection **LM** shall be paved as a
35 condition of the issuance of a development permit for future development of the subject
36 property in accordance with the following schedule: a) within the conservation district,
37 whenever a class B minor development permit or higher is issued; and b) outside the
38 conservation district, whenever a class D major development permit or higher is issued.

39 Section 6. The following two drawings are to be inserted into Chapter 3 of Title 9 of the
40 Breckenridge Town Code following the map of the “Parking Service Area” (Attachment A):
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Section 7. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

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

Section 9. 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 _____, 2015. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of _____, 2015, 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



MEMO

TO: Town Council
FROM: Director of Communications
DATE: April 21 (*for April 28, 2015 meeting*)
RE: Special Events Ordinance & Administrative Regulations
CC: Breckenridge Events Committee Members

Thank you for your input and discussion regarding the Special Events ordinance and administrative regulations at the March 24, 2015 work session. Based on what we heard from the Council, the Breckenridge Events Committee (BEC) made various modifications.

In essence, the changes made include:

- Added flexibility and exemptions for film/photo shoots.
- Moved the no “longer than 5 days” into Standards For Issuance of Permit instead of under Denial for Permit to remove confusion.
- Added a new definition for freelance/commercial photographers/videographers (crew of three or under) for exemption.

Please note that the 45 day application time frame still applies; however, there is the provision for waiving if it has low impact on resources and the public.

Key Elements of the Ordinance revisions:

- ✓ Simplification – provide the general overview of special events in the ordinance, and add Administrative Rules and Regulations that can evolve as the process and the level of events mature.
- ✓ Add the Breckenridge Events Committee as the oversight group.
- ✓ Remove reference to Events Manager as this position no longer exists.
- ✓ Refine and tighten up definition of special event, including the addition of the length of time for an event.
- ✓ Add in Photo/Film Shoots as an ‘Event’ so this process would include the application and review of these requests.
- ✓ Update the Outdoor Display of Merchandise regulations as it relates to special events.
- ✓ Clarify/rename the Special Events Business License so it is not confused with the Special Events Permit.

The Breckenridge Events Committee has been reviewing the process over the past few months, and presents the revised Special Events Ordinance and accompanying Administrative Rules and Regulations that follow for your consideration.

I will be available for questions, clarifications and look forward to receiving input on these revisions.

Thank you.

1 ***FOR WORKSESSION/FIRST READING - April 28, 2015***

2
3 **Marked To Show Changes To the Draft Ordinance Reviewed**
4 **At the March 24, 2015 Town Council Meeting**

5
6 COUNCIL BILL NO. ____

7
8 Series 2015

9
10 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 13 OF
11 TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING SPECIAL EVENTS;
12 AND MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN
13 CODE RELATED THERETO

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

17
18 Section 1. Chapter 13 of Title 4 of the Breckenridge Town Code is repealed and
19 readopted with changes to read as follows:

20
21 Chapter 13
22 SPECIAL EVENTS

- 23
- 24 4-13-1: SHORT TITLE:
- 25 4-13-2: PURPOSE:
- 26 4-13-3: FINDINGS:
- 27 4-13-4: DEFINITIONS:
- 28 4-13-5: PERMIT REQUIRED:
- 29 4-13-6: EXCEPTIONS:
- 30 4-13-7: APPLICATION FOR PERMIT:
- 31 4-13-8: FEES:
- 32 4-13-9: INVESTIGATION OF APPLICATION:
- 33 4-13-10: STANDARDS FOR ISSUANCE OF PERMIT:
- 34 4-13-11: RELATIONSHIP TO OTHER TOWN ORDINANCES:
- 35 4-13-12: DENIAL OF PERMIT:
- 36 4-13-13: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT:
- 37 4-13-14: NONDISCRIMINATION; CONTENT NEUTRALITY:
- 38 4-13-15: DECISION BY TOWN MANAGER:
- 39 4-13-16: NOTICE OF DECISION:
- 40 4-13-17: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT:
- 41 4-13-18: CONTENTS OF PERMIT:
- 42 4-13-19: PERMIT NOT TRANSFERABLE:
- 43 4-13-20: NOTICE OF ISSUANCE OF PERMIT:
- 44 4-13-21: INSURANCE REQUIREMENT:

- 1 4-13-22: DUTIES OF PERMITTEE:
- 2 4-13-23: POSTING OF PERMIT:
- 3 4-13-24: SUSPENSION OR REVOCATION OF PERMIT:
- 4 4-13-25: PENALTIES; INJUNCTIVE RELIEF:
- 5 4-13-26: RULES AND REGULATIONS:

6
7 4-13-1: SHORT TITLE:

8
9 This chapter shall be known and may be cited as the TOWN OF BRECKENRIDGE SPECIAL
10 EVENTS ORDINANCE.

11
12 4-13-2: PURPOSE:

13
14 The purpose of this chapter is to establish a procedure for permitting and regulating special
15 events, as that term is defined in this chapter. It is not the intent of this chapter to regulate speech
16 or other forms of conduct protected by either the first amendment to the United States
17 constitution or by the Colorado constitution. The permitting process established by this chapter is
18 intended to be content neutral and not subject matter based. This chapter is intended merely to
19 establish a nondiscriminatory mechanism by which the town can control, through appropriate
20 regulation, the holding of special events.

21
22 4-13-3: FINDINGS:

23
24 The town council hereby finds and determines as follows:

- 25
26 A. The town of Breckenridge is authorized to regulate businesses operating within the town
27 pursuant to section 2.2 of the Breckenridge town charter and section 31-15-501, Colorado
28 Revised Statutes.
- 29
30 B. Special events, as defined in this chapter, contribute to the economic, cultural, social, and
environmental health and wellbeing of the community.
- 31
32 C. Special events, however, create special regulatory problems and quality of life issues,
33 including, but not limited to, the need for crowd control, sanitation, security, traffic management,
parking, infrastructure, and desire to balance the quality and quantity of events.
- 34
35 D. In enacting this chapter the town council is exercising its police power as granted by the
36 town’s charter, and the constitution and statutes of the state of Colorado, as well as its power to
license and regulate business activities.

37 4-13-4: DEFINITIONS:

38
39 As used in this chapter the following words have the following meanings, unless the context
40 clearly requires otherwise:
41

1 APPLICANT: A person who has submitted an application for permit pursuant to this chapter.
2
3 APPLICATION: An application for permit submitted pursuant to this chapter.
4
5 DAY: A calendar day, unless otherwise indicated.
6
7 ENTERTAINMENT: Includes, but is not limited to, touring exhibitions, concerts, performances
8 of dance, music, drama, art and comedy, parades, sporting exhibitions or contests, festivals, fairs,
9 automotive displays, and performances of skill.
10
11 FILMING: The taking of motion pictures, the taking of still photography or the use and
12 operation of television cameras or transmitting television equipment, including radio remotes and
13 any preparatory activity associated therewith, and shall include events that include, but are not
14 limited to, the making of feature or documentary films, television serials, webcasts, simulcasts or
15 specials. The town manager shall provide in ~~Private, non-commercial filming and photography~~
16 may be exempted from the permitting requirements of this chapter pursuant to the administrative
17 rules and regulations adopted by the town manager pursuant to section 4-13-26 appropriate
18 exemptions from the permitting requirements of this chapter for filming and photography
19 activities not significantly affecting Town property and not requiring substantial Town services
20 shall be exempt from the requirements of this chapter.
21
22 PERMIT: A permit issued by the town pursuant to this chapter.
23
24 PERMITTEE: The person to whom a permit has been issued pursuant to this chapter.
25
26 PERSON: Has the meaning provided in section 1-3-2 of this code.
27
28 SPECIAL EVENT OR EVENT: A planned or organized occurrence that:
29
30 (a) includes an expected gathering of 50 or more people if: (i) the primary purpose of the
31 occurrence is entertainment; (ii) the public or a substantial portion of the public is invited to the
32 occurrence, either by express invitation or by implication; and (iii) the occurrence is expected to
33 have a visual, noise, or environmental impact, or to cause disruption of the normal routine of the
34 community or the affected neighborhood; or
35
36 (b) involves filming.
37
38 TOWN: Has the meaning provided in section 1-3-2 of this code.
39
40 TOWN MANAGER: The Town Manager of the Town of Breckenridge, or his or her designee
41 acting pursuant to section 1-7-2 of this code.
42
43 4-13-5: PERMIT REQUIRED:

1
2 No person shall stage, hold, present, or conduct a special event within the town without a valid
3 permit issued in accordance with this chapter.

4
5 4-13-6: EXCEPTIONS:

6
7 The requirements of this chapter shall not apply to:

8
9 A. An indoor special event of any kind;

10 B. A special event held by the town;

11 C. An event held at Carter Park, Kingdom Park, or the town's multipurpose fields contracted
12 through the recreation department and constituting "normal or regular" use of those town
13 facilities; or

14 D. An event protected by either the first amendment to the United States constitution or by the
15 Colorado constitution; provided, however, that a person staging, holding, presenting, or
16 conducting such an event shall submit an application and obtain a permit pursuant to this chapter,
17 but there shall be no fee required and the deadline for submission of an application as provided
18 in subsection 4-13-7B of this chapter does not apply to such an application. The town manager
19 may also modify any other requirement of this chapter with respect to such an application if
20 necessary to comply with applicable law.

21 4-13-7: APPLICATION FOR PERMIT:

22
23 A. A person seeking to obtain a permit shall file an application with the town manager. The
24 form of the application shall be established by the town manager in administrative rules and
25 regulations adopted pursuant to section 4-13-26.

26 B. An application for a special event permit shall be filed with the town manager not less than
27 forty five (45) days nor more than three hundred sixty five (365) days before the special event is
28 proposed to begin. The town manager may waive the minimum forty five (45) day filing period
29 and accept an application filed within a shorter time period if, after due consideration of the date,
30 time, place, and nature of the special event, the anticipated number of participants, and the town
31 services required in connection with the special event, the town manager determines that
32 sufficient time exists for the proper investigation and review of the application; that the waiver
33 will not present a hazard to public health, safety or welfare; and that the waiver will not create a
34 substantial burden on the town's staff or financial resources.

35 C. A permit issued pursuant to this chapter eliminates the need for a development permit to
36 authorize the special event. However, an applicant may still be required to obtain a development
37 permit depending on the size and scale of any temporary structures proposed to be used in
38 connection with the special event. The need for a development permit will be determined by the
39 town manager once the application has been received and reviewed.

1 D. An application for a special event permit shall contain such information as shall be
2 established by the town manager in administrative rules and regulations adopted pursuant to
3 section 4-13-26.

4 E. Applications shall be processed by the town manager in order of receipt.

5 4-13-8: FEES:
6

7 A. When an application is filed an applicant shall pay to the town a nonrefundable application
8 fee in such amount as shall be established by the town manager in administrative rules and
9 regulations adopted pursuant to section 4-13-26.

10 B. If the application includes a request to use any town property or any town service in
11 connection with the special event, then before the permit is issued the applicant shall pay to the
12 town any required charges, fees, or deposits required by the town in connection with the use of
13 the requested town property or the provision of the requested town service.

14 4-13-9: INVESTIGATION OF APPLICATION:
15

16 A. Upon receipt of a properly completed application, together with all information required in
17 connection therewith, and the payment of the application fee as required by section 4-13-8 of this
18 chapter, the town manager shall transmit copies of the application to such persons, agencies, or
19 departments as the Town Manager shall identify in administrative rules and regulations adopted
20 pursuant to section 4-13-26.

21 B. Within thirty (30) days of receipt of a completed application those town departments and
22 other referral agencies described in subsection A of this section shall provide the town manager
23 with comments concerning the application. If an application is accepted by the town manager
24 less than forty five (45) days before the proposed special event is to be held, the town
25 departments and other referral agencies shall use their best efforts to provide the town manager
26 with their comments in a timely manner so that the town manager will have the comments before
27 making a decision on the application.

28 4-13-10: STANDARDS FOR ISSUANCE OF PERMIT:
29

30 A. The town manager shall issue a permit when, from a consideration of the application and
31 from such other information as may otherwise be obtained, the town manager determines that:

- 32 1. The application (including any required attachments and submissions) is complete and
33 signed by the applicant;
- 34 2. The applicant has paid the application fee and any other fees required by section 4-13-8
35 of this chapter;
- 36 3. The application does not contain a material falsehood or misrepresentation;
- 37 4. The application complies with all of the requirements of this chapter;
- 38 5. The applicant is legally competent to contract under Colorado law;

1 6. The applicant or the person on whose behalf the application is made has not previously
2 damaged town property and failed to pay in full for such damage, and the applicant does
3 not have other outstanding and unpaid debts to the town;

4 7. The duration of the event will not be longer than five (5) consecutive days, unless the
5 town manager (and not the town manager's designee acting pursuant to section 1-7-2 of
6 this code), after taking into account all relevant factors related to the event, determines
7 that the proposed event may be longer;

8 ~~7.8.~~The proposed special event will not conflict with:

- 9 a. A special event for which a permit has previously been issued;
- 10 b. A town sponsored event;
- 11 c. An annual special event which is reasonably expected to be held again, but for which
12 an application has yet to be submitted; or
- 13 d. An event protected by the first amendment to the United States constitution or by the
14 Colorado constitution which due to its anticipated size, location, hours of operation,
15 or other relevant factors, is reasonably expected to require such town services or
16 personnel as to make the holding of the special event for which the application was
17 submitted a potential risk to the public health, safety or welfare.

18 ~~8.9.~~The holding of the proposed special event will not cause significant disruption in the
19 ability of the town to deliver or provide essential governmental services;

20 ~~9.10.~~ Adequate sanitation and other required health facilities are or will be made
21 available at or sufficiently near to the proposed special event area(s);

22 ~~10.11.~~ Sufficient parking is available near the site of the proposed special event to
23 accommodate the number of vehicles reasonably expected for the event, or an acceptable
24 transportation and parking plan to provide adequate parking for the proposed special
25 event has been submitted and approved by the town manager;

26 ~~11.12.~~ The proposed special event will not pose a danger to the public health, safety or
27 welfare;

28 ~~12.13.~~ The proposed special event will positively impact the town culturally,
29 economically, environmentally or socially.

30
31 4-13-11: RELATIONSHIP TO OTHER TOWN ORDINANCES:

32
33 Notwithstanding anything contained in this code to the contrary:

34
35 A. A permit issued under this chapter is not a special events liquor license. If alcoholic
36 beverages are to be served at the special event, the permittee must obtain the required permit or
37 approval from the town clerk or the town of Breckenridge liquor licensing authority.

38 B. A permit issued under this chapter may authorize the permittee to exceed the maximum noise
39 levels provided in title 5, chapter 8 of this code in connection with the holding of the special
40 event for which the permit is issued; and the town manager may establish specific maximum
41 noise levels for any such event. The town manager shall apply the standards set forth in
42 subsection 5-8-12A of this code in connection with any request for permission to exceed the
43 maximum noise levels provided in title 5, chapter 8 of this code.

1 C. A permit issued under this chapter shall be treated as a special event permit within the
2 meaning of section 9-1-19-44A, "Policy 44 (Absolute) Radio Broadcasts", of the development
3 code. No class D minor development permit shall be required to authorize any radio broadcast
4 conducted as a special event.

5 D. Except as specifically provided in this section, in addition to a permit a permittee must obtain
6 all other required town permits and approvals before holding the special event authorized by the
7 permit, including, but not limited to, a development permit and building permit.

8 4-13-12: DENIAL OF PERMIT:
9

10 A. The town manager shall deny an application for a special event permit if the town manager
11 determines that:

- 12 1. The application conflicts with another event as described in subsection 4-13-10A8 of this
13 chapter;
- 14 2. Information contained in the application, or supplemental information requested from the
15 applicant, is found to be false in any material respect;
- 16 3. The application fails to meet any of the standards set forth in section 4-13-10 of this
17 chapter;
- 18 4. The time, route, or size of the event will substantially interrupt the safe and orderly
19 movement of traffic on or contiguous to the event site or route or will disrupt the use of a
20 street or highway at a time when it is usually subject to heavy traffic congestion;
- 21 5. The location of the event will substantially interfere with any construction or
22 maintenance work scheduled to take place upon or along the town streets or property;
- 23 ~~6. The duration of the event will be longer five (5) consecutive days, unless the Town
24 Manager (and not the Town Manager's designee acting pursuant to section 1-7-2 of this
25 code), determines that the proposed event may be of a longer duration. In making such
26 determination the Town Manager shall take into account all relevant factors related to the
27 proposed event;~~
- 28 ~~7.6.~~ The applicant has failed to pay costs, fees, or deposits for a previous special event permit
29 within the preceding five (5) years; or the applicant has failed to pay the town for
30 damages arising from a previous special event held by the applicant, regardless of when
31 such event was held; or
- 32 ~~8.7.~~ The applicant has failed to abide by the requirements or conditions of previous special
33 event permits within the preceding five (5) years.

34
35 B. If an application is denied the application fee shall not be refunded.

36 4-13-13: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT:
37

38 The town manager shall have the authority to impose such reasonable terms and conditions on a
39 permit as may be necessary to protect the public health, safety, and welfare, and to obtain
40 compliance with the requirements of this chapter and applicable law.
41

1 4-13-14: NONDISCRIMINATION; CONTENT NEUTRALITY:

2
3 The town manager shall uniformly consider each application for a permit upon its merits, and
4 shall not discriminate in granting or denying a permit under this chapter based upon race, creed,
5 color, religion, national origin, ancestry, sex, age, veteran status, sexual orientation, or physical
6 or mental disability. Further, the town manager shall be content neutral in reviewing an
7 application, and shall not consider the subject matter of any type of speech proposed as part of
8 the application.

9
10 4-13-15: DECISION BY TOWN MANAGER:

11
12 A. The town manager shall approve, deny or conditionally approve an application within forty
13 (40) days of the receipt of the completed application unless, by written notice to the applicant,
14 the decision period is extended for an additional ten (10) days; provided, however, that in any
15 event the town manager shall render a decision on an application not less than forty eight (48)
16 hours prior to the scheduled commencement of the special event which is the subject of the
17 application.

18 B. If an application is denied, the town manager shall clearly set forth in writing the grounds for
19 denial and, where feasible, shall propose measures to cure the defects that lead to the denial of
20 the application. When the basis for denial is the prior receipt of a competing application for the
21 same time and place, the town manager shall suggest an alternative time or place for the special
22 event which is the subject of the application which was denied.

23 C. In the event an application is conditionally approved, the town manager shall clearly set forth
24 in writing the conditions of approval.

25 4-13-16: NOTICE OF DECISION:

26
27 The town manager shall notify the applicant of the town manager's decision on the application
28 within three (3) business days of rendering the decision. Notice shall be given by mailing a copy
29 of the town manager's decision to the applicant by regular mail, postage prepaid, at the address
30 shown in the application. Notice is deemed to have been properly given upon mailing.

31
32 4-13-17: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT:

33
34 A. An applicant has the right to appeal the town manager's denial or conditional approval of an
35 application to the town council.

36 B. An applicant's appeal of the town manager's denial or conditional approval of an application
37 shall be processed in accordance with title 1, chapter 19 of this code; provided, however, that the
38 applicant's written notice of appeal shall be filed with the town manager within ten (10) days
39 after the date of mailing of the town manager's decision on the application.

1 C. The applicant shall be provided with not less than ten (10) days' prior written notice of the
2 appeal hearing to be held by the town council.

3 D. The burden of proof in an appeal filed under this section shall be on the applicant.

4 E. If the town council finds by a preponderance of the evidence that the decision of the town
5 manager was correct, the town council shall uphold the decision of the town manager. If the
6 town council finds by a preponderance of the evidence that the decision of the town manager was
7 incorrect, the town manager's decision shall be set aside and the permit issued (if it was
8 previously denied) or the conditions of approval stricken or modified.

9 F. Any decision made by the town council pursuant to this section shall be a final decision and
10 may be appealed to the district court pursuant to rule 106(a)(4) of the Colorado rules of civil
11 procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's
12 right to contest the denial or conditional approval of the application.

13 G. If there is any conflict between the provisions and requirements of this section and the
14 provisions and requirements of title 1, chapter 19 of this code, the provisions and requirements of
15 this section shall control.

16 4-13-18: CONTENTS OF PERMIT: The required contents of a permit shall be established by the
17 town manager in administrative rules and regulations adopted pursuant to Section 4-13-26.

18
19 4-13-19: PERMIT NOT TRANSFERABLE:

20
21 A permit is nontransferable and nonassignable. Any attempt to transfer or assign such permit
22 voids the permit.

23
24 4-13-20: NOTICE OF ISSUANCE OF PERMIT:

25
26 Immediately upon the issuance of a permit, the town manager shall send a copy of the permit to
27 such persons, agencies, or departments as the Town Manager shall identify in administrative
28 rules and regulations adopted pursuant to section 4-13-26.

29
30 4-13-21: INSURANCE REQUIREMENT:

31
32 Each permit shall require the permittee to file with the Town's finance and municipal services
33 department prior to commencement of the setup of the special event a certificate of insurance
34 demonstrating that the permittee has in effect a policy or policies of general liability insurance
35 covering the special event with minimum combined single limits of not less than one million
36 dollars (\$1,000,000.00). Such insurance shall remain in full force throughout the entirety of the
37 special event for which the permit is issued. The town shall be named as an additional insured
38 under such insurance policy. If alcoholic beverages will be served at the special event, the
39 permittee must also provide proof of liquor liability insurance.
40

1 4-13-22: DUTIES OF PERMITTEE:
2

3 In connection with the holding of the event for which a permit is issued, a permittee shall:
4

- 5 A. Comply with all of the terms and conditions of the permit;
- 6 B. Comply with all applicable town ordinances and state and federal laws; and
- 7 C. Permit inspection of its records and special event facilities by the town manager for the
8 purpose of determining the permittee's compliance with the terms and conditions of the permit.

9 4-13-23: POSTING OF PERMIT:
10

11 A permit shall be continuously posted in a conspicuous location at the site of the special event
12 throughout the duration of the special event.
13

14 4-13-24: SUSPENSION OR REVOCATION OF PERMIT:
15

16 A. A permit issued pursuant to this chapter may be suspended or revoked by the town manager
17 after a hearing for the following reasons:

- 18 1. Fraud, misrepresentation or a false statement of material fact contained in the permit
19 application;
- 20 2. A violation of any town, state, or federal law or regulation;
- 21 3. A violation of any of the terms and conditions of the permit;
- 22 4. A violation of any of the provisions of this chapter;
- 23 5. Threatening weather conditions if the town manager determines that holding the special
24 event under such conditions would either:
 - 25 a. pose a threat to the public health, safety or welfare, or
 - 26 b. pose a threat to any town owned property to be used in connection with this special
27 event;
- 28 6. The existence of fire or drought conditions if the town manager determines that holding
29 the special event under such conditions would pose a threat to the public health, safety or
30 welfare;
- 31 7. Any unforeseen, unanticipated, or uncontrollable circumstance if the town manager
32 determines that holding the special event under such circumstance would pose a threat to
33 the public health, safety or welfare; or
- 34 8. An irreconcilable scheduling conflict with an event protected by either the first
35 amendment to the United States constitution or by the Colorado constitution.
36

37 B. In connection with the suspension of a permit, the town manager may impose reasonable
38 conditions.

39 C. A hearing held pursuant to this section shall be processed in accordance with title 1, chapter
40 19 of this code.

1 D. In deciding whether a permit should be suspended or revoked, and in deciding what
2 conditions to impose in the event of a suspension, if any, the town manager shall consider:

- 3 1. The nature and seriousness of the violation;
- 4 2. Corrective action, if any, taken by the permittee;
- 5 3. Prior violation(s), if any, by the permittee;
- 6 4. The likelihood of recurrence;
- 7 5. All circumstances surrounding the violation;
- 8 6. Whether the violation was willful;
- 9 7. The number of previous special events held by the permittee;
- 10 8. The number of previous violations by the permittee; and
- 11 9. Previous sanctions, if any, imposed against the permittee.

12
13 E. The town manager shall have the authority to summarily suspend a permit during a special
14 event if it appears to the town manager that a permittee has violated one or more of the terms and
15 conditions of a permit or any applicable law and, based upon the available information, the town
16 manager, in consultation with the police chief, reasonably determines that such violation results
17 in an immediate threat to the public health, safety and welfare. No appeal is allowed from a
18 summary suspension of a permit issued by the town manager pursuant to this subsection.

19 F. If the town manager suspends a permit, except for a summary suspension pursuant to
20 subsection E of this section, or revokes a permit, the permittee may appeal the suspension or
21 revocation to the town council in accordance with title 1, chapter 19 of this code. The burden of
22 proof in such an appeal is on the permittee. If the town council finds by a preponderance of the
23 evidence that the town manager acted correctly in suspending or revoking the permit, the town
24 council shall uphold the town manager's order of suspension or revocation. If the town council
25 finds by a preponderance of the evidence that the town manager acted improperly in suspending
26 or revoking the permit, the appeal shall be sustained, and the town manager's order of
27 suspension or revocation shall be set aside. Any decision made by the town council pursuant to
28 this section shall be a final decision and may be appealed to the district court pursuant to rule
29 106(a)(4) of the Colorado rules of civil procedure. The applicant's failure to timely appeal the
30 decision is a waiver of the applicant's right to contest the denial or conditional approval of the
31 application.

32 G. No fee previously paid by a permittee in connection with the application shall be refunded if
33 such permit is suspended or revoked.

34 4-13-25: PENALTIES; INJUNCTIVE RELIEF:

35
36 A. It is a misdemeanor offense for any person to violate any provision of this chapter. Any
37 person convicted of having violated any provision of this chapter shall be punished as set forth in
38 title 1, chapter 4 of this code.

39 B. The staging, holding, presenting, or conducting of a special event without a valid permit
40 issued pursuant to this chapter may be enjoined by the town in an action brought in a court of

1 competent jurisdiction, including, but not limited to, the town’s municipal court pursuant to
2 section 1-8-10 of this code.

3 4-13-26: RULES AND REGULATIONS:
4

5 The town manager shall have the authority from time to time to adopt, amend, alter, and repeal
6 administrative rules and regulations as may be necessary for the proper administration of this
7 chapter. Such regulations shall be adopted in accordance with the procedures established by title
8 1, chapter 18 of this code.
9

10 Section 2. Section 9-7-6(F) of the Breckenridge Town Code [OUTDOOR DISPLAY OF
11 MERCHANDISE ORDINANCE] is amended to read as follows:

12 ~~F. Special Events: Special events, subject to the following limitations:~~

- 13
- 14 ~~1. The event includes twenty (20) or more individual merchants, each holding a state sales~~
- 15 ~~tax license.~~
- 16 ~~2. The event is no longer in duration than three (3) consecutive days.~~
- 17 ~~3. The event is conducted on a single premises not currently licensed under the provisions~~
- 18 ~~of title 4, chapter 1 of this code.~~
- 19 ~~4. A class D minor development permit is issued which adequately addresses parking,~~
- 20 ~~transportation and waste disposal.~~
- 21 ~~5. A special events license is issued for the event pursuant to section 4-2-11 of this code.~~
- 22

23 **F. A special event for which a permit has been issued pursuant to title 4, chapter 2 of this**
24 **code.**

25

26 Section 3. Section 9-7-6(I) of the Breckenridge Town Code [OUTDOOR DISPLAY OF
27 MERCHANDISE ORDINANCE] is amended to read as follows:

28 **I. Summer Outdoor** Sales Days: Outdoor displays of merchandise conducted on **Summer**
29 **Outdoor** Sales Days as established by the town manager. In setting **Summer Outdoor** Sales
30 Days, the town manager shall consult with representatives of the business community to
31 determine appropriate dates. At least thirty (30) days before setting **Summer Outdoor** Sales
32 Days each year, the town manager shall advise the town council of the proposed dates of such
33 event.
34

35 Section 4. Section 4-2-11 of the Breckenridge Town Code [TRANSIENT DEALER’S
36 LICENSE ORDINANCE] is amended to read as follows:

37 **4-2-11: SPECIAL EVENTS BUSINESS LICENSE:**

38

39 The sponsor of any fair, show or exhibition of arts, crafts or similar handiwork, or the sponsor of
40 any special event to be held ~~in accordance with subsection 9-7-6F~~ **pursuant to a permit issued**
41 **pursuant to title 4, chapter 2 of this code** shall obtain a special events **business** license from

1 the town manager at least fourteen (14) days prior to the event. Said application shall include the
2 name and local address of the sponsor, proposed duration of the event, names and addresses of
3 the artisans or merchants taking part in the event, purpose of the event, **and** goods or types of
4 goods to be sold, and a statement under oath as to whether the applicant or its agents have ever
5 been convicted of any crime or misdemeanor and, if so, the nature thereof.

6
7 A. At the time of filing of the application, the sponsor must pay a license fee of two hundred
8 fifty dollars (\$250.00) to the town clerk, or the artisans or merchants must obtain a business
9 license from ~~shall be paid to~~ the town clerk as provided in subsection 4-2-5 of this chapter, to
10 cover the costs of investigating the facts stated in the application and administrative costs.

11 B. At least five (5) days prior to the event, each merchant taking part in the event shall file with
12 the town clerk, a sworn statement, on a form furnished by the town clerk, which shall give the
13 following information:

- 14 | 1. Name, phone number and permanent home/business address.
- 15 | 2. Date of birth.
- 16 | 3. Colorado state sales tax number.
- 17 | 4. Anticipated taxable sales from the special event.

18
19 ~~A sales tax deposit shall be made by each merchant taking part in the event as described in~~
20 ~~subsection 4-2-5E of this chapter.~~

21
22 C. Merchants covered under a special events business license shall be exempt from the license
23 fee provided in subsection 4-2-5D of this chapter, but are subject to the sales tax deposit as
24 described in subsection 4-2-5E of this chapter.

25 D. Organizations meeting the qualifications set forth in subsection 4-2-12A of this chapter shall
26 be exempt from the special events license fee, but shall be subject to all other requirements of
27 this section.

28 E. The town manager may impose reasonable conditions on the approval of the special events
29 business license, including, but not limited to, required sanitation and cleanup measures, security
30 measures or reasonable requirements to secure the payment of the sale tax due to the town.

31 Section 5. Except as specifically amended by this ordinance, the Breckenridge Town Code,
32 and the various secondary codes adopted by reference therein, shall continue in full force and
33 effect.

34 Section 6. The Town Council finds, determines, and declares that this ordinance is necessary
35 and proper to provide for the safety, preserve the health, promote the prosperity, and improve the
36 order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.
37

1 Section 7. The Town Council finds, determines, and declares that it has the power to adopt
2 this ordinance pursuant to the provisions of Section 31-15-501, C.R.S., and the powers possessed
3 by home rule municipalities in Colorado.
4

5 Section 8. This ordinance shall be published and become effective as provided by Section 5.9
6 of the Breckenridge Town Charter.
7

8 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
9 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
10 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
11 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
12 Town.
13

14 TOWN OF BRECKENRIDGE, a Colorado
15 municipal corporation
16
17

18
19 By: _____
20 John G. Warner, Mayor
21

22 ATTEST:
23
24
25

26 _____
27 Helen Cospolich
28 Town Clerk
29
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48

1 ***DRAFT April 28, 2015 DRAFT***

2
3 **Marked To Show Changes To the Draft Administrative Regulations Reviewed**
4 **At the March 24, 2015 Town Council Meeting**
5

6 **ADMINISTRATIVE RULES AND REGULATIONS CONCERNING THE TOWN OF**
7 **BRECKENRIDGE “ SPECIAL EVENTS ORDINANCE”**
8

- 9 A. **Effective Date.** These regulations are effective **_____**, 2015.
10
11 B. **Authority.** These regulations are issued by the Town Manager of the Town of
12 Breckenridge pursuant to the authority granted by Section 4-13-26 of the Town of
13 Breckenridge “Special Events Ordinance” (Chapter 13 of Title 4 of the
14 Breckenridge Town Code).
15
16 C. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the
17 Breckenridge Town Code were followed in connection with the issuance of these
18 regulations. Notice of the adoption of these regulations was given in accordance
19 with the requirements set forth in Section 1-18-3 of the Breckenridge Town Code.
20
21 D. **Conflict With Special Events Ordinance.** These regulations do not amend the
22 Town’s “Special Events Ordinance.” If there is a conflict between these
23 regulations and the Special Events Ordinance, the ordinance will control.
24
25 E. **Definitions Adopted By Reference.** All of the definitions in Section 4-13-4 of
26 the Special Events Ordinance are adopted by reference and incorporated into
27 these regulations.
28
29 F. **Additional Definitions.** As used in these regulations the following words and
30 phrases have the following meanings:

31
32 “Events Committee” means the Breckenridge Events Committee, consisting of
33 representatives of the Town’s partner organizations, representatives of the
34 Breckenridge Tourism Office, and one designated representative of the Town.
35 The composition of the Events Committee, as the same may be altered from time
36 to time, must be approved by the Town Manager.

37
38 Special Events Permit Application “SEPA Review Group” includes members of
39 the Town’s Community Development Department, the Town’s Police
40 Department, the Town Clerk/Finance & Municipal Services Department, the
41 Town’s Public Works Department, the Red, White and Blue Fire Protection

1 District, and any other person or agency that the Events Committee determines
2 should properly investigate and comment upon the application.

3
4 “Town Property” means: (i) land or other property owned by the Town; (ii) land
5 or other property that the Town holds a present right of possession and control;
6 and (iii) all public rights-of-way owned or controlled by the Town.
7

8 **G. Filming Activities on Town Property Not Requiring A Special Event Permit.**

9 The following filming activities on Town property do not require a special event
10 permit:

- 11 1. Filming or photography by casual photographers and tourists for solely
12 private use;
- 13 2. Filming by free-lance/commercial photographers not involving a total
14 crew (including the photographer) of more than three persons if no street
15 or public space closures or other Town services are required;
- 16 3. Filming or photography by credentialed members of the news media,
17 including reporters, photographers or camera persons in the employ of a
18 newspaper, news service or similar entity engaged in on-the-spot print
19 media, publishing or broadcasting of news events and of general public
20 interest, and/or for use in criminal investigations, civil proceedings and
21 emergencies such as fires, floods, etc. This exception does not apply to
22 magazines or documentary programs;
- 23 4. Filming or photography undertaken by the Town;
- 24 5. Filming or photography by education, government and public access and
25 local origination programs for cable television systems franchised within
26 the Town;
- 27 6. Filming or photography of a parade, rally, protest, or demonstration;
- 28 7. Any filming or photography that the Town Manager determines should be
29 exempt from the requirements of these regulations because the Town will
30 receive a substantial benefit from such activity.
31

32
33 **G.H. Delegation of Authority to Events Committee.** Pursuant to Section 1-7-2 of the
34 Breckenridge Town Code the Town Manager delegates to the Events Committee,
35 as the Town Manager’s authorized representative, the authority to enforce the
36 Special Events Ordinance, except for the following sections the performance or
37 enforcement of which are reserved to the Town Manager:
38

- 39 a. Section 4-13-~~12(6)~~10(A)(7)(Authority to Approve Special Event
40 With Duration Longer Than 5 Days)
- 41 b. Section 4-13-24 (Suspension or Revocation of Permit)
- 42 c. Section 4-13-26 (Rules and Regulations)
- 43

1 With respect to those sections of the Special Events Ordinance that the Events
2 Committee is authorized to enforce, references to the “Town Manager” mean the
3 “Events Committee,” unless the context clearly requires otherwise.
4

5 **H.I. Contents of Application For Special Events Permit.** An application for a
6 special event permit shall contain the following information:
7

- 8 1. The applicant’s name, address, and telephone number.
- 9 2. The name, title (if any), address, and telephone number of the contact
10 person for the applicant with respect to the special event.
- 11 3. A description of the special event, including a description of the purpose,
12 scope, and activities planned during the event.
- 13 4. The proposed date(s) of the special event.
- 14 5. The proposed location of the special event.
- 15 6. The proposed hours of operation of the special event.
- 16 7. The dates and times when the special event facilities will be set up and
17 torn down.
- 18 8. If the special event will involve the use of any town street(s), trail(s),
19 park(s), land(s), building(s), parking lot(s) or right(s) of way, a statement
20 as to the portion(s) of the town street(s), trail(s), park(s), land(s),
21 building(s), parking lot(s) or right(s) of way which will be used or
22 occupied in connection with the special event.
- 23 9. A statement of the fees, if any, to be charged to participants at the special
24 event.
- 25 10. A list of food and/or beverages, including alcoholic beverages, that will be
26 served at the special event.
- 27 11. A statement of whether goods and merchandise will be sold at the special
28 event.
- 29 12. A map including pedestrian flow, emergency access, trash receptacles,
30 temporary structures, sign placement, parking areas and activity areas.
- 31 13. Proof of the applicant’s tax exempt status, if applicable.
- 32 14. First time special events shall provide evidence indicating the extent of
33 neighborhood and business support for the holding of the special event.
- 34 15. A description and location of any recording equipment, tents, or other
35 structures, sound amplification equipment, banners, signs, or other
36 attention getting devices proposed to be used in connection with the
37 special event.
- 38 16. A plan for providing adequate safety for spectators and workers at the
39 special event.
- 40 17. A plan for providing adequate sanitation at the special event, including
41 “event greening” and recycling plans.

- 1 18. The approximate number of staff, vendors, and entertainers reasonably
2 anticipated to participate in putting on the special event (excluding
3 spectators).
4 19. A good faith estimate of the approximate number of spectators expected to
5 attend the special event each day.
6 20. The number of security personnel to be hired for the special event, if any.
7 21. A designation of any public facilities or equipment to be utilized.
8 22. A complete list of the names, addresses, and telephone numbers of all
9 vendors who will participate in the special event.
10 23. For trail-based events, applicant must provide proof of approval from
11 private property owners, Summit County Open Space and US Forest
12 Service when the event utilizes those entities properties as part of the
13 event.
14 24. Any additional information that the Events Committee reasonably
15 determines to be necessary in connection with its investigation and review
16 of the application.
17

18 | I.J. Fees.

- 19 1. When an application is filed an applicant shall pay to the Events
20 Committee a nonrefundable application fee of \$50.00 for 2015, and then
21 the application fee as set annually through the budget process.
22 2. Other fees or deposits may be required by the permittee to cover potential
23 financial obligations to the Town that may be incurred by the permittee in
24 connection with the permitted activity. Fees could include, but are not
25 limited to, the use of open space and trails and other Town property,
26 services from the Police Department, the Public Works Department,
27 and/or a security deposit for damages to property, or trash and sanitation.
28 Factors to be considered may include, but are not limited to, the number of
29 people involved, the location of the activity, and the nature of the activity.
30 A deposit may be in the form of cash, certified funds payable to the Town
31 or credit card. A deposit may be used by the Town to pay for any
32 monetary obligation due to the Town from the permittee. If a deposit is
33 required, any unused portion of the deposit will be refunded to the
34 permittee within 60 days after the conclusion of the permitted activity.
35

36 | I.K. Investigation of Application. Upon receipt of a properly completed application,
37 and the payment of the required application fee, the Events Committee shall
38 transmit copies of the application to the SEPA Review Group for their review as
39 provided in Section 4-13-9 of the Special Events Ordinance.
40
41

1 | ~~K.L.~~ **Contents of Special Events Permit.** A permit shall contain the following
2 information:
3

- 4 1. The name of the permittee;
- 5 2. The location of the special event to be held pursuant to the permit;
- 6 3. The date(s) of the special event to be held pursuant to the permit,
7 including the dates and times for the setup and tear down of the event;
- 8 4. The starting and ending times the special event is to be held pursuant to
9 the permit;
- 10 5. The name and telephone number of the permittee's local contact person
11 for the special event;
- 12 6. A requirement that the permittee provide proof of insurance pursuant to
13 Section 4-13-21 of the Special Events Ordinance;
- 14 7. An advisement to the permittee of the permittee's duties under section
15 4-13-22 of the Special Events Ordinance;
- 16 8. An acknowledgment by the permittee that the permit may be summarily
17 suspended by the Town Manager in accordance with Section 4-13-24(E)
18 of the Special Events Ordinance;
- 19 9. Any special conditions of approval imposed upon the permit by the Events
20 Committee pursuant to Section 4-13-13 of the Special Events Ordinance;
- 21 10. A list of all vendors who will participate in the special event; and
- 22 11. Such other information related to the special event as the Events
23 Committee shall determine to be necessary or appropriate for inclusion in
24 the permit.
25

26 A permit must be signed by the permittee as an acceptance of the findings and
27 conditions, and then by either the Town Manager, the Assistant Town Manager,
28 or the Town's Director of Communications to be valid.
29

30 | ~~L.M.~~ **Standard Conditions of Permit.** In addition to other duties required of a
31 permittee under the Special Events Ordinance or these regulations, a permittee
32 must comply with the following additional duties:
33

- 34 1. A permit is not intended to authorize activities that are illegal under any
35 applicable Town, state or federal law or rule, except that permittees may
36 engage in such conduct as is expressly authorized by the permit.
- 37 2. All permittees must confine their activities to the location(s) and time(s)
38 specified on their permit. The Events Committee may establish specific
39 guidelines to address conditions that exist at certain designated locations
40 and the use of vehicles and equipment at locations based on, among other
41 considerations, the time of day, weather conditions, season, location, and
42 day of the week.

- 1 3. All permittees are responsible for cleaning and restoring the site after the
2 end of the permitted activity. The cost of any Town employee time
3 incurred because of a permittee's failure to clean and/or restore the site
4 following the end of the permitted activity will be borne by the permittee.
- 5 4. Should there be any injuries, accidents, other health incidents or damage
6 to private or Town property in connection with a permitted activity, the
7 permittee must immediately notify the Town Manager or Police Chief.
- 8 5. Only vehicles with permits issued by the Police Chief will be allowed to
9 park in areas designated for the permitted activity at the time(s) and
10 location(s) described in the applicable permit.
- 11 6. The use of pyrotechnics, fire effects and explosions, including simulated
12 smoke and smoke effects, must be conducted only upon authorization by
13 the Red, White and Blue Fire District, and subsequent approval must be
14 obtained from the Police Chief prior to start of event.
- 15 7. Any activity proposed to be conducted pursuant to the permit that is
16 determined by the Events Committee to cause a potential danger to
17 persons or property will be referred for approval by the Police Chief or
18 other governmental agency having jurisdiction over such activity. Such
19 activities must include, but not be limited to, the use of stunts, helicopters,
20 firearms, or simulated firearms or other weapons.
- 21 8. A permittee is strictly liable to the Town for any damage to, or destruction
22 of, any Town property occurring in connection with the permitted activity.
23 This obligation will survive the suspension, revocation, expiration, or
24 other termination of the permit, and will continue to be fully enforceable
25 thereafter.
- 26 9. Trimming, damaging, removing or cutting trees or vegetation on Town
27 property is prohibited without the prior approval of the Events Committee.
- 28 10. No street signs, street lights, postal boxes, benches, or any other
29 permanent street structure may be removed or altered without the prior
30 approval of the Town department charged with maintaining such
31 structures.
- 32 11. If determined by the Events Committee to be appropriate, permittees must
33 submit a mitigation plan for minimizing the potential inconvenience to
34 residents and/or businesses.
- 35 12. By accepting a permit, a permittee irrevocably agrees to protect all persons
36 and property from damage, loss or injury arising from any of the
37 operations performed by or on behalf of the permittee pursuant to the
38 permit and, to the full extent permitted by law, to indemnify, defend, and
39 hold the Town harmless from all claims, losses, damages, and expenses,
40 including attorneys' fees and costs (including expert witness fees), that
41 may be incurred by the Town as result therefrom. This indemnification
42 requirement will survive the suspension, revocation, expiration, or other

SPECIAL EVENTS ORDINANCE REGULATIONS

1 termination of the permit, and will continue to be fully enforceable
2 thereafter.

3 13. If the Events Committee determines, in light of the activity for which a
4 permit is sought, that such activity may increase the potential for injury to
5 individuals and/or damage to property, and that the minimum limits of
6 liability insurance coverage should be higher than one million dollars
7 (\$1,000,000) per occurrence required by Section 4-13-21 of the Special
8 Events Ordinance, the Events Committee may determine what higher
9 minimum limit is to be required and will inform the applicant of such
10 higher limit. Factors to be considered may include, but are not limited to,
11 the number of people involved, the location of the activity, and the nature
12 of the activity. The applicant must thereafter provide proof of such
13 increased liability insurance coverage. If the Events Committee
14 determines in writing that a higher minimum limits of liability insurance
15 coverage is required, the applicant may appeal such determination
16 pursuant to Section 4-13-17 of the Special Events Ordinance.

17 14. The Events Committee may waive the required liability insurance if the
18 applicant is able to demonstrate that such insurance cannot be obtained
19 without imposing an unreasonable hardship on the applicant. Any request
20 for a waiver of the insurance must be included by the applicant in the
21 permit application. The burden of demonstrating unreasonable hardship is
22 on the applicant, and may be demonstrated by a showing, for example,
23 that the cost of obtaining insurance for the permitted activity exceeds
24 twenty-five percent (25%) of the applicant's budget for such activity that
25 is the subject of the application. The Events Committee will take into
26 consideration the applicant's projections of budget as well as the budget
27 projections for comparable productions of similar size and duration in
28 determining whether the cost of obtaining insurance exceeds twenty-five
29 percent (25%) of the budget. The Events Committee may also take into
30 consideration his or her determination that the permitted activity may
31 increase the potential for injury to individuals and/or damage to property.
32 If the Events Committee denies a request for a waiver of the insurance
33 requirement, the applicant may appeal such denial pursuant to Section 4-
34 13-17 of the Special Events Ordinance.

35
36 | M.N. **Notice of Issuance of Permit.** Immediately upon the issuance of a permit, the
37 Events Committee shall send a copy of the permit to the following members of
38 the SEPA Review Group.
39

1 ~~N.O.~~ **Special Rules For Filming and Photography.** In addition to the administrative
2 regulations set forth above, unless exempted as provided below, an applicant for a
3 special event permit that includes filming or photography on any Town property
4 must comply with the following additional administrative regulations:
5

6 ~~1. The following activities on Town property do not require a special event~~
7 ~~permit:~~
8

9 ~~a. Filming or photography by casual photographers and tourists for~~
10 ~~solely private use;~~

11 ~~b. Filming or photography by credentialed members of the news~~
12 ~~media, including reporters, photographers or camera persons in the~~
13 ~~employ of a newspaper, news service or similar entity engaged in~~
14 ~~on the spot print media, publishing or broadcasting of news events~~
15 ~~and of general public interest, and/or for use in criminal~~
16 ~~investigations, civil proceedings and emergencies such as fires,~~
17 ~~floods, etc. This exception does not apply to magazines or~~
18 ~~documentary programs;~~

19 ~~c. Filming or photography undertaken by the Town;~~

20 ~~d. Filming or photography by education, government and public~~
21 ~~access and local origination programs for cable television systems~~
22 ~~franchised within the Town;~~

23 ~~e. Filming or photography of a parade, rally, protest, or~~
24 ~~demonstration, except when using vehicles or professional grade~~
25 ~~equipment;~~

26 ~~f. Any filming or photography that the Town Manager determines~~
27 ~~should be exempt from the requirements of these regulations~~
28 ~~because the Town will receive a substantial benefit from such~~
29 ~~activity.~~
30

31 ~~2.1.~~ The Town Manager may waive or reduce the application fee if:
32

33 a. the permitted activity will result in substantial, beneficial
34 media/public relations for the Town; or
35

36 b. the applicant is a film student.
37

38 ~~3.2.~~ If known at the time of the application, an application for a special event
39 permit that will involve filming or photography must include, in addition
40 to the other information required by Rule H of these regulations the date(s)
41 and time(s) of scouting, rigging, or shooting and location of such activity,
42 and any special circumstances including, but not limited to, information

1 regarding whether the activity involves special parking requests, traffic
2 control issues, or special effects.

3
4 | 4.3. Film school students must provide a letter from the student's school
5 confirming the existence of the insurance coverage required by Section 4-
6 13-21 of the Special Events Ordinance, or any higher insurance limits
7 | required pursuant to Rule ~~M(7)(e)~~M(13) of these regulations, and
8 confirmation of the student's current enrollment in the school.

9
10 | 5.4. In addition to the other grounds for denial of a special events permit set
11 forth in the Special Events Ordinance, an application for a special event
12 permit may be denied for any of the following reasons:

- 13
14 a. the activity proposed by the application may reasonably pose a
15 danger or a threat to participants, onlookers, or the general public;
16 b. the date(s) and time(s) requested for a particular location is not
17 available because a permit has previously been issued for such
18 date(s) and time(s);
19 c. the proposed location(s) cannot reasonably be accommodated by
20 the Town for any other reason specified by the Town Manager,
21 including, without limitation, that the requested use of the location
22 would unreasonably interfere with the operations of Town
23 government or the use of the Town's property;
24 d. the Town Manager has concluded, based on specific information,
25 that the applicant is unlikely to comply with the material terms of
26 the requested permit; or
27 e. use of the location or the proposed activity at the location would
28 otherwise violate any law, ordinance, statute or regulation.

29
30 | 6.5. In addition to other duties required of a permittee under the Special Events
31 Ordinance or these regulations, a permittee whose permit includes filming
32 or photography must comply with the following additional duties:

- 33
34 a. All permittees are responsible to procure model/subject releases
35 from anyone;
36 b. No dolly track or other equipment may be laid across a street,
37 sidewalk, or block a fire lane without prior approval of the Police
38 Chief, and the Red, White and Blue Fire Protection District;
39 c. Where a public street or alley is closed in connection with a
40 permitted activity rigging or production activities, a 13.5-foot lane
41 must be kept open. Such requirement may be waived upon an
42 appropriate showing of need or at the discretion of the Police
43 Chief.

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Dated: , 2015

Timothy J. Gagen, Town Manager
Town of Breckenridge, Colorado

500-272\Administrative Regulations_6 (04-21-15)



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: April 20, 2015
Subject: Marijuana Licensing Ordinance

The current moratorium on new marijuana business licenses is due to expire on July 1, 2015. Staff has heard from some Council members that they would prefer to extend this moratorium for another year. Extending the moratorium for another year will allow staff the opportunity to evaluate the impact the current number of establishments has on safety and quality of life for residents and other businesses in the area of Airport Road.

As you know, beginning in February of this year all marijuana businesses are now located on Airport Road. Since that time, we have experienced an increased number of customers frequenting that area on foot, by transit, and in automobiles. Initial observations revealed the need for additional street lighting in that area. Staff is currently evaluating the lighting needs and plan to have improvements in place prior to the 2015 winter season. In addition, staff is evaluating the location of current transit stops and the possibility of adding a stop along the west side of the roadway.

Once improvements have been made, it would be valuable to monitor and assess the impact of those improvements over the course of the next winter. In the spring of 2016, staff would like to come back to the Council with a recommendation of the number of marijuana businesses the Airport Road infrastructure is able to support without impacting safety and quality of life for the residents in the area.

The attached draft ordinance simply extends the moratorium to July 1, 2016. All other provisions of the current licensing ordinance remain in effect.

Tim Berry and I will be present at the work session on Tuesday, April 28th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – APR. 28***

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2015

9
10 AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE
11 TOWN CODE , KNOWN AS THE “TOWN OF BRECKENRIDGE 2013 MARIJUANA
12 LICENSING ORDINANCE,” BY EXTENDING THE LIMITATION ON THE SUBMISSION
13 OF NEW LICENSE APPLICATIONS UNTIL JULY 1, ~~2015~~**2016**

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

17
18 Section 1. Section 4-14-8(D) of the Breckenridge Town Code is amended to read as
19 follows:

20
21 D. Until July 1, ~~2015~~**2016** the Local Licensing Authority shall not: (i) accept or
22 process an application for a new medical marijuana business or retail marijuana
23 establishment license under this Chapter, or (ii) approve and issue any new
24 medical marijuana business or retail marijuana establishment license under this
25 Chapter. However, prior to July 1, ~~2015~~**2016** the Local Licensing Authority may
26 approve a transfer of ownership of an existing local license or a change of
27 location of an existing licensed premises in accordance with the applicable codes,
28 the applicable administrative regulations, and the applicable requirements of this
29 Chapter. For the purpose of this Section, a “new medical marijuana or retail
30 marijuana establishment license” means a local medical marijuana business or
31 retail marijuana establishment license under this Chapter that was not issued by
32 the Local Licensing Authority and in full force and effect prior to November 11,
33 2014.

34
35 Section 2. Except as specifically amended by this ordinance, the Breckenridge Town
36 Code, and the various secondary codes adopted by reference therein, shall continue in full force
37 and effect.

38
39 Section 3. The Town Council finds, determines and declares that it has the power to
40 adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, Article 43.3 of Title
41 12, C.R.S.; (ii) Section 16 of Article XVIII to the Colorado Constitution; (iii) the Colorado Retail
42 Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative regulations;
43 (v) The Local Government Land Use Control Enabling Act, Part 1 of Article 20 of Title 29,
44 C.R.S.; (vi) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (vii)
45 Section 31-15-103, C.R.S. (concerning municipal police powers); (viii) Section 31-15-401,
46 C.R.S. (concerning municipal police powers); (ix) Section 31-15-501, C.R.S. (concerning

1 municipal authority to regulate businesses); (x) the authority granted to home rule municipalities
2 by Article XX of the Colorado Constitution; and (xi) the powers contained in the Breckenridge
3 Town Charter.

4
5 Section 4. The Town Council further finds, determines, and declares that this ordinance
6 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
7 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
8 thereof.

9
10 Section 5. This ordinance shall be published and shall become effective as provided by
11 Section 5.9 of the Breckenridge Town Charter.

12
13 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
14 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
15 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
16 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
17 Town.

18
19 TOWN OF BRECKENRIDGE, a Colorado
20 municipal corporation

21
22
23 By: _____
24 John G. Warner, Mayor

25
26 ATTEST:

27
28
29 _____
30 Helen Cospolich
31 Town Clerk



MEMORANDUM

To: Mayor and Town Council
From: Tim Gagen, Town Manager
Date: April 7, 2015
Subject: *Comcast Franchise, Lease Renewal, I-Net Agreement & Customer Service Standards*

Issue:

Consideration of action to renew a cable franchise with Comcast, renew a lease with Comcast for its headend facility on Town land, approve a new I-Net Agreement with Comcast and approve updated customer service standards.

Background:

The Town has an existing cable franchise agreement and headend lease with Comcast, both of which were set to expire in June, 2013. The Town has agreed to short term extensions of the franchise and lease while it has been negotiating a longer term renewal. During this same period, Comcast's franchise with Frisco, Dillon, Silverthorne and Summit County were also expiring so the Summit County entities collaborated to negotiate renewal with Comcast. Only Breckenridge has a separate lease arrangement with Comcast but it still wanted to renew these two documents at the same time.

Generally the new franchise and lease follow the previous terms of the last franchise and lease with some exceptions. Since the original franchise and lease, Comcast has revised some of its business practices that have resulted in modification to what terms they keep in a franchise and what they put in a new agreement called an "I-Net Agreement" and in a lease. In the old franchise, there was language regarding connecting public buildings to fiber which has been done by Comcast, but going forward the new standard in franchises is for these connections to be paid for at a discounted rate so the "I-Net" outlines how a community can acquire those services if they desire them. It also establishes a standard of performance for all the cable services that a community gets. The old lease also talked about these same connections and other internet connections but the new lease removes these as they are in the I-Net. The annual lease fee to compensate for removal of some free services like internet connections has been increased from \$1,500 per month to \$2,500 per month so the Town is made more than whole with these changes. The Town and the other Summit County entities had the benefit in renewing their franchise in that several front range communities had just done theirs so we could use a lot of their work. With renewal of our franchise all the communities in Summit now have very similar franchises with similar terms. The term of the franchise and lease are for 10 years which is standard in Colorado and are matched up on purpose. Most authority for regulating cable

companies has been taken away from Cities and Towns by the FCC so franchises today are boiler plate but still provide for a franchise fee to pay for the use of the Town's right of way. Included with this package of renewals is the re-adoption of customer service standards which govern Comcast operations. These were originally adopted in August, 2007. The updated standards have been adopted by all the Summit County entities.

Action:

Staff recommendation is to approve the renewal franchise and lease, the new I-Net Agreement and updated Customer Service Standards.

1 **FOR WORKSESSION/FIRST READING – APRIL 28**

2
3 COUNCIL BILL NO. ____

4
5 Series 2015

6
7 AN ORDINANCE APPROVING A CABLE TELEVISION FRANCHISE AGREEMENT
8 BETWEEN THE TOWN OF BRECKENRIDGE, COLORADO AND COMCAST OF
9 COLORADO V, LLC

10
11 WHEREAS, the Town of Breckenridge is authorized by Article XIII of the Breckenridge
12 Town Charter, Section 4-12-3 of the Breckenridge Town Code, and other applicable law, to
13 grant one or more non-exclusive, revocable franchises to construct, reconstruct, operate, and
14 maintain a cable system within the boundaries of the Town; and

15
16 WHEREAS, the Town’s current cable television franchisee is California/Colorado/
17 Washington, LP, which has made application to the Town for a renewal of its cable franchise;
18 and

19
20 WHEREAS, Comcast of Colorado V, LLC (“**Comcast**”) is the successor in interest to
21 Comcast of California/Colorado/Washington, LP; and

22
23 WHEREAS, Comcast is agreeable to continuing providing cable television service in the
24 Town; and

25
26 WHEREAS, the Town has reviewed the performance of the cable provider under the
27 current franchise and the quality of service during the prior franchise term, has identified the
28 future cable-related needs and interests of the Town and its citizens, has considered the financial,
29 technical, and legal qualifications of Comcast and, after a public proceeding affording due
30 process to all interested parties, has determined that Comcast’s plans for operating and
31 maintaining its cable system are adequate; and

32
33 WHEREAS, the public has had adequate notice and opportunity to comment on
34 Comcast’s proposal to continue providing cable service within the Town; and

35
36 WHEREAS, the Town has a legitimate and necessary regulatory role in ensuring the
37 availability of cable service, the reliability of the cable system within the Town, the availability
38 of local programming, and quality customer service; and

39
40 WHEREAS, a proposed new Cable Franchise Agreement between the Town and
41 Comcast has been prepared, a copy of which is marked **Exhibit “A”**, attached hereto, and
42 incorporated herein by reference; and

43
44 WHEREAS, the Town Council has reviewed the proposed new Cable Franchise
45 Agreement and is familiar with its terms; and

46

1 WHEREAS, the Town Council desires to grant to Comcast, and Comcast desires to
2 accept, terms and conditions for the use of Town-owned easements and rights-of-way to be used
3 for the installation and operation of Comcast’s cable system within the Town, all as set forth in
4 the proposed new Cable Franchise Agreement; and

5
6 WHEREAS, the process of reviewing and approving the proposed new Cable Franchise
7 Agreement complies in all respects with the requirements of Chapter 12 of Title 4 of the
8 Breckenridge Town Code ; and

9
10 WHEREAS, after due consideration, the Town Council has determined that it is in the
11 best interest of the Town and its residents to grant a cable franchise to Comcast upon the terms
12 and conditions set forth in the proposed new Cable Franchise Agreement.

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

16
17 Section 1. The Cable Franchise Agreement between the Town of Breckenridge, Colorado
18 and Comcast of Colorado V, LLC (Exhibit “A” hereto), substantially in the form attached to this
19 ordinance, is approved, and the Mayor and Town Clerk are hereby authorized, empowered, and
20 directed to execute such Franchise Agreement for and on behalf of the Town of Breckenridge.

21
22 Section 2. Minor changes to or amendments of the approved Cable Franchise Agreement
23 may be made by the Town Manager if the Town Attorney certifies in writing that the proposed
24 changes or amendments do not substantially affect the consideration to be received or paid by the
25 Town pursuant to the approved agreement, or the essential elements of the approved agreement.

26
27 Section 3. Upon the execution of the approved new Franchise Agreement (Exhibit “A”)
28 by the Town and Comcast of Colorado V, LLC , the Town’s current cable television franchise
29 with Comcast of California/Colorado/Washington, LP, shall be deemed to have been terminated.
30 The appropriate officers or employees of the Town are authorized to sign any necessary
31 documentation to confirm the termination of the current cable television franchise.

32
33 Section 4. Town officials and employees are authorized to take such action as may be
34 necessary and appropriate to implement the new Cable Franchise Agreement.

35
36 Section 5. Except as specifically amended by this ordinance, the
37 Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall
38 continue in full force and effect.

39
40 Section 6. The Town Council finds, determines, and declares that it has the power to
41 adopt this ordinance pursuant to: (i) Article XIII of the Breckenridge Town Charter; (ii) Section
42 4-12-3 of the Breckenridge Town Code ; (iii) applicable federal law, rules, and regulations; and
43 (iv) the authority granted to home rule municipalities by Article XX of the Colorado
44 Constitution.

45
46 Section 7. This ordinance shall be published and become effective as provided by Section

1 5.9 of the Breckenridge Town Charter.

2
3 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
4 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
5 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
6 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
7 Town.

8
9 TOWN OF BRECKENRIDGE, a Colorado
10 municipal corporation

11
12
13
14 By: _____
15 John G. Warner, Mayor
16

17 ATTEST:
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21 _____
22 Helen Cospolich
23 Town Clerk
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**COMCAST OF COLORADO V, LLC AND
THE TOWN OF BRECKENRIDGE, COLORADO**

CABLE FRANCHISE AGREEMENT

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**COMCAST OF COLORADO V AND
TOWN OF BRECKENRIDGE, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 “Access” means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the Town and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

a. “Public Access” means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

b. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

c. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

1.6 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

1.11 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.12 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.13 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.14 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.15 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.16 “Designated Access Provider” means the entity or entities designated now or in the future by the Town to manage or co-manage Access Channels and facilities. The Town may be a Designated Access Provider.

1.17 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.18 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 “FCC” means the Federal Communications Commission.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.22 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Town and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.23 “Franchise Area” means the area within the jurisdictional boundaries of the Town, including any areas annexed by the Town during the term of this Franchise.

1.24 “Franchise Fee” means that fee payable to the Town described in subsection 3.1 (A).

1.25 “Grantee” means Comcast of Colorado V, LLC or its lawful successor, transferee or assignee.

1.26 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Town. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);

- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Town;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Town.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Town and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the Town allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Town. The Town reserves its right to review and to challenge Grantee’s calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.26 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to the Town within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.26(E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the forgoing, the Town reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.27 “Headend” means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.28 “Leased Access Channel” means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.29 “Manager” means the Town Manager of the Town or designee.

1.30 “Person” means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.31 “Premium Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.32 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.33 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.

1.34 “State” means the State of Colorado.

1.35 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee’s regular and nondiscriminatory terms and conditions for receipt of service.

1.36 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.37 “Summit County Telecommunication Consortium” or “SCTC” means the non-profit entity formed by the franchising authorities and/or local governments from the Towns of Breckenridge, Silverthorne, Frisco, and Dillon, and Summit County, Colorado or the SCTC’s successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.38 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.39 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.40 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.41 “Town” is the Town of Breckenridge, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.42 “Town Council” means the Breckenridge Town Council, or its successor, the governing body of the Town of Breckenridge, Colorado.

1.43 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.44 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise, are formally incorporated and made a part of this Franchise by this reference:

- 1) *Exhibit A*, entitled Customer Service Standards.
- 2) *Exhibit B*, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The Town hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Town ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the Town, and the ordinances and regulations enacted pursuant thereto. The Charter and Municipal Code of the Town, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Town may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the Town from imposing additional lawful conditions, including additional compensation conditions for use of the Rights-of-Way, should Grantee provide service other than Cable Service.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Town that may be required by the ordinances and laws of the Town;

(2) Any permit, agreement, or authorization required by the Town for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the Town or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Town has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

(H) This Franchise does not authorize Grantee to provide Telecommunications Service, or to construct, operate or maintain Telecommunications facilities. This Franchise is not a bar to the provision of non-Cable Services, or to the imposition of any lawful conditions on Grantee with respect to Telecommunications, whether similar, different or the same as the conditions specified herein. This Franchise does not relieve Grantee of any obligation it may have to obtain from the Town an authorization to provide Telecommunications Services, or to construct, operate or maintain Telecommunications facilities, or relieve Grantee of its obligation to comply with any such authorizations that may be lawfully required.

2.2 Use of Rights-of-Way

(A) Subject to the Town's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Town such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Town. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Town's Rights-of-Way in compliance with all applicable Town construction codes and procedures. As trustee for the public, the Town is entitled to fair compensation as provided for

in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow Town established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Town's role in protecting public health, safety and welfare, the Town may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Town's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Town, or which is installed without prior Town approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on June 30, 2014 (the "Effective Date"), and shall terminate on June 29, 2024 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the Town to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the Town to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Town may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the Town deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the Town to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the Town reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Town. If the Town grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the Town agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the Town regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Town, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the Town and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Town and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Town shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the Town and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Town grants to another provider of Cable Services, so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Town shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the Town shall not be obligated to amend or replace this Franchise unless the new

entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Town.

(F) Notwithstanding any provision to the contrary, at any time that non-wireless facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the Town, then:

(1) Grantee may negotiate with the Town to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Town's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Town's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Town, throughout the duration of and consistent with this Franchise, an

amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Town shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the Town that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the Town may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Town, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the Town a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the Town, including the Town's Auditor or his/her authorized representative, or the SCTC, as assigned by the Town, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. An audit conducted by the SCTC pursuant to this section may be joined with an audit/review of Grantee's records being conducted by another SCTC community related to the administration or enforcement of its cable franchise agreement with Grantee. Pursuant to subsection 1.26, as part of the Franchise Fee audit/review the Town shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Town subscribers during the audit period. To the extent that the Town does not believe that the relevant data supplied is sufficient for the Town to complete its audit/review, the Town may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall

generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Town to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the Town related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars (\$5,000) for each year of the audit period for all SCTC communities combined. The Town's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the Town.

3.7 Late Payments

In the event any payment due quarterly is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the Town receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Town.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Town through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the Town compensation equivalent to the compensation paid to the Town by other similarly situated users of the Town's Rights-of-Way for Grantee's use of the Town's Rights-of-Way, provided that in no event shall such payments exceed the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise), to the extent consistent with Applicable Law.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the Town to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Town is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Town to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Town hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the Town of such amendment, so long as all cable operators in the Town are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

No term or condition in this Franchise, including the funding required by Section 9, shall in any way modify or affect Grantee's obligation to pay Franchise Fees. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the additional commitments herein are not Franchise Fees as defined under any federal law, nor are they to be offset or credited against any Franchise Fee payments due to the Town, nor do they represent an increase in Franchise Fees.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the Town, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Town. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the Town upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Town deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Town within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Town reserves the right to satisfy any remaining financial obligations of the Grantee to the Town by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The Town shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law, to any agent including, but not limited to, the SCTC, in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the Town's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Town to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the Town. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the Town a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the Town, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the Town reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise, and sufficient grounds for the Town to invoke any relevant remedy in accordance with Section 13.1 of this Franchise.

4.8 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Town and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Town Council for its approval. If so approved by the Town Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.9 Performance Evaluations

(A) The Town may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Town.

(B) Special evaluation sessions may be held at any time by the Town during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Town. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Town, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Town or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the Town and shall provide such information and documents as the Town may reasonably require to perform the evaluation.

4.10 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the Town's Customer Service Standards, as the same may be amended from time to time by the Town Council acting by ordinance or resolution, or as the same may be superseded by legislation or final court order.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the Town without regard to the neighborhood or income level of the Subscriber.

4.11 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the Town. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Town and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Town to substantiate the Grantee's claim. If Grantee has not yet cured the

deficiency, Grantee shall also provide the Town with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the Town, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Town while conducting its defense of the Town.

(B) Indemnification for Relocation. Grantee shall indemnify the Town for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Town arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Town.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the Town harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the Town in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the Town or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Town may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Town may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Town's/ /Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Town without the Town's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Town and the counsel selected by Grantee to represent the Town, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Town in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Town desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Town shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Town's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his/her assistants or any employees of the Town or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Town by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the Town, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the Town, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the Town. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Town, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the Town.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Town, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the Town, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the Town, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the Town with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Self-Insurance In the alternative to providing a certificate of insurance to the Town certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and Town, its officers, agents and employees as otherwise required under this Section. The adequacy of self-insurance shall be subject to the periodic review and approval of the Town.

5.4 Letter of Credit

(A) If there is a claim by the Town of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Town may require and Grantee shall establish and provide within thirty (30) days from

receiving notice from the Town, to the Town as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Town in the amount of ten thousand dollars (\$10,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained ten thousand dollars (\$10,000) until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the Town as set forth in Subsections 5.4 (A) and (B) above, if the Town is a member of SCTC, and if Grantee provides a Letter of Credit to SCTC in an amount agreed to between Grantee and SCTC for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the Town.

(D) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Town for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the Town sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the Town to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the Town, as the same may be amended from time to time by the Town Council acting by ordinance or resolution.

(E) The Town shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the Town Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Town erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the Town, as the same may be amended from time to time by the Town Council in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a “local” telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as Exhibit A. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal, State, or local law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the Town a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to Town

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the Town in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Town, Grantee shall place the Town’s phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Town. The Town, including the Town’s Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Town access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The Town may, in writing, request copies of

any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the Town, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Town inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the Town upon written request as set forth above, and if the Town determines that an examination of such records is necessary or appropriate for the performance of any of the Town's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The Town agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the Town aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the Town believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the Town receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the Town shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Town agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the Town for all reasonable costs and attorneys fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the Town upon 30 days written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Town's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Town. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Town;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Town is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within sixty (60) days of the Town's written request, Grantee shall submit to the Town a written report, in a form acceptable to the Town, which shall include, but not necessarily be limited to, the following information for the Town:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

(C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the next year; and,

(E) A copy of the most recent annual report Grantee filed with the SEC or other governing body.

The parties agree that the Town's request for these annual reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports annually, until further written notice from the Town to the contrary.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the Town copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Town. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Town during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the Town a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

- (1) A summary of service calls, identifying the number and nature of the requests and their disposition;
- (2) A log of all service interruptions;
- (3) A summary of customer complaints referred by the Town to Grantee; and,
- (4) Such other information as reasonably requested by the Town.

The parties agree that the Town's request for these summary reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the Town to the contrary.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the Town may reasonably request (not including clerical errors or errors made in good faith), may, at the Town 's option, be deemed a breach of this Franchise.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Town under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;

- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather and information; and,
- (J) Public, Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Town.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and

video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Town, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the Town may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the Town or a permanent Cable Operator is selected. If the Town is required to fulfill this obligation for Grantee, Grantee shall reimburse the Town for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

8.7 Ascertainment of Programming and Customer Satisfaction

Upon written request of the Town, the Grantee shall provide to the Town written questions that it intends to use in formal upcoming customer ascertainment, if any, to survey community-wide views of cable operations, customer-service issues and programming issues within the Franchise Area. The Town may suggest new or modified questions to such formal community-wide ascertainment, which the Grantee, in the reasonable exercise of its discretion, may add to the next formal community-wide ascertainment it conducts. Upon completion of the next formal community-wide ascertainment of Subscribers in the Town, Grantee shall provide the results from any portion of such survey that addresses customer satisfaction and/or programming issues. Nothing herein shall be construed to limit the right of the Town to conduct its own surveys at its own expense.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The Town shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such “Access Facilities” includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Public Access, Educational Access, and Government Access (“PEG” or “PEG Access”). At the commencement of the Term of this Franchise, the Town is authorizing the SCTC as its Designated Access Provider for all Access purposes as permitted in this Franchise and Applicable Law.

(B) Grantee shall cooperate with Town in Town’s efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Channel Capacity and Use

(A) Grantee shall make available to the SCTC four (4) Downstream Channels for PEG use as provided for in this Section. The Downstream Channels allocated under this Section are the same common channels that Grantee shall make available to all member communities of the SCTC. It is intended that these four (4) common Downstream Channels will be used for the provision of programming to subscribers of PEG programming by the Town and the individual jurisdictions and educational institutions within the SCTC.

(B) Grantee shall have the right to temporarily use any Channel, or portion thereof, which is allocated under this Section for Public, Educational, or Governmental Access use, within sixty (60) days after a written request for such use is submitted to Town, if such Channel is not "fully utilized" as defined herein. A Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of 38 hours per week over a six (6) month period. Programming that is repeated on an Access Channel up to two times per day shall be considered “unduplicated programming.” Character-generated programming shall be included for purposes of this subsection, but may be counted towards the total average hours only with respect to two (2) Channels provided to Town. If a Channel allocated for Public, Educational, or Governmental Access use will be used by Grantee in accordance with the terms of this subsection, the institution to which the Channel has been allocated shall have the right to require the return of the Channel or portion thereof. Town shall request return of such Channel space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Channel, or portion thereof, in accordance with this subsection. In such event, the Channel or portion thereof shall be returned to such institution within sixty (60) days after receipt by Grantee of such written notice.

(C) Standard Definition (“SD”) Digital Access Channels.

(1) Grantee shall provide to the SCTC four (4) common Activated Downstream Channels for PEG Access use in a standard definition (“SD”) digital format in Grantee’s Basic Service (“SD Access Channel”). Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the demarcation point at the designated point of origination for the SD Access Channel. Grantee shall transport and distribute the SD Access Channel signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry a SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the demarcation point which for the purposes of this Section 9.2 (C)(3), shall mean up to and including the modulator where the Town signal is converted into a format to be transmitted over a fiber connection to Grantee. The Town or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the demarcation point.

(4) SD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which SD channels are made available. Grantee is not required to provide free SD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(D) High Definition (“HD”) Digital Access Channels.

(1) After the Effective Date, and with at least 120 days written notice to Grantee, the Town may request in coordination with all SCTC member communities, and Grantee shall provide to the SCTC on its Cable System, one (1) common Activated Downstream Channel for PEG Access use in a High Definition (“HD”) digital format (“HD Access Channel or Channels”). The HD Access Channel allocated under this Section is the same common HD Access Channel that Grantee shall make available to all member communities of the SCTC. After the fifth (5th) anniversary of the Effective Date, and with at least 120 day written notice to Grantee, the Town may request in coordination with all SCTC member communities, and Grantee shall provide to the SCTC on its Cable System, one (1) additional common Activated Downstream Channel

for PEG Access use in a High Definition (“HD”) digital format (“HD Access Channel or Channels”). Activation of such common HD Access Channel(s) shall only occur after the following conditions are satisfied:

(a) The Town shall, in its written notice to Grantee as provided for in this Section, confirm that the SCTC or its Designated Access Provider has the capabilities to produce, has been producing and will produce programming in an HD format for the newly activated HD Access Channel(s); and,

(b) There will be a minimum of five (5) hours per-day, five days per-week of HD PEG programming available for each HD Access Channel.

(2) The Town shall be responsible for providing the HD Access Channel signal in an HD digital format to the demarcation point at the designated point of origination for the HD Access Channel. For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of either 720p or 1080i, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against HD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry a HD Access Channel in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by the Town, Grantee shall verify signal delivery to Subscribers with the Town, consistent with the requirements of this Section 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(5) The Town or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) Grantee shall cooperate with the Town to procure and provide, at Town’s cost, all necessary transmission equipment from the Designated Access Provider channel origination point, at Grantee’s headend and through Grantee’s distribution system, in order to deliver the HD Access Channels. The Town shall be responsible for the costs of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex

equipment, required in order for Grantee to receive and distribute the HD Access Channel signal, or for the cost of any resulting upgrades to the video return line. The Town and Grantee agree that such expense of acquiring and installing the transmission equipment or upgrades to the video return line qualifies as a capital cost for PEG Facilities within the meaning of the Cable Act 47 U.S.C.A. Section 542(g)(20)(C), and therefore is an appropriate use of revenues derived from those PEG Capital fees provided for in this Franchise.

(E) Grantee shall simultaneously carry the HD Access Channel provided for in Section 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channels provided pursuant to Subsection 9.2(C). At such time as Grantee activates the first common HD Access Channel, the number of common SD Access Channels Grantee is obligated to provide to the SCTC in Section 9.2(C) shall be reduced from four (4) to three (3). At such time as Grantee activates the second common HD Access Channel, the number of common SD Access Channels Grantee is obligated to provide to the SCTC in Section 9.2(C) shall be reduced from three (3) to two (2).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the Town believes that Grantee fails to meet this standard, Town will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the SCTC members served by the same Headend as Town for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to Subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide Town a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days notice, prior to the time Public, Educational, and Governmental Access Channel designations are changed.

9.5 Web-Based Video On Demand and Streaming

(A) Within one hundred and twenty (120) days of written request, Grantee shall provide at no cost to the Town, at 110 Ski Hill Road, Breckenridge, Colorado, a business class

broadband connection, broadband service and all necessary hardware, to enable the Town's delivery of web-based PEG content. If, during the term of this Franchise, the Town desires an upgrade to the business class broadband connection provided into 110 Ski Hill Road and such upgrade results in any construction costs, or if the Town moves its location and such new location does not have the capacity to connect and receive the broadband service described in this Section 9.5(A), the cost of upgrading the network to enable such service and/or the cost for any increased level of service shall be incurred by the Town. The broadband connection provided herein shall be used exclusively for web-based on demand Access programming and/or web-based video streaming of Access content. Within ninety (90) days after written request of the Town, Grantee shall additionally provide a one time grant of funding to the SCTC, in an amount not to exceed fifteen thousand dollars (\$15,000) which the Town, through the SCTC, shall use to acquire and/or for replacement costs for a video on demand server for facilitating the web-based Access programming described in this Section 9.5. The grant of funding allocated under this Section is a collective grant that Grantee is providing in the franchise agreements of each SCTC member community. The total amount of this collective grant shall not exceed fifteen thousand dollars (\$15,000).

(B) For all of the Town's and its Designated Access Provider's web-based on demand Access programming facilitated through the broadband connection and service described in this Section 9.5, Grantee shall be permitted to provide its logo which shall be displayed on the main web page for the web-based Access programming, in a manner reasonably similar to the Grantee's logo display found on its Project Open Voice web-based supported programming. Notwithstanding the foregoing, the size of the Town's or Designated Access Provider's logos may be as large as or larger than Grantee's logo, in the Town's or Designated Access Provider's sole reasonable discretion.

(C) Any costs incurred by Grantee in facilitating the web-based on demand Access programming described in this Section 9.5 may be recovered from Subscribers by Grantee in accordance with Applicable Law.

9.6 Support for Access Costs

During the term of this Franchise Agreement, Grantee shall provide fifty cents (\$.50) per month per Residential Subscriber (the "PEG Contribution") to be used solely for capital costs related to Public, Educational and Governmental Access and the web based on demand Access programming described in Section 9.5, or as may be permitted by Applicable Law. To address inflationary impacts on capital equipment or to evaluate whether the Town's PEG Access capital costs have reduced with time, the Town and Grantee may meet no more than three times after the Effective Date to discuss whether to increase or to decrease the PEG Contribution. The primary purpose of such meetings will be for the parties to review prior expenditures and future capital plans to determine if the current PEG Contribution is reasonably appropriate to meet future needs. The Town and Grantee may suggest to each other, based upon their own assessments of reasonable past practices and future anticipated needs, whether the current level of PEG Contribution is appropriate. If either party believes that the PEG Contribution should be modified in a reasonable amount to address such future needs the parties shall share all relevant information supporting their positions and negotiate in good faith to determine if the PEG

Contribution should be increased or decreased, and if so, in what amount. Such discussions regarding potential adjustment to the PEG Contribution will be conducted pursuant to the Franchise amendment procedures in Section 4.8 of this Franchise. Grantee shall make PEG Contribution payments quarterly, following the effective date of this Franchise Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than thirty (30) days following the end of the quarter. Town shall have sole discretion to allocate the expenditure of such payments for any capital costs related to PEG Access. The parties agree that this Franchise shall provide Town discretion to utilize Access payments for new internal network connections and enhancements to the Town's existing network.

9.7 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to Town. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, the additional commitments shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

9.8 Access Channels On Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.9 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of Town's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If the Town implements a new video delivery technology that is currently offered and can be accommodated on the Grantee's local Cable System then the same provisions above shall apply. If the Town implements a new video delivery technology that is not currently offered on and/or that cannot be accommodated by the Grantee's local Cable System, then the Town shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's headend for distribution to subscribers.

9.10 Technical Quality

Grantee shall maintain all upstream and downstream Access services and Channels on its side of the demarcation point at the same level of technical quality and reliability required by this Franchise Agreement and all other applicable laws, rules and regulations for Residential Subscriber Channels. Grantee shall provide routine maintenance for all transmission equipment on its side of the demarcation point, including modulators, decoders, multiplex equipment, and associated cable and equipment necessary to carry a quality signal to and from Town's facilities for the Access Channels provided under this Franchise Agreement, including the business class broadband equipment and services necessary for the video on demand and streaming service described in Section 9.5. Grantee shall also provide, if requested in advance by the Town, advice and technical expertise regarding the proper operation and maintenance of transmission equipment on the Town's side of the demarcation point. The Town shall be responsible for all initial and replacement costs of all HD modulator and demodulator equipment, web-based video on demand servers and web-based video streaming servers. The Town shall also be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by the gross negligence or intentional acts of Town staff. The Grantee shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by the gross negligence or intentional acts of Grantee's staff. The Town will be responsible for the cost of repairing and/or replacing any HD PEG Access and web-based video on demand transmission equipment that Grantee maintains that is used exclusively for transmission of the Town's and/or its Designated Access Providers' HD Access programming.

9.11 Access Cooperation

Town may designate any other jurisdiction which has entered into an agreement with Grantee or an Affiliate of Grantee based upon this Franchise Agreement, any SCTC member, the SCTC, or any combination thereof to receive any Access benefit due Town hereunder, or to share in the use of Access Facilities hereunder. The purpose of this subsection shall be to allow cooperation in the use of Access and the application of any provision under this Section as Town in its sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by Town.

9.12 Return Lines/Access Origination

(A) Grantee shall continuously maintain the return lines previously constructed and in place as of the Effective Date to the SCTC's facility at 110 Ski Hill Road, Breckenridge, Colorado, throughout the Term of the Franchise, in order to enable the distribution of Access programming to Residential Subscribers on the Access Channels; provided however that Grantee's maintenance obligations with respect to this location shall cease if a location is no longer used in the future by the Town to originate Access programming.

(B) Grantee shall construct and maintain new Fiber Optic return lines to the Headend from production facilities of new or relocated Designated Access Providers delivering Access programming to Residential Subscribers as requested in writing by the Town. All actual construction costs incurred by Grantee from the nearest interconnection point to the Designated

Access Provider shall be paid by the Town or the Designated Access Provider. New return lines shall be completed within one (1) year from the request of the Town or its Designated Access Provider, or as otherwise agreed to by the parties. If an emergency situation necessitates movement of production facilities to a new location, the parties shall work together to complete the new return line as soon as reasonably possible.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the Town and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the Town, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the Town, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Town.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the Town. As part of the permitting process, the Town may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Town permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the Town of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) Town Construction Codes. Grantee shall comply with all applicable Town construction codes, including, without limitation, the Uniform Building Code and other building codes, the Uniform Fire Code, the Uniform Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and Town safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the Town regarding geographic information mapping systems for users of the Rights-of-Way.

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Town, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Town's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Town may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the Town may require the removal or relocation of

Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the Town's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Upon reasonable notice to Grantee, the Town may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the Town against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the Town arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Town and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

Within forty-eight (48) hours after any Town bureau or franchisee, licensee or permittee notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the Town's Customer Service Standards, as the same may be amended from time to time by the Town Council acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of the Town or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Town or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper Town authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Town or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the Town.

(F) The Grantee and the Town recognize that situations may occur in the future where the Town may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the Town in any construction by the Grantee that involves trenching or boring, provided that the Town has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the Town to lay its cable, conduit and Fiber Optic cable in the Grantee's trenches and bores, provided the Town shares in the cost

of the trenching and boring on the same terms and conditions as the Grantee at that time shares the total cost of trenches and bores. The Town shall be responsible for maintaining its respective cable, conduit and Fiber Optic cable buried in the Grantee's trenches and bores under this paragraph.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of eight (8) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of twenty-four inches.

Trunk lines shall be buried at a minimum depth of twenty-four (24) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the Town which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems. The Town shall give the same notification to Grantee that is given to any electrical or telephone service companies as set forth in its ordinance.

10.19 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the Town may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Town.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the Town's Customer Service Standards, as the same may be amended from time to time by the Town Council acting by ordinance or resolution.

10.20 Use of Conduits by the Town

The Town may install or affix and maintain wires and equipment owned by the Town for Town purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Rights-of-Way and other public places if such placement does not interfere with Grantee's use of its facilities, without charge to the Town, to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. This right shall not extend to affiliates of Grantee who have facilities in the right-of-way for the provision of non-cable

services. For the purposes of this subsection, "Town purposes" includes, but is not limited to, the use of the structures and installations for Town fire, police, traffic, water, telephone, and/or signal systems, but not for Cable Service or transmission to third parties of telecommunications or information services in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise Fee payments or from other fees payable to the Town.

10.21 Common Users

(A) For the purposes of this subsection:

(1) "Attachment" means any wire, optical fiber or other cable, and any related device, apparatus or auxiliary equipment, for the purpose of voice, video or data transmission.

(2) "Conduit" or "Conduit Facility" means any structure, or section thereof, containing one or more Ducts, conduits, manholes, handhole or other such facilities in Grantee's Cable System.

(3) "Duct" means a single enclosed raceway for cables, Fiber Optics or other wires.

(4) "Licensee" means any Person licensed or otherwise permitted by the Town to use the Rights-of-Way.

(5) "Surplus Ducts or Conduits" are Conduit Facilities other than those occupied by Grantee or any prior Licensee, or unoccupied Ducts held by Grantee as emergency use spares, or other unoccupied Ducts that Grantee reasonably expects to use within two (2) years from the date of a request for use.

(B) Grantee acknowledges that the Rights-of-Way have a finite capacity for containing Conduits. Therefore, Grantee agrees that whenever the Town determines it is impracticable to permit construction of an underground Conduit system by any other Person which may at the time have authority to construct or maintain Conduits or Ducts in the Rights-of-Way, but excluding Persons providing Cable Services in competition with Grantee, the Town may require Grantee to afford to such Person the right to use Grantee's Surplus Ducts or Conduits in common with Grantee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Grantee and the Licensee. Nothing herein shall require Grantee to enter into an agreement with such Person if, in Grantee's reasonable determination, such an agreement could compromise the integrity of the Cable System.

(C) A Licensee occupying part of a Duct shall be deemed to occupy the entire Duct.

(D) Grantee shall give a Licensee a minimum of one hundred twenty (120) days notice of its need to occupy a licensed Conduit and shall propose that the Licensee take the first feasible action as follows:

(1) Pay revised Conduit rent designed to recover the cost of retrofitting the Conduit with multiplexing, Fiber Optics or other space-saving technology sufficient to meet Grantee's space needs;

(2) Pay revised Conduit rent based on the cost of new Conduit constructed to meet Grantee's space needs;

(3) Vacate the needed Ducts or Conduit; or

(4) Construct and maintain sufficient new Conduit to meet Grantee's space needs.

(E) When two or more Licensees occupy a section of Conduit Facility, the last Licensee to occupy the Conduit Facility shall be the first to vacate or construct new Conduit. When Conduit rent is revised because of retrofitting, space-saving technology or construction of new Conduit, all Licensees shall bear the increased cost.

(F) All Attachments shall meet local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Grantee and the Licensee. Grantee may, at its option, correct any attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay Grantee for any fines, fees, damages or other costs the Licensee's attachments cause Grantee to incur.

(G) In order to enforce the provisions of this subsection with respect to Grantee, the Town must demonstrate that it has required that all similarly situated users of the Rights-of-Way to comply with the provisions of this subsection.

10.22 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Town Right-of-Way, or upon the addition to the Town of any area in which Grantee owns or operates any such facility, Grantee shall, at the Town's request, submit to the Town a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.23 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Town's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the Town permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Town may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Town may require Grantee to perform a

combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the Town. Until such time as Grantee removes or modifies the facility as directed by the Town, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the Town may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.24 Movement of Cable System Facilities For Town Purposes

The Town shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Town for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Town for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the Town shall provide reasonable notice to Grantee, not to be less than five (5) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the Town which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Town shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Town, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the Town. If the Town requires Grantee to relocate its facilities located within the Rights-of-Way, the Town shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the Town's satisfaction, the Town may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the Town due to Grantee's delay. In such event, the Town shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Town.

10.25 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Town franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the costs associated with the removal or relocation be paid by the benefited

party.

10.26 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.27 Reservation of Town Use of Right-of-Way

Nothing in this Franchise shall prevent the Town or public utilities owned, maintained or operated by public entities other than the Town from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.28 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Town's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the Town regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.29 Inspection of Construction and Facilities

The Town may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours notice, or, in case of emergency, upon demand without prior notice. The Town shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the Town, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Town establishes. The Town has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.30 Stop Work

(A) On notice from the Town that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Town, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Town.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.31 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Town's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than one hundred ten (110) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals

received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the Town's permitting process.

(D) Grantee and Town shall meet, at the Town's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The Town may notify Grantee on or after five (5) years after the Effective Date, that the Town will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not be limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the Town to provide necessary non-confidential and proprietary information upon the Town's reasonable request as part of the technology assessment.

(C) At the discretion of the Town, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the Town pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Town no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

(A) Grantee shall provide an operating Emergency Alert System (“EAS”) throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Town shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Town shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall, at Grantee's expense, perform the following tests on its Cable System:

- (1) All tests required by the FCC;
- (2) All other tests reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this Franchise; and
- (3) All other tests as otherwise specified in this Franchise.

(B) At a minimum, Grantee's tests shall include:

- (1) Cumulative leakage index testing of any new construction;
- (2) Semi-annual compliance and proof of performance tests in conformance with generally accepted industry guidelines;
- (3) Tests in response to Subscriber complaints;
- (4) Periodic monitoring tests, at intervals not to exceed six (6) months, of Subscriber (field) test points, the Headend, and the condition of standby power supplies; and
- (5) Cumulative leakage index tests, at least annually, designed to ensure that one hundred percent (100%) of Grantee's Cable System has been ground or air tested for signal leakage in accordance with FCC standards.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Town upon reasonable request.

(D) If the FCC no longer requires proof of performance tests for Grantee's Cable System during the term of this Franchise, Grantee agrees that it shall continue to conduct proof of performance tests on the Cable System in accordance with the standards that were in place on the Effective Date, or any generally applicable standards later adopted, at least once a year, and provide written results of such tests to the Town upon request.

(E) The FCC semi-annual testing is conducted in January/February and July/August of each year. If the Town contacts Grantee prior to the next test period (*i.e.*, before December 15 and June 15 respectively of each year), Grantee shall provide Town with no less than seven (7) days prior written notice of the actual date(s) for FCC compliance testing. If Town notifies Grantee by the December 15th and June 15th dates that it wishes to have a representative present during the next test(s), Grantee shall cooperate in scheduling its testing so that the representative can be present. Notwithstanding the above, all technical performance tests may be witnessed by representatives of the Town.

(F) Grantee shall be required to promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a material violation of this Franchise. Sites shall be re-tested following correction.

11.7 Additional Tests

Where there exists other evidence which in the judgment of the Town casts doubt upon the reliability or technical quality of Cable Service, the Town shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Town in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY, INTERCONNECTION AND SERVICE TO SCHOOLS AND PUBLIC BUILDINGS

12.1 Service Availability

(A) In General. Except as otherwise provided herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Town. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non standard installations computed according to a non discriminatory methodology for such installations, adopted by Grantee and provided in writing to the Town;

(3) At non discriminatory monthly rates for Residential Subscribers.

(B) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the Town and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The Town acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(C) Customer Charges for Extensions of Service. Grantee agrees to extend its Cable System to all persons living in areas with a residential density of forty-five (45) residences per mile of Cable System plant. If the residential density is less than forty-five (45) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals forty-five (45). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

12.2 Connection of Public Facilities

Grantee shall, at no cost to the Town, provide one outlet of Basic Service and Digital Starter Service to all Town owned and occupied buildings, schools and public libraries located in areas where Grantee provides Cable Service, so long as these facilities are already served or are located within 150 feet of its Cable System. For purposes of this subsection, “school” means all State-accredited K-12 public and private schools. Such obligation to provide free Cable Service shall not extend to areas of Town buildings where the Grantee would normally enter into a commercial contract to provide such Cable Service (e.g., golf courses, airport restaurants and concourses, and recreation center work out facilities). Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes. The Cable Service provided shall not be distributed beyond the originally installed outlets without authorization from Grantee, which shall not be unreasonably withheld.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If the Town reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Town shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the Town, contesting the Town’s assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the Town that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Town in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Town may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the Town orders a meeting in accordance with subsection (A)(3), the Town shall set a meeting to investigate said issues or the existence of the alleged default. The Town shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the

meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the Town determines that a default exists, the Town shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Town shall determine. In the event Grantee does not cure within such time to the Town's reasonable satisfaction, the Town may:

- (1) Withdraw an amount from the letter of credit as monetary damages;
- (2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,
- (3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the Town, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the Town may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

- (1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the Town and Grantee;
- (2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;
- (3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the Town or Subscribers; or
- (4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;
- (5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the Town shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the paragraph above shall be conducted by the Town Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The Town Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the Town Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the Town Council determines are reasonable under the circumstances. If the Town determines that the Franchise is to be revoked, the Town shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the Town's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The Town Council may at its sole discretion take any lawful action which it deems appropriate to enforce the Town's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Town may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Town's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the Town may order the removal of the above-ground Cable System facilities and such underground facilities from the Town at Grantee's sole expense within a

reasonable period of time as determined by the Town. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the Town's satisfaction, after written notice to Grantee, the Town may cause the work to be done and Grantee shall reimburse the Town for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Town may recover the costs through the letter of credit provided by Grantee.

(D) The Town may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the Town shall have the option to purchase the Cable System.

(B) The Town may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the Town within which to accept or reject the offer.

(C) In any case where the Town elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the Town's audit of a current profit and loss statement of Grantee. The Town shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the Town would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.5 Receivership and Foreclosure

(A) At the option of the Town, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Town may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Town has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Town to assume and be bound by all of the terms and conditions of this Franchise.

13.6 No Monetary Recourse Against the Town

Grantee shall not have any monetary recourse against the Town or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Town under this Franchise are in addition to, and shall not be read to limit, any immunities the Town may enjoy under federal, State or local law.

13.7 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the Town to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Town to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.8 Assessment of Monetary Damages

(A) The Town may assess against Grantee monetary damages (i) up to five hundred dollars (\$500.00) per day for general construction delays, violations of PEG obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250.00) per day for any other material breaches, or (iii) up to one hundred dollars (\$100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, Town shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and in this Franchise. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1(A), or such later date if approved by the Town in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by Town of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by Town by reason of the breach of this Franchise.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Town, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Town, or until the Franchise is revoked and a new franchisee is selected by the Town; or obtain an injunction requiring the Grantee to continue operations. If the Town is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Town or its designee for all reasonable costs, expenses and damages incurred.

13.10 What Constitutes Abandonment

The Town shall be entitled to exercise its options in subsection 13.9 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Town authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The Town and Grantee agree that any proceedings undertaken by the Town that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the Town agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Town agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Town and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Town may grant a renewal thereof. Grantee and Town consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the Town, which consent shall be by the Town Council/Commission, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the Town of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the Town shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the Town for its approval of a sale or transfer and furnish all information required by law and the Town.

(D) In seeking the Town's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the Town may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The Town shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The Town and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if the Town fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Town agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Town, Grantee shall file with the Town a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the Town may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Town in so inquiring. The Town may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the Town shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Town and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Town; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Town or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast of Colorado V, LLC
8000 E. Iliff Ave.
Denver, CO 80231
Attn: Government Affairs

The Town's address shall be:

Town of Breckenridge
Attn: Town Manager
150 Ski Hill Road; P.O. Box 168
Breckenridge, CO 80424

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Town for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Town at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Town hereafter to enforce the same. Nor shall the waiver by the Town of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any judicial dispute between the Town and Grantee arising under or out of this Franchise shall be in Summit County District Court, Colorado, or in the United States District

Court in Denver.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Town of Breckenridge, Colorado this ____ day of _____, 2015.

ATTEST:

TOWN OF BRECKENRIDGE, COLORADO:

Town Clerk

Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

Town Attorney

Town Manager

Accepted and approved this ____ day of _____, 2015.

ATTEST:

COMCAST OF COLORADO V, LLC

Public Notary

Name/Title: _____

**EXHIBIT A:
CUSTOMER SERVICE STANDARDS**

**EXHIBIT B
Report Form**

Comcast
 Quarterly Executive Summary - Escalated Complaints
 Section 7.6 (B) of our Franchise Agreement
 Quarter Ending _____, Year
 BRECKENRIDGE, COLORADO

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
TOTAL	0

Compliments

1 ***FOR WORKSESSION/FIRST READING – APRIL 28***

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2015

9
10 AN ORDINANCE AMENDING SECTION 4-8-1 OF THE BRECKENRIDGE TOWN CODE
11 CONCERNING CABLE TELEVISION CUSTOMER SERVICE STANDARDS

12
13 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
14 COLORADO:

15
16 Section 1. Section 4-8-1 of the Breckenridge Town Code, entitled “Customer Service
17 Standards Adopted,” is amended to read as follows:

18
19 4-8-1: CUSTOMER SERVICE STANDARDS ADOPTED:

20
21 The Town of Breckenridge cable television customer service standards (~~August~~
22 ~~2007~~**revised June 2014**) are adopted by reference. A true copy of the customer
23 service standards shall be kept on file by the town clerk.

24
25 Section 2. Except as specifically amended by this ordinance, the
26 BreckenridgeTownCode, and the various secondary codes adopted by reference therein, shall
27 continue in full force and effect.

28
29 Section 3. If any portion of this ordinance is held to be unconstitutional or invalid for any
30 reason, such decision shall not affect the constitutionality or validity of the remaining portions of
31 this ordinance. The Town Council hereby declares that it would have passed this ordinance and
32 each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

33
34 Section 4. All other ordinances or portions thereof inconsistent or conflicting with this
35 ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or
36 conflict.

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

41
42 Section 6. This ordinance shall be published and become effective as provided by
43 Section 5.9 of the BreckenridgeTownCharter.

44

1 INTRODUCTION, READ ON FIRST READING, APPROVED AND ORDERED
2 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
3 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
4 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
5 Town.

6
7 TOWN OF BRECKENRIDGE, a Colorado
8 municipal corporation
9

10
11
12 By: _____
13 John G. Warner, Mayor
14

15 ATTEST:

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19 _____
20 Helen Cospolich
21 Town Clerk
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TOWN OF BRECKENRIDGE
Customer Service Standards
(revised June 2014)

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under normal operating conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supercede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the Town of Breckenridge.

II. DEFINITIONS

When used in these Customer Service Standards (the “Standards”), the following words, phrases, and terms shall have the meanings given below.

“Adoption” shall mean the process necessary to formally enact the Standards within the Franchising Authority's jurisdiction under applicable ordinances and laws.

“Affiliate” shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

“Applicable Law” means, with respect to these standards and any Cable Operator’s privacy policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

“Cable Operator” shall mean any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System. Source: 47 U.S.C. § 522(5).

“Cable Service” shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Source: 47 U.S.C. § 522(6). For purposes of this definition, “video programming” is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). “Other programming service” is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

“Cable System” shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

“County” shall mean the Summit County, Colorado.

“Summit County Telecommunications Consortium” or “SCTC” shall mean the non-profit entity formed by the franchising authorities and/or local governments from the Towns of Silverthorne, Frisco, Dillon, Breckenridge, and Summit County, Colorado, or the SCTC’s successor entity. The SCTC may, on behalf of its members, be delegated the authority to review, investigate or otherwise take some related role in the administration and/or enforcement of any functions under these Standards. SCTC is not the Franchising Authority.

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

"Customer" shall mean any person who receives any Cable Service from a Cable Operator.

"Customer Service Representative" (or "CSR") shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

"Franchising Authority" shall mean the Town, and does not mean SCTC.

"Necessary" shall mean required or indispensable.

"Non-cable-related purpose" shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a Cable Service or Other Service provided by a Cable Operator to a Customer. Market research, telemarketing, and other marketing of services or products that are not related to a Cable Service or Other Service provided by a Cable Operator to a Customer shall be considered Non-cable-related purposes.

"Normal business hours" shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include at least some evening hours one night per week, and include some weekend hours. Source: 47 C.F.R. § 76.309.

"Normal operating conditions" shall mean those service conditions which are within the control of a Cable Operator. Conditions which are not within the control of a Cable Operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a Cable Operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade to the Cable System.

"Other Service(s)" shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

"Personally Identifiable Information" shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer's Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. "Personally Identifiable Information" shall not mean any aggregate information about Customers which does not identify particular persons, or information gathered by a Cable Operator necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

"Service interruption" or "interruption" shall mean (i) the loss or substantial impairment of picture and/or sound on one or more cable television channels.

"Service outage" or "outage" shall mean a loss or substantial impairment in reception on all channels.

"Subcontractor" shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

"Town" shall mean the Town of Breckenridge, Colorado

"Writing" or "written" as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, contractors and subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

B. Accessibility

1. A Cable Operator shall provide customer service centers/business offices (“Service Centers”) which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the Town, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer’s own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for Customer bill payments; and equipment exchanges at a Customer’s residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer’s concern, the recorded message must provide the customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under normal operating conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under normal operating conditions, a customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator shall complete all standard residential installations or modifications to service requested by customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the customer.

2. Residential Installation and Service Appointments

a. The "appointment window" alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the Cable Operator must arrive at the customer's location.

b. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer's issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within Normal Business Hours or as may be otherwise agreed to between the customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd customer call is received.

b. All other service interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the Cable Operator's actions in response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator's business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. Upon written request a Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning customer complaints referred by the Franchising Authority to the Grantee and any other requirements of a Franchise Agreement but no personally identifiable information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required.

iii. Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each quarter and submitted to the Franchising Authority by the fifteenth (15th) day of the month after each calendar quarter. Once a request is made, it need not be repeated and quarterly summary of service requests shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of Cable service subject to the complaint.

d. Records of Service Interruptions and Outages. A Cable Operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the Franchising Authority quarterly, upon written request, within fifteen (15) days after the end of each quarter. Such records shall be submitted to the Franchising Authority with the records identified in Section 3.c.ii above if so requested in writing, and shall be retained by the Cable Operator for a period of three (3) years.

e. All service outages and interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

- i. Assess the problem within one (1) day of notification;
- ii. Communicate with the customer regarding the nature of the problem and the expected time for repair;
- iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in Section III.C.2.a. At the customer's request, the Cable Operator shall repair the problem at a later time convenient to the customer, during Normal Business Hours or at such other time as may be agreed to by the customer and Cable Operator. A Cable Operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing, so that the customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four (4) hours and resolve the problem within forty eight (48) hours or within such other time frame as is acceptable to the customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a customer's service bill, a Cable Operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the

Cable Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided it has provided two (2) weeks notice to the customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a customer within 30 days after determining the customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven (7) days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any private property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual cost of the damage.

c. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, "reasonable notice" shall be considered:

- i. For pedestal installation or similar major construction, seven (7) days.
- ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant, before entry is made onto that person's property.

iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any customer with a disability, a Cable Operator shall deliver and pick up equipment at customers' homes at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.
2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired customer at no charge.
3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) customers.
4. Any customer with a disability may request the special services described above by providing a Cable Operator with a letter from the customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a customer or prospective customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the customer):
 - a. Products and services offered by the Cable Operator, including its channel lineup;
 - b. The Cable Operator's complete range of service options and the prices for these services;
 - c. The Cable Operator's billing, collection and disconnection policies;
 - d. Privacy rights of customers;
 - e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;

- f. Use and availability of parental control/lock out device;
- g. Special services for customers with disabilities;
- h. Days, times of operation, and locations of the service centers;

2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;

If acceptable to a customer, Cable Operator may fulfill customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.

3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.

4. Copies of notices provided to the customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the SCTC.

5. A Cable Operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a customer has subscribed to, at the time the change in rates are announced by the Cable Operator.

6. All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with customers and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Whenever a Cable Operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

F. Customer Privacy

1. Cable Customer Privacy. In addition to complying with the requirements in this subsection, a Cable Operator shall fully comply with all obligations under 47 U.S.C. Section 551.

2. Collection and Use of Personally Identifiable Information.

a. A Cable Operator shall not use the Cable System to collect, monitor or observe Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer unless, and only to the extent that such information is: (i) used to detect unauthorized reception of cable communications, or (ii) necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer and as otherwise authorized by applicable law.

b. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent any Affiliate from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an Affiliate unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service. This subsection F.2.b shall not be interpreted to prohibit an Affiliate from obtaining access to Personally Identifiable Information to the extent otherwise permitted by this subsection F.

c. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service.

3. Disclosure of Personally Identifiable Information. A Cable Operator shall not disclose Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer, unless otherwise authorized by applicable law.

a. A minimum of thirty (30) days prior to making any disclosure of Personally Identifiable Information of any Customer for any Non-Cable related purpose as provided in this subsection F.3.a, where such Customer has not previously been provided the notice and choice provided for in subsection III.F.9, the Cable Operator shall notify each Customer (that the Cable Operator intends to disclose information about) of the Customer's right to prohibit the disclosure of such information for Non-cable related purposes. The notice to Customers may reference the Customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection III.F.9.

b. A Cable Operator may disclose Personally Identifiable Information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer.

c. To the extent authorized by applicable law, a Cable Operator may disclose Personally Identifiable Information pursuant to a subpoena, court order, warrant or other valid legal process authorizing such disclosure.

4. Access to Information. Any Personally Identifiable Information collected and maintained by a Cable Operator shall be made available for Customer examination within thirty (30) days of receiving a request by a Customer to examine such information about himself or herself at the local offices of the Cable Operator or other convenient place within the Town designated by the Cable Operator, or electronically, such as over a website. Upon a reasonable showing by the Customer that such Personally Identifiable Information is inaccurate, a Cable Operator shall correct such information.

5. Privacy Notice to Customers

a. A Cable Operator shall annually mail or provide a separate, written or electronic copy of the privacy statement to Customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a Customer a copy of such statement at the time the Cable Operator enters into an agreement with the Customer to provide Cable Service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to Customers about their account as it appears on either paper or electronic Customer communications.

b. In or accompanying the statement required by subsection F.5.a, a Cable Operator shall state substantially the following message regarding the disclosure of Customer information: "Unless a Customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service, is limited to:

i. Disclosure pursuant to valid legal process authorized by applicable law.

ii. Disclosure of the name and address of a Customer subscribing to any general programming tiers of service and other categories of Cable Services provided by the Cable Operator that do not directly or indirectly disclose: (A) A Customer's extent of viewing of a Cable Service or Other Service provided by the Cable Operator; (B) The extent of any other use by a Customer of a Cable Service; (C) The nature of any transactions made by a Customer over the Cable System; or (D) The nature of programming or websites that a Customer subscribes to or views (i.e., a Cable Operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a Customer in connection with programming available from their account for Cable Services."

The notice shall also inform the Customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection F.3.a. If a Customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection F.3.a or this subsection, such prohibition against disclosure shall remain in effect, unless and until the Customer subsequently changes their disclosure preferences as described in subsection F.9 below.

6. Privacy Reporting Requirements. The Cable Operator shall include in its regular periodic reports to the Franchising Authority required by its Franchise Agreement information summarizing:

a. The type of Personally Identifiable Information that was actually collected or disclosed by Cable Operator during the reporting period;

b. For each type of Personally Identifiable Information collected or disclosed, a statement from an authorized representative of the Cable Operator certifying that the Personally Identifiable Information collected or disclosed was: (A) collected or disclosed to the extent Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator; (B) used to the extent Necessary to detect unauthorized reception of cable communications; (C) disclosed pursuant to valid legal process authorized by applicable law; or (D) a disclosure of Personally Identifiable Information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.

c. The standard industrial classification (SIC) codes or comparable identifiers pertaining to any entities to whom such Personally Identifiable Information was disclosed, except that a Cable Operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law;

d. The general measures that have been taken to prevent the unauthorized access to Personally Identifiable Information by a person other than the Customer or the Cable Operator. A Cable Operator shall meet with Franchising Authority if requested to discuss technology used to prohibit unauthorized access to Personally Identifiable Information by any means.

7. Nothing in this subsection III.F shall be construed to prevent the Franchising Authority from obtaining Personally Identifiable Information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551 and applicable laws.

8. Destruction of Personally Identifiable Information. A Cable Operator shall destroy any Personally Identifiable Information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection 4 of this subsection III.F, pursuant to a court order or other valid legal process, or pursuant to applicable law.

9. Notice and Choice for Customers. The Cable Operator shall at all times make available to Customers one or more methods for Customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection III.F. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the Customer’s monthly bill for Cable Service, the privacy notice specified in subsection III.F.5, or such other comparable methods as may be provided by the Cable Operator. Website “preference center” features shall be easily identifiable and navigable by Customers, and shall be in a comparable size font as other billing information provided to Customers on a Cable Operator’s website. A Customer who provides the Cable Operator with permission to disclose Personally Identifiable Information through any of the methods offered by a Cable Operator shall be provided follow-up notice, no less than annually, of the Customer’s right to prohibit these disclosures and the options for the Customer to express his or her

preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the Cable Operator's bill (or other direct mail piece) to the Customer or a notice or message printed on the Cable Operator's bill to the Customer, and on the Cable Operator's website when a Customer logs in to view his or her Cable Service account options. The form of such notice shall also be provided on an annual basis to the Franchising Authority. These methods of notification to Customers may also include other comparable methods as submitted by the Cable Operator and approved by the Franchising Authority in its reasonable discretion.

G. Safety

A Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within 30 days of initial installation, then such customer can request disconnection of Cable Service within 30 days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first 30 days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves and/or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.
2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.

3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.

4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the Franchising Authority.

5. A Cable Operator shall immediately report all customer Escalated complaints that it does not find valid to the Franchising Authority.

6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.

2. The customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.

3. The customer shall make such filing and notification within twenty (20) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after filing the original complaint with the Cable Operator.

4. If the Franchising Authority decides that further evidence is warranted, the Franchising Authority shall require the Cable Operator and the customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Cable Operator and the customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem necessary to an understanding and determination of the complaint.

6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.

7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

C. Security Fund or Letter of Credit

A Cable operator shall comply with any Franchise Agreement regarding Letters of Credit. If a Franchise Agreement is silent on Letter of Credit the following shall apply:

1. Within thirty (30) days of the written notification to a Cable Operator by the Franchising Authority that an alleged Franchise violation exists, a Cable Operator shall deposit with an escrow agent approved by the Franchising Authority ten thousand dollars (\$10,000) or, in the sole discretion of the Franchising Authority, such lesser amount as the Franchising Authority deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the Cable Operator's discretion, it may provide to the Franchising Authority an irrevocable letter of credit in the same amount. With the approval of the Franchising Authority (or Franchising Authorities), a letter of credit or cash deposit, may be posted jointly for more than one Franchising Authority, and may be administered, and drawn upon, jointly by the Franchising Authorities, or drawn upon individually.

The escrowed funds or letter of credit shall constitute the "Security Fund" for ensuring compliance with these Standards for the benefit of the Franchising Authority. The escrowed funds or letter of credit shall be maintained by a Cable Operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these Standards, until any claims related to the alleged Franchise violation(s) are paid in full.

2. The Franchising Authority may require the Cable Operator to increase the amount of the Security Fund, if it finds that new risk factors exist which necessitate such an increase.

3. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the performance by a Cable Operator of all its obligations under these Customer Service Standards.

4. The rights reserved to the Franchising Authority with respect to the Security Fund are in addition to all other rights of the Franchising Authority, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the Franchising Authority may otherwise have.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remediating Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

a. Impose assessments of up to one thousand dollars (\$1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied; and/or

b. Order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards; and/or

c. Reverse any decision of the Cable Operator in the matter and/or

d. Grant a specific solution as determined by the Franchising Authority; and/or

e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law.

V. MISCELLANEOUS

A. Severability

Should any section, subsection, paragraph, term, or provision of these Standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction with regard thereto, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of these Standards, each of the latter of which shall remain in full force and effect.

B. Non-Waiver

Failure to enforce any provision of these Standards shall not operate as a waiver of the obligations or responsibilities of a Cable Operator under said provision, or any other provision of these Standards. (Revised 6/2/14)

1 **FOR WORKSESSION/FIRST READING – APRIL28**

2
3 COUNCIL BILL NO. _____

4
5 Series 2015

6
7 AN ORDINANCE APPROVING A LONG-TERM LEASE WITH COMCAST
8 COMMUNICATIONS MANAGEMENT, LLC, a Delaware limited liability company
9 (Part of the Blue River Placer, M.S. 816 – Comcast HeadEnd Facility)

10
11 WHEREAS, the Town of Breckenridge owns a 0.62 acre, more or less, tract of the Blue
12 River Placer, M.S. 816, Section 31, Township 6 South, Range 77 West of the 6th Principal
13 Meridian, in Summit County, Colorado; and

14
15 WHEREAS, Comcast Cable CommunicationsManagement, LLC, a Delaware
16 limitedliability company (“Comcast”), has proposed to lease such tract from the Town for its
17 communications services headend facility; and

18
19 WHEREAS, a proposed Lease between the Town and Comcast has been prepared, a copy
20 of which is marked Exhibit “A,” attached hereto, and incorporated herein by reference; and

21
22 WHEREAS, the proposed Lease has been reviewed by the Town Attorney and the Town
23 Council; and

24
25 WHEREAS, Section 15.4 of the BreckenridgeTownCharter provides:

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

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

33
34 Section 1. The proposed Lease between the Town andComcast Cable
35 CommunicationsManagement, LLC, a Delaware limitedliability company, a copy of which is
36 marked Exhibit “A,” attached hereto, and incorporated herein by reference, is approved, and the
37 Town Manager is authorized, empowered, and directed to execute such Lease for and on behalf
38 of the Town of Breckenridge.

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

43
44 Section 3. This ordinance shall be published and become effective as provided by
45 Section 5.9 of the BreckenridgeTownCharter.

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INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
_____, 2015, 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

1 LEASE

2 THIS LEASE ("Lease") is made and entered into this ____ day of _____,
3 2015 between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation
4 ("Landlord") and COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC, a
5 Delaware limited liability company ("Tenant").
6

7 Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the following
8 real property located in the Town of Breckenridge, County of Summit and State of Colorado:

9 A parcel of land located in a portion of the Blue River Placer M.S. 816, Section
10 31, Township 6 South, Range 77 West of the 6th Principal Meridian, Summit
11 County, Colorado and being more particularly described as follows:
12

13 Commencing at Corner 12 of the Blue River Placer as shown on the Annexation
14 Plat of a portion of the Blue River Placer M.S. 816, Reception No. 221385, a ½
15 inch rebar with a plastic cap stamped PLS 9939, thence N 75° 25'02" W along the
16 line between said Corner 12 and the Southeast Corner of said Annexation Plat a
17 distance of 207.97 feet to a ½ inch rebar with a broken cap stamped PLS 9939,
18 thence N 18°47'59" W a distance of 346.99 feet to the point of beginning of this
19 description.
20

21 Thence N 58°55'26" W a distance of 26.50 feet to a point; Thence N 31°04'34" E
22 a distance of 34.50 feet to a point; Thence S 58°55'26" E a distance of 26.50 feet
23 to a point; Thence S 31°04'34" W a distance of 34.50 feet to the point of
24 beginning.
25

26 Containing 0.02 acres, more or less
27

28 (the "Leased Premises", which are depicted on the attached Exhibit "A", which
29 is incorporated herein by reference)
30

31 upon the following terms and conditions:
32

33 1. Term.

34 A. The initial term of this Lease (the "Initial Term") shall be for ten (10)
35 years and shall commence as of 12:01 A.M., local time, on the next business day following the
36 mutual execution and delivery of this Lease (the "Commencement Date"). The parties agree to
37 execute a certificate stating the date of the Commencement Date.

38 B. Should Tenant remain in possession of the Leased Premises with the
39 consent of Landlord after the natural expiration of this Lease, a new tenancy from month to
40 month shall be created between Landlord and Tenant which shall be subject to all the terms and
41 conditions hereof, but shall be terminable on thirty (30) days' written notice served by either
42 Landlord or Tenant on the other party.

1 2. Rent. The monthly rent to be paid by the Tenant for this Lease during the first
2 year of the term shall be Two thousand five hundred Dollars (\$2,500.00) payable without
3 demand on the first day of each month. The monthly rent shall be increased to reflect the annual
4 cost-of-living adjustment as provided in Paragraph 3. A late charge of five percent (5%) shall be
5 paid on any installment of rent not received by Landlord within five (5) days of the due date. If
6 this Lease commences on any date other than the first day of a month, the rent for the first and
7 last months shall be prorated. The rental for the first month of the term shall be paid within ten
8 (10) business days after the mutual execution and delivery of this Lease.

9 3. Annual Rent Adjustment. On each anniversary date of the Commencement Date
10 of this Lease during the Initial Term, commencing with the first anniversary date in 2016, the
11 monthly rent for the Leased Premises shall be increased by an amount equal to three percent
12 (3%) of the monthly rent paid in the immediately preceding year.

13 4. Use of Leased Premises. The Leased Premises may be used by the Tenant only to
14 provide a location for constructing, maintaining, and operating a cable and broadband
15 communications signal processing and transmission facility together with uses incidental thereto,
16 in accordance with applicable laws. No other use of the Leased Premises shall be made by
17 Tenant without Landlord's prior written consent, which consent may be withheld in Landlord's
18 sole and absolute discretion. Tenant shall comply with all the reasonable rules and regulations
19 which the Landlord may make for the protection of the Leased Premises (provided that in the
20 event of any conflict or inconsistency between such rules and regulations and this Lease, the
21 terms of this Lease shall govern) and with all the laws, ordinances, regulations, rules, and orders
22 of appropriate governmental authorities either now in force or hereafter enacted pertaining to
23 police, fire, sanitation, occupancy, and preservation of the Leased Premises during the term of
24 this Lease. Tenant shall not, during the term hereof, maintain, commit, or permit the
25 maintenance or commission of any hazard or nuisance on the Premises.

26 5. Inspection of Leased Premises. Tenant acknowledges that it is aware of the
27 geological and topographical condition of the Leased Premises based upon its occupancy and use
28 of the Leased Premises pursuant to a prior lease. Tenant accepts the Leased Premises in "AS
29 IS" condition without recourse to Landlord for any dangerous conditions, known or unknown.

30 6. Right to Enter. Tenant shall permit Landlord, its agents, employees and
31 contractors, to have access to and to enter the Leased Premises at all reasonable and necessary
32 times to inspect the Leased Premises for any purpose connected with the repair, improvement,
33 care and management of the Leased Premises, or for any other purpose reasonably connected
34 with Landlord's interest in the Leased Premises, and to perform any such work or other act
35 found necessary on such inspection; provided that such inspection shall not unreasonably
36 interfere with Tenant's use of the Leased Premise and Landlord shall indemnify and hold Tenant
37 harmless from any damage or personal injury resulting from Landlord's inspection of the Leased
38 Premise.

39 7. Surrender of Leased Premises; Removal of Tenant's Property. At the end of the
40 term of this Lease (whether by the natural expiration of the term of this Lease or the earlier
41 termination of this Lease as herein provided) Tenant shall surrender the Leased Premises to the
42 Landlord in as good a condition as existed at the time of the commencement of this Lease,

1 normal wear and tear excepted. At the end of the term of this Lease Tenant shall remove its
2 property from the Leased Premises. Any property of Tenant's not removed from the Leased
3 Premises by Tenant at the expiration of this Lease shall be considered abandoned and Landlord
4 shall have the right (but not the duty), without any notice to Tenant, to sell or otherwise dispose
5 of the same at the expense of the Tenant and shall not be accountable to the Tenant for any part
6 of the proceeds of such sale, if any.

7 8. Parking. Use of any parking area provided by the Landlord for the Leased
8 Premises shall be governed by such rules and regulations as may be made from time to time by
9 Landlord. The use of any such parking area by Tenant shall be at Tenant's risk and with the
10 understanding and agreement that Landlord shall not be liable for personal injury therein or loss
11 of or damage to property thereon. No overnight parking of Tenant's vehicles shall be permitted.

12 9. Alterations and Improvements. Tenant shall make no structural alterations to the
13 Leased Premises or construct any building or make other exterior or structural improvements to
14 the Leased Premises without the prior written consent of Landlord, which consent shall not be
15 unreasonably withheld, conditioned, or delayed. Tenant may make non-structural alterations or
16 improvements to the Leased Premises without the Landlord's consent. Landlord hereby
17 approves all alterations and improvements constructed on the Leased Premises by Tenant or
18 Tenant's predecessors prior to the Commencement Date. All alterations, changes and
19 improvements built, constructed or placed on the Leased Premises by Tenant, with the exception
20 of fixtures removable without damage to the Leased Premises, and Tenant's moveable personal
21 property shall, unless otherwise provided by written agreement between Landlord and Tenant,
22 become the property of the Landlord and remain on the Leased Premises at the expiration or
23 sooner termination of this Lease.

24 10. Maintenance and Snow Plowing. During the term of this Lease, Tenant, at
25 Tenant's sole expense, shall keep the Leased Premises in a neat and clean condition and provide
26 all required maintenance, snow plowing and snow removal necessary to allow the Leased
27 Premises to be used by Tenant for the uses described in Paragraph 7.

28 11. Utilities. Tenant shall initiate, contract for, and pay the cost of obtaining, in its
29 sole name, all utility services required by Tenant on the Leased Premises, and Tenant shall pay
30 all charges for such services as they become due. Without limiting the generality of the
31 foregoing, Tenant shall continue to have a separate electric meter installed and maintained at the
32 Leased Premises.

33 12. Trash Removal. Tenant shall pay the cost of any trash removal required in
34 connection with its use of the Leased Premises.

35 13. Hazardous Materials. Tenant shall not store or permit the storage on the Leased
36 Premises of any type of hazardous or similar material which is regulated by federal, state or local
37 regulation, except strictly in accordance with all applicable laws and regulations.

38 14. Damage to Premises. If the Leased Premises should be damaged, regardless of
39 cause, to the extent that Tenant cannot operate, Tenant shall have the right to either rebuild or

1 repair the Leased Premises at its cost and continue this Lease or terminate this Lease by giving
2 Landlord written notice.

3
4 15. Insurance.

5 A. Tenant shall procure and maintain general liability insurance with
6 minimum combined single limits of not less than One Million Dollars (\$1,000,000). Such
7 coverage shall be procured and maintained with insurers reasonably acceptable to the
8 Landlord and rated A- VII by AM Best. Such coverage shall be continuously maintained to
9 cover all liability, claims, demands, and other obligations assumed by Tenant pursuant to
10 this Lease. In the case of any claims-made policy, the necessary retroactive damages and
11 extended reporting periods shall be procured to maintain such continuous coverages.

12 B. The policy required by Paragraph (A), above, shall be endorsed to
13 include the Landlord as an additional insured, which may be achieved through a blanket
14 additional insured endorsement. Such policy shall be primary insurance, and any insurance
15 carried by Landlord, its officers, or its employees, or carried by or provided through any
16 insurance pool of which Landlord is a member, shall be excess and not contributory
17 insurance to that provided by Tenant, but only with respect to losses for which Tenant is
18 responsible hereunder. Tenant shall be solely responsible for any deductible losses under the
19 policy required above.

20 C. A certificate of insurance shall be completed by Tenant's insurance
21 agent and provided to the Landlord as evidence that a policy providing the required
22 coverage, conditions, and minimum limits is in full force and effect and shall be reviewed
23 and approved by Landlord prior to commencement of the term of this Lease. The certificate
24 shall identify this Lease and shall provide that the coverage afforded under the policy shall
25 not be cancelled until at least thirty (30) days' prior written notice has been given to
26 Landlord. The completed certificate of insurance shall be sent to:

27 Town Clerk
28 Town of Breckenridge
29 150 Ski Hill Road
30 P.O. Box 168
31 Breckenridge, CO 80424
32

33 D. Notwithstanding any other portion of this Lease, failure on the part of
34 Tenant to procure or maintain policies providing the required coverage, conditions, and
35 minimum limits, or to provide the required additional insured policy endorsement, shall
36 constitute a material breach of this Lease for which Landlord may immediately terminate
37 this Lease.

38 16. Indemnification. Tenant agrees to indemnify and hold harmless Landlord, its
39 officers, and employees from and against all liability, claims, and demands, on account of
40 injury, loss, or damage, including without limitation claims arising from bodily injury, personal
41 injury, sickness, disease, death, property loss or damage, or any other loss of any kind

1 whatsoever, which occur on the Leased Premises and which arise out of or are in any manner
2 connected with Tenant's occupancy or use of the Leased Premises pursuant to this Lease. Tenant
3 agrees to investigate, handle, respond to, and to provide defense for and defend against any such
4 liability, claim, or demand at the sole expense of Tenant. Tenant also agrees to bear all other
5 costs and expenses related thereto, including court costs and reasonable attorney's fees. Tenant's
6 indemnification obligation shall not extend to any damages arising out of the gross negligence or
7 intentional acts of Landlord, its employees or agents. As to any indemnification required
8 hereunder, Tenant shall have the right to choose qualified counsel to defend Landlord, and
9 Tenant shall have full settlement authority.

10 17. Liens. Tenant shall not permit the creation of any type of lien upon the Leased
11 Premises, including, but not limited to a mechanic's or materialmen's lien. The indemnification
12 provisions of Paragraph 19 of this Lease shall apply to any such lien. If, because of any act or
13 omission of Tenant, and resulting from Tenant's work on the Leased Premises, any mechanic's
14 or other lien, charge or order for the payment of money shall be filed against the Leased
15 Premises, Tenant shall, at its own cost and expense, cause the same to be discharged of record or
16 bonded within ninety (90) days from the filing of such lien.

17 18. Taxes.

18 A. Taxes Defined. As used in this Lease, the term "taxes" shall mean all
19 personal property and real property taxes that may be levied, assessed or imposed arising out of
20 Tenant's occupancy and use of the Leased Premises pursuant to this Lease.

21 B. Possessory Interests. Pursuant to Section 39-3-105, C.R.S., all real or
22 personal property owned by Landlord is exempt from taxation. However, the parties
23 acknowledge that Tenant's occupancy and use of the Leased Premises pursuant to this Lease
24 may be deemed to be a taxable possessory interest.

25 C. Tenant To Pay Taxes. Any taxes lawfully assessed arising from Tenant's
26 occupancy and use of the Leased Premises pursuant to this Lease shall be paid by Tenant, and
27 Tenant shall indemnify and hold Landlord harmless from any such taxes. Any taxes due arising
28 from Tenant's occupancy and use of the Lased Premises pursuant to this Lease shall be paid by
29 Tenant in a timely manner. Prior to the last day for payment of such taxes without penalty or
30 interest, Tenant shall provide to Landlord a photostatic copy of the receipt(s) or cancelled
31 check(s) showing payment of the taxes. Tenant may pay any taxes in installments if permitted by
32 law.

33 D. Tenant's Right to Contest Taxes. In the event Tenant is liable for the
34 payment of any taxes arising from Tenant's occupancy and use of the Leased Premises pursuant
35 to this Lease, Tenant shall have the right, at Tenant's sole expense, to contest any such taxes by
36 the commencement and prosecution, in good faith and with due diligence, of appropriate legal
37 proceedings; provided that Tenant makes timely payment of such taxes if Tenant loses the
38 contest. Tenant shall advise Landlord prior to instituting any such contest and shall as a
39 condition of exercising such right provide Landlord such reasonable assurance as it may request
40 that such contest shall be in compliance with the provisions of this Paragraph. Landlord, at
41 Tenant's sole cost and expense, shall reasonably cooperate with Tenant in any such contest, may

1 join in the contest, and shall execute and deliver such documents and instruments as may be
2 necessary or appropriate for prosecuting an effective contest.

3 19. Right to Relocate Tenant's Head End Facility. Landlord shall have the right, at
4 its sole cost and expense, to relocate Tenant's head end facility from the Leased Premises to
5 another site similar in size, location and suitability for Tenant's technical requirements (i.e.,
6 location, altitude, etc.) which is reasonably acceptable to Tenant. Landlord shall give Tenant not
7 less than one hundred eighty (180) days' notice prior to such relocation. Such relocation shall be
8 done in such a manner as to minimize any disruption in Tenant's business operations. If Tenant
9 finds the proposed relocated site reasonably unacceptable, Tenant shall not be relocated.
10 Landlord shall waive any development fees required as a result of such relocation. In the event
11 of such relocation, an Amendment to this Lease shall be executed by Landlord and Tenant
12 describing the replacement property for this Lease.

13 20. Landlord hereby grants to Tenant during the term of this Lease, the right to
14 install, access and maintain an emergency generator and related above-ground fuel storage tank
15 (collectively, the "Generator Equipment") in order to provide a source of emergency power for
16 Tenant's operations at the Premises. Tenant shall be responsible for compliance with all laws
17 applicable to the installation, maintenance, use and removal of the Generator Equipment. Tenant
18 will immediately report to Landlord any spill or release of fuel or hazardous substances and any
19 citations or notices of violation and will provide Landlord with copies thereof. Such notification
20 will not relieve Tenant from its obligations to notify governmental agencies. Any cleanup or
21 remediation of any spill or release with respect to the Generator Equipment required by any
22 governmental agency will be completed by Tenant in accordance with all applicable laws.
23 Landlord may make periodic inspections to ensure regulatory compliance and the proper
24 operation, maintenance and repair of the Generator Equipment. Tenant shall give to Landlord
25 notice of any notices which Tenant receives from third parties that any of the Generator
26 Equipment is or may be in violation of any law. Tenant shall pay all taxes of any kind or nature
27 whatsoever levied upon the Generator Equipment and all licensing fees, franchise taxes and
28 other charges, expenses and other costs of any nature whatsoever relating to the construction,
29 ownership, maintenance and operation of the Generator Equipment. Within ten (10) days after
30 expiration or termination of this Lease, Tenant, at Tenant's sole cost and expense, shall remove
31 any Generator Equipment installed hereunder.

32 21. Tenant Default. Tenant shall be in default under this Lease if Tenant fails to
33 comply with any of the terms, provisions or covenants of this Lease within ten (10) days
34 following service of a demand for compliance notice by Landlord in accordance with Colorado
35 law; provided, however, as to any non-monetary default not capable of being cured within ten
36 (10) days following service of a demand for compliance notice, Tenant shall not be in default if
37 it commences correcting the non-monetary default within ten (10) days of service of the demand
38 for compliance notice and thereafter corrects the default with due diligence.

39 22. Landlord's Remedies upon Default. If the Tenant is in default under this Lease,
40 Landlord shall have all of the remedies provided for in such circumstances by Colorado law,
41 including without limitation, the right to terminate this Lease by written notice to Tenant, in
42 which event Tenant shall immediately surrender the Leased Premises to Landlord and, if Tenant
43 fails to do so, Landlord may, without prejudice to any other remedy which it may have for

1 possession or arrearages in rent, enter upon and take possession of the Leased Premises and
2 expel or evict Tenant and any other person who may be occupying the Leased Premises or any
3 part thereof, by force if necessary, without being liable for any claim for damages therefore.

4 23. Landlord's Default. Landlord shall be in default under this Lease if Landlord fails
5 to comply with any of the terms, provisions or covenants of this Lease within ten (10) days
6 following service of a notice by Tenant; provided, however, as to any non-monetary default not
7 capable of being cured within ten (10) days following service of the notice, Landlord shall not be
8 in default if it commences correcting the non-monetary default within ten (10) days of service of
9 the notice and thereafter corrects the default with due diligence.

10 24. Tenant's Remedies upon Default. If the Landlord is in default under this Lease,
11 Tenant shall have all of the remedies provided for in such circumstances by Colorado law.

12 25. No Waiver of Governmental Immunity. The parties hereto understand and agree
13 that Landlord is relying on, and does not waive or intend to waive by any provision of this
14 Lease, the monetary limitations or any other rights, immunities, and protections provided by the
15 Act, as from time to time amended, or any other limitation or defense otherwise available to
16 Landlord, its officers, or its employees.

17 26. Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant,
18 or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or
19 condition of this Lease, or of any subsequent breach of the same or any other term, covenant, or
20 condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not
21 be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition
22 of this Lease, regardless of Landlord's knowledge of such preceding breach at the time of
23 acceptance of such rent. A waiver of Landlord or Tenant of any of its rights hereunder shall be
24 valid and binding only if contained in a written instrument signed by Landlord or Tenant, as
25 applicable. Tenant expressly recognizes Landlord's right to compensation for the use of the
26 Leased Premises, whether characterized as rent or damages, and acceptance of rent during
27 Tenant's occupation shall not constitute a waiver of any breach, even if accepted after notice of
28 termination or institution of court proceedings.

29 27. Non-liability of Landlord. Tenant hereby releases Landlord, and the
30 representatives, agents, attorneys and employees of Landlord, from any and all liability for any
31 injury or damage to Tenant, or to Tenant's property located on or about the Leased Premises ,
32 resulting from any cause whatsoever, except injury or damage resulting from the gross
33 negligence or the willful or intentional act of Landlord, or the representatives, agents, attorneys
34 and employees of Landlord.

35 28. Attorney's Fees and Costs. If any action is brought in a court of law by either
36 party to this Lease concerning the enforcement, interpretation or construction of this Lease, the
37 prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as
38 well as reasonable costs, including expert witness's fees, incurred in the prosecution or defense
39 of such action. Tenant shall further reimburse Landlord for its attorneys' fees incurred in
40 connection with the preparation of this Lease, in an amount not to exceed \$3,000.00, within
41 thirty (30) days after receipt of a copy of Landlord's attorney's invoice.

1 29. Intentionally deleted

2 30. Assignment and Sublease. Tenant shall not sublet the Leased Premises or any part
3 thereof, or assign this Lease, or any part hereof, or grant any concession or license to use the
4 Leased Premises or any part thereof, without the prior written consent of the Landlord, which
5 consent may be withheld in Landlord's sole and absolute discretion. An assignment of this Lease
6 resulting from the:

- 7 i. merger of Tenant with another business entity;
- 8 ii. acquisition of Tenant by another business entity; or
- 9 iii. transfer of the Lease to another business entity controlled by Tenant or
10 a parent, subsidiary, or affiliate of Tenant,

11 shall be deemed a permitted assignment not requiring Landlord's prior consent.

12

13 31. Notices. Any notices required or permitted hereunder shall be sufficient if
14 personally delivered or if sent by certified mail, return receipt requested, or by nationally
15 recognized overnight courier service, addressed as follows:

16 If to Landlord: Town Manager
17 Town of Breckenridge
18 150 Ski Hill Road
19 P.O. Box 168
20 Breckenridge, CO 80424

21

22 WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO:

23

24 Timothy H. Berry, Esq.
25 Timothy H. Berry, P.C.
26 P. O. Box 2
27 Leadville, CO 80461

28

29 If to Tenant: Comcast Cable Communications Management, LLC
30 8000 E. Iliff Blvd
31 Denver, CO 80231
32 Attention: Facilities Manager

33

34 WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO:

35

36 Comcast Cable Communications, LLC
37 One Comcast Center
38 1701 John F. Kennedy Boulevard
39 Philadelphia, PA 19103-2838
40 Attn: General Counsel

41

1 Notices mailed in accordance with the provisions of this Paragraph shall be effective on the fifth
2 calendar day following mailing or on the first business day following submission to a nationally
3 recognized overnight courier service. Notices personally delivered shall be effective upon
4 delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the
5 Colorado Rules of Civil Procedure for service of civil process. E-mail is not a valid means of
6 giving notice under this Lease.
7

8 32. Time of Essence. Time is of the essence of this Lease.

9 33. No Partnership. Notwithstanding anything contained in this Lease to the contrary,
10 it is expressly understood and agreed that the Landlord shall not be construed or held to be a
11 partner, associate or joint venturer of Tenant in the conduct of its business.

12 34. Third Parties. This Lease does not, and shall not be deemed or construed to,
13 confer upon or grant to any third party (except a party to whom the Tenant may assign this Lease
14 in accordance with the terms hereof) any right to claim damages or to bring suit, action or other
15 proceeding against the Landlord because of any breach hereof or because of any of the terms,
16 covenants, agreements and conditions herein.

17 35. Complete Agreement. It is understood and agreed that this Lease contains the
18 complete and final expression of the agreement between the parties as to the subject matter of
19 this Lease and that there are no promises, representations, or inducements except as are herein
20 set forth.

21 36. Modification. This Lease may be modified or amended only by a duly authorized
22 written instrument executed by the parties hereto. Oral amendments to this Lease are not
23 permitted.

24 37. Applicable Law. This Lease shall be interpreted in all respects in accordance with
25 the laws of the State of Colorado without regard to its conflict of laws principles.

26 38. Forum Selection. The parties agree to the jurisdiction and venue of the state
27 courts of Summit County, Colorado in connection with any litigation arising out of or in any
28 manner connected with this Lease.

29 39. Waiver of Right to Jury Trial. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL**
30 **IN CONNECTION WITH ANY LITIGATION ARISING OUT OF OR IN ANY MATTER CONNECTED WITH**
31 **THIS LEASE.**

32 40. Counterparts. This Lease may be executed simultaneously in two or more
33 counterparts, each of which shall be considered an original for all purposes and all of which
34 together shall constitute but one and the same instrument.

35 41. Paragraph Headings. Paragraph headings are inserted for convenience only and in
36 no way limit or define the interpretation to be placed upon this Lease.

37 42. No Recording. This Lease **SHALL NOT BE RECORDED** in the real property records
38 of the Clerk and Recorder of Summit County, Colorado.

HEAD END FACILITY LEASE

1 43. Binding Effect. This Lease shall be binding upon, and shall inure to the benefit
2 of, the parties and their respective successors and permitted assigns.

3 Landlord Authority. The execution of this Lease by Landlord was authorized by Ordinance No.
4 _____Series 2015 , adopted by the Town Council of the Town of Breckenridge
5 on _____,2015.

6
7

LANDLORD:

8
9

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

10
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14

Timothy J. Gagen, Town Manager

15
16

ATTEST:

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Helen Cospolich
Town Clerk

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23
24

TENANT:

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

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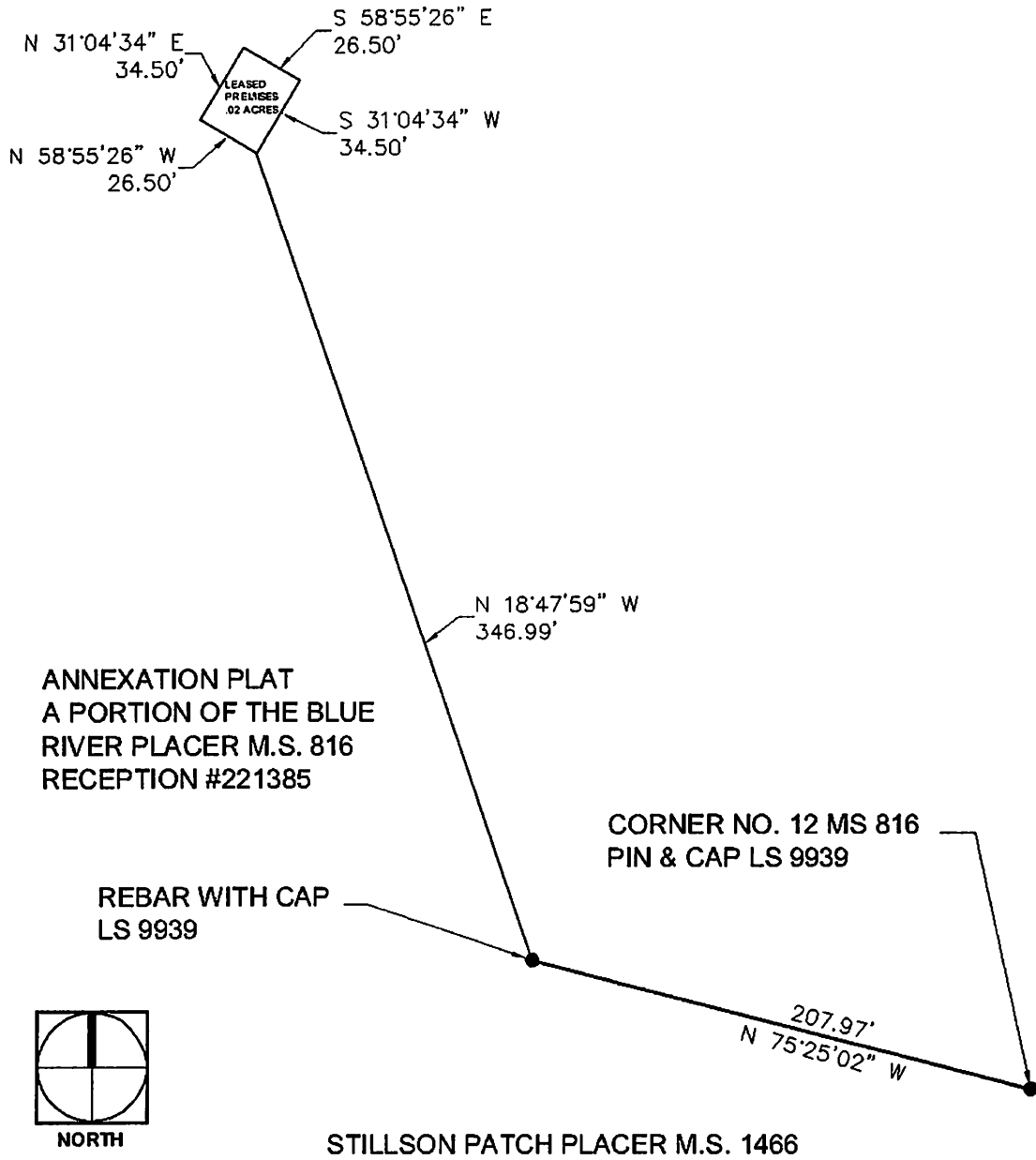
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Title:

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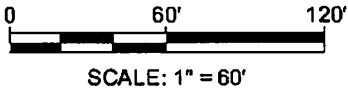
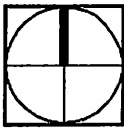
EXHIBIT "A"



ANNEXATION PLAT
A PORTION OF THE BLUE
RIVER PLACER M.S. 816
RECEPTION #221385

CORNER NO. 12 MS 816
PIN & CAP LS 9939

REBAR WITH CAP
LS 9939



STILLSON PATCH PLACER M.S. 1466

<p>EXHIBIT A PARCEL A</p>	<p>A PORTION OF THE BLUE RIVER PLACE M.S. 816 SUMMIT COUNTY COLORADO</p>	<p>DATE SURVEYED 6-3-99</p>	<p>DATE DRAWN 12-11-13</p>
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1 ***FOR WORKSESSION/APPROVAL – APRIL 28***

2
3 RESOLUTION NO. ____

4
5 Series 2015

6
7 A RESOLUTION APPROVING AN “INSTITUTIONAL NETWORK (I-NET)
8 AGREEMENT” WITH COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC
9 AND SUMMIT COUNTY, COLORADO GOVERNMENT

10
11 WHEREAS, an “I-Net” is a private communications network consisting of circuits and
12 interconnections between and among facilities; and

13
14 WHEREAS, the Town desires to enter into the “Institutional Network (I-Net)
15 Agreement” with Comcast Cable Communications Management, LLC, and Summit County
16 government, a copy of which is marked Exhibit “A,” attached hereto, and incorporated herein
17 by reference (“Agreement”); and

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

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

25
26 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
27 BRECKENRIDGE, COLORADO:

28
29 Section 1. The “Institutional Network (“I-Net”) Agreement” between the Town,
30 Comcast Cable Communications Management, LLC, and Summit County government is
31 approved, and the Town Manager is authorized, empowered, and directed to execute such
32 agreement for and on behalf of the Town of Breckenridge.

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

38
39 Section 3. This resolution is effective upon adoption.

40
41 RESOLUTION APPROVED AND ADOPTED this ____ day of ____, 2015.

42
43
44

TOWN OF BRECKENRIDGE

By: _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney Date

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**INSTITUTIONAL NETWORK ("I-NET")
AGREEMENT**

THIS INSTITUTIONAL NETWORK AND ENTERPRISE CLASS SERVICES AGREEMENT (the "Agreement") is made and entered into, to be effective as of _____ (the "Effective Date"), by and between on the one hand, the Town of Breckenridge, a Colorado home rule municipal corporation and the County of Summit, a Colorado county (hereinafter each referred to as "Town" and "County," respectively), and on the other hand Comcast Cable Communications Management, LLC, on behalf of itself and its affiliates (hereinafter "Comcast").

WHEREAS, concurrently with the approval of this Agreement, the Town and County will be granting to Comcast's affiliate Comcast of Colorado V, LLC a cable television franchise (together with any renewals or extensions, the "Franchise") which provides, among other things, for the building and maintenance of an Institutional Network (the "I-Net", as further defined in Section I.B. and Appendix A); and,

WHEREAS, Comcast has completed installation and continues to maintain the I-Net in full compliance with the Franchise and,

WHEREAS, Comcast has requested, and the Town and County are willing to separate the terms and conditions regarding the I-Net from the Franchise, and to restate and amend such terms and conditions as provided herein, and (2) to establish the framework upon which the Town may acquire additional products and services from Comcast, whether related to the I-Net or otherwise.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN, THE PARTIES AGREE AS FOLLOWS:

I. I-Net Scope and Definitions

A. **Defined Terms.** All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Franchise.

B. **Private Network.** The I-Net is a private communications network built and maintained by Comcast for the benefit of the Town and County, and consists of the circuits and interconnections between and among the facilities described on Appendix A, enabling direct communications between and among any of those facilities. Comcast grants the Town and County the right to access and use the I-Net during the Term (as defined in Section V.A. below) only by employees, contractors and officials of the Town and County, and certain business and legal representatives of the Town and County for Town and County governmental business and government business of any other governmental or quasi-governmental entity located in the County only (together "Qualified I-Net Users"). Subject to Section I.B. below, and unless expressly prohibited by State or federal law, Qualified I-Net Users shall have the right to provide for the internal switching, routing and/or cross connection to telecommunications carriers of its choice, for the Town's and County's normal voice and data communications operations, including without limitation the following uses:

- (1) High-speed transmission of data to and from Town and County departments and to and from other Qualified I-Net Users;

EXHIBIT "A"

- (2) Transmitting live and stored instructional materials (whether in the form of data, video or otherwise) for distance learning and staff training purposes to and from Qualified I-Net Users;
- (3) Providing videoconferencing among government locations and to other locations for government purposes;
- (4) Linking public libraries and providing terminals at library locations that allow members of the public to access library databases and other remote databases;
- (5) Providing for remote origination of Access programming;
- (6) Facilitating connections for telephone systems, security systems and other critical public entity communications applications, so long as such systems are not providing telecommunications services to any person or entity other than Qualified I-Net Users.

C. Prohibited Uses. The I-Net is for the governmental business operation of the Town and County, and may not be used to provide commercial services to Town and County residents or any non-governmental third party. Neither the Town, County nor any Qualified I-Net Users may resell or re-lease access to the I-Net. In addition, the I-Net will not be used in any way that will intentionally or unreasonably interfere with the signal quality and the normal operation of Comcast's Subscriber Network (as that term is defined in the Franchise). Without limiting the foregoing, the I-Net may not be used for providing Internet access, telecommunications or multi-channel video services to any person or entity other than Qualified I-Net Users. The Town and County agrees to require all Qualified I-Net Users to stipulate and agree to these limitations.

D. Network Equipment. Working in cooperation, the Town and County, Comcast shall determine the network equipment that is necessary for the operation of the I-Net from the Headend to the Demarcation Point at each I-Net site (excluding end user electronics), and Comcast shall install this equipment at appropriate points on the I-Net. Comcast shall not install or be responsible for any I-Net end user equipment past the Demarcation Point, unless through a separate agreement with the Town or County; provided, however, that Comcast shall provide technical expertise as necessary to ensure that the end user equipment is compatible with the I-Net. See Appendix A and Appendix B (a map illustrating the Demarcation Point at each I-Net site location).

II. I-Net Service and Performance Standards

Comcast shall be responsible for meeting these service and performance standards on the portion of the I-Net:

A. Signal Quality. The following standards presume that the I-Net will be constructed solely of Fiber Optics to the Demarcation Point at each Qualified I-Net User site, and that the I-Net will operate in an analog format up to 550 MHz, and in a digital format from 550-750 MHz. If the I-Net incorporates any coaxial cable or the bandwidth is used in a different manner than described above, the parties will negotiate in good faith to modify these standards as appropriate to the circumstances. The I-Net shall achieve performance standards listed below under worst-case conditions for communications occurring between one Demarcation Point and any other Demarcation Point.

- (1) **Noise.** The I-Net will not add more than 4dB carrier-to-noise to transmissions, as measured from one Demarcation Point to another. Signal-to-noise or other interference

measurements will be substituted for this standard where appropriate.

(2) **Data Communications.** For any data communications link on the I-Net, the bit error ratio (BER) shall be equal to or better than 1×10 to the minus 9.

(3) **Availability.** I-Net availability shall be equal to or better than 99.965% (no more than 184 minutes of I-Net downtime) as measured on an annual basis. The I-Net shall be defined as “unavailable” or as an “I-Net Outage” under the standards in this subsection for Qualified I-Net Users when Qualified I-Net Users (i) cannot, because of an I-Net Problem, measured by SNMP software or other appropriate software and associated hardware, or through a failure of a Comcast-provided interconnect, transmit video, voice and/or data communications to, from, and/or on the I-Net; (ii) experience, due to an I-Net Problem, video, voice, and data transmissions that are below the standards set forth in this subsection; or (iii) experience, due to an I-Net Problem, a data communications packet loss of greater than ten percent (10%). For purposes of this subsection, an I-Net Problem is defined as those that result from the failure of any Comcast-provided I-Net component. I-Net Problems shall not include (i) infrequent scheduled preventative maintenance as long as the Town’s and County’s Technical Contact (as defined in Section II.B. below) is notified in advance; or (ii) those caused by force majeure, as set forth in Section IX.A. of this Agreement.

B. Service Response.

(1) **Maintenance.** As more fully described in Section II.D. of this Agreement, Comcast shall be responsible for the ongoing maintenance and performance of the I-Net from the Demarcation Point within a facility through the I-Net, including the Breckenridge Hub. Routine and preventative maintenance shall be performed on the I-Net to ensure that it meets all performance criteria detailed herein. Comcast will provide the Town’s and County’s Technical Contact with at least ten (10) business days advance notice of routine and preventative maintenance activities that may affect operation of the I-Net circuits.

(2) **Demand Maintenance/Service and Repair.** Response to I-Net Problems shall occur at all hours (24 X 365). Appropriate Comcast technical support shall respond and actively begin working on I-Net Problems within one (1) hour of either (a) Comcast identifying such I-Net Problem; or (b) Comcast receiving a call from the Town’s or County’s Technical Contact reporting an I-Net Problem. Comcast shall work continuously until the problem is resolved. If it is determined that the I-Net Problem is caused by the Qualified I-Net User’s equipment or software, then the Qualified I-Net User shall correct the problem such that other Qualified I-Net Users are no longer affected. If the Qualified I-Net User does not correct the problem, then Comcast may disconnect the affected site from the I-Net until such time as the equipment or software is repaired.

(3) **Staff Support.** Comcast shall provide an appropriate complement of administrative, Hub and field personnel at all times to meet the performance criteria detailed herein.

(4) **Service Call Processing and Tracking.** Comcast will establish mechanisms and procedures for all Qualified I-Net Users to quickly and easily report I-Net Problems. All trouble or service calls will be documented, processed and completed in an expedient manner. Comcast will provide in-house and/or contractor staff; spare and backup Hub and distribution equipment; test and maintenance equipment; and additional support as necessary to ensure that the I-Net performs reliably in accordance with all standards detailed herein.

C. Performance Testing. Comcast will conduct proof of performance testing on the I-Net two

times per year, no less frequently than every six months. A minimum of one test point location per twenty I-Net sites will be established for the I-Net which are representative of worst-cast performance of the I-Net. A representative sampling of activated upstream and downstream bandwidth shall be teste at each test point location. Testing shall be performed to ensure compliance with the I-Net performance specifications herein. Tests shall be performed using standard test methodologies as incorporated in the most recent version of the NCTA’s Recommended Practices of Measurement on a Cable Television System, or another test methodology as mutually agree to by the Town, County and Comcast. All test will be documented and, upon request, filed with the Town and County. At the Town or County’s request, all testing processes will be conducted under the observation of a representative from the Town and/or County.

D. Maintenance; Service Trouble Calls and Escalation. Comcast will perform routine maintenance, non-emergency and emergency repairs upon the I-Net fiber optic circuits and associated facilities and equipment from the Comcast side of the Demarcation Point. The Town and County will each appoint a designated person (the "**Town’s and County’s Technical Contact**") to serve as the point person for troubleshooting and notifying Comcast of any I-Net Problems. The Town and County acknowledge that Comcast does not actively monitor the signal transmission upon the Town and County-utilized I-Net fiber, and would have no notice of a service outage but for Town or County-initiated notification. In the event of a system failure, the Town’s or County’s Technical Contact will notify Comcast by calling (720) 535-8841. This line shall be staffed at all hours (24 hours per day, 365 days per year). Comcast shall not be obligated to respond to maintenance or troubleshooting calls from any Qualified I-Net User other than the Town’s or County’s Technical Contact.

Response to I-Net problems shall occur at all hours (24 hours per day, 365 days per year) as set forth below.

In the event of a disruption or trouble with respect to any portion of the I-Net, Comcast shall provide maintenance and repairs in accordance with the response times set forth below (the "**Dispatch Period**"). Comcast shall notify the Town’s and County’s Technical Contact within the Dispatch Period that Comcast has dispatched its personnel or contractors to effect restoration and repair and shall provide the City with updates concerning the status of restoration at reasonable intervals.

Severity Level	Network Condition	Response Time	Commitment
CRITICAL	Network is down. No workaround is available.	1 hour	Comcast and Town/County work to resolve situation 24 x 7.
HIGH	Network functionality is severely limited. No workaround is available.	2 hours	Comcast and Town/County work to resolve situation 24 x 7.
MEDIUM	Limited functionality. Workaround is available.	12 hours	Comcast and Town/County work to resolve situation during named business hours.
LOW	General questions, system enhancements, and/or documentation issues in the ordinary course of business.	24 hours	Comcast and Town/County work to resolve situation during normal business hours.

For problems with a "High" or "Critical" severity level, the following escalation procedure will be followed:

1 -2 Hours	Comcast system engineer or equivalent will be notified, will contact the Town/County and roll crews to begin repairs. Comcast Director or equivalent will be notified.
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III. Fees for Use and Maintenance of I-Net

A. Annual Maintenance Fee. For all maintenance and technical support provided hereunder, the Town and County shall pay Comcast an all-inclusive annual maintenance fee of \$0.

B. Taxes and Government-Related Costs and Fees.

Except to the extent Town or County provide a valid tax exemption certificate, Town or County shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). The Town or County also will be responsible to pay any fees, payment obligations and taxes that become applicable retroactively.

IV. Additional Services

A. Terms Limited to Exiting I-Net. The Town and County acknowledge and agree that the terms and conditions in Sections I through III above apply only to the I-Net as it is currently described on Appendix A and existing as of the Effective Date of this Agreement. Any new or additional products or services purchased by the Town or County shall be subject to terms set forth below. "Dark Fiber" solutions of the type provided for the existing I-Net will not be available; rather, the Town or County shall be entitled to purchase additional circuits on a managed-services basis subject to Comcast's monthly fees for such services. Any additional circuits will remain owned by Comcast subject to the rights granted to the Town and County herein, even if such circuits are used in conjunction with the existing I-Net.

B. Additional Products and Services. Comcast shall make available the same products and services to the Town and County as to other enterprise class or Business Service customers, at the discounted fees provided for in Section IV.C. below, and subject to the terms in this Agreement. The current list of products/services available for purchase by the Town and County is on Appendix C, which may be updated from time to time by Comcast to reflect Comcast's then-current general product offerings. These services have additional terms and conditions which will be set forth in the order form or product schedule ("Additional Terms"), provided that (1) such Additional Terms will be the same as to those provided generally to other enterprise class or Business Service customers as part of Comcast's standard offering, and (2) in the event of any conflict between the Additional Terms and any terms or conditions in this Agreement, this Agreement shall be controlling.

C. Fees; Discount. Any enterprise class products or services purchased by the Town or County (including circuits added or upgrades to the I-Net requested by the Town or County) shall be billed at Comcast's enterprise class then-standard rate card or tariff rates, if applicable, less a discount of up to thirty percent (30%), plus expenses. Discounts on Comcast Business Services products will depend on length of Service Order and volume of services ordered.

D. Payment of Bills. Comcast will invoice the Town and/or County in advance for any additional products and services purchased hereunder. Payment is due NET thirty (30) days. The Parties shall negotiate in good faith to resolve any billing dispute. Comcast will refund/credit all valid disputes resolved in the Town's or County's favor as of the date the disputed charges first appeared on the Town's or County's invoice.

E. Taxes and Government-Related Costs and Fees. Except to the extent the Town or County provides a valid tax exemption certificate, the Town or County shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Taxes and other government-related fees and surcharges may be changed with or without notice. In the event that any newly adopted law, rule, regulation or judgment increases Comcast's costs of providing its services, the Town and County shall pay Comcast's additional costs of providing its services under the new law, rule, regulation or judgment.

IV. General Obligations of the City and Comcast

A. Access. In order to deliver certain services to the Town or County, Comcast may require access, right-of-way, conduit, and/or common room space ("Access"), both within and/or outside each location to which service is being provided. That access has been provided to Comcast in its Lease Agreement entered into with the Town, concurrent with the execution of this Agreement.

B. Hazardous Materials. If the presence of asbestos or other hazardous materials exists or is detected at a location or within the building where the Town or County requests service, Comcast may immediately stop providing services until such a time as such materials are removed. Alternatively the Town or County may notify Comcast to install the applicable portion of the service in areas of any such location not containing such hazardous material. Any additional expense incurred by Comcast as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by the Town or County.

C. Comcast Equipment. As used herein, "Comcast Equipment" means any and all facilities, equipment or devices provided by Comcast or its authorized contractors that are used to deliver any of the Services under this Agreement, including, but not limited to, all terminals, wires, modems, lines, circuits, ports, routers, gateways, switches, channel service units, data service units, cabinets, and racks. Notwithstanding the above, inside telephone wiring within the Town's or County's premises, whether or not installed by Comcast, shall not be considered Comcast Equipment. At any time Comcast may remove or change Comcast Equipment in its sole discretion in connection with providing the services. The Town and County shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Comcast Equipment or permit others to do so, and shall not use the Comcast Equipment for any purpose other than that authorized by the Agreement. Comcast shall maintain Comcast Equipment in good operating condition during the term of this Agreement; provided, however, that such maintenance shall be at Comcast's expense only to the extent that it is related to and/or resulting from the ordinary and proper use of the Comcast Equipment. The Town and County are responsible for damage to, or loss of, Comcast Equipment caused by their acts or omissions, and its noncompliance with this Agreement, or by fire, theft or other casualty at the Town's or County's service location(s), unless caused by the negligence or willful misconduct of Comcast.

D. Ownership, Impairment and Removal of Network. The Comcast Equipment, facilities, fiber optic cable associated with electronics and other equipment used to provide the services hereunder (the "Network") is and shall remain the property of Comcast regardless of whether installed within or upon the Town's or County's premises or property and whether installed overhead, above, or underground, and shall not be considered a fixture or an addition to the land or the buildings on which it is located. The Town and County agree that neither Party shall take action that directly or indirectly impairs Comcast's title to the Network, or any portion thereof, or exposes Comcast to any claim, lien, encumbrance, or legal process,

except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude Comcast from using the Network for services provided to other Comcast customers. For a period of twelve (12) months following Comcast's discontinuance of any service to any Town or County location, Comcast retains the right to remove the Network including, but not limited to, that portion of the Network that is located in such location. To the extent Comcast removes such portion of the Network it shall be responsible for returning the location(s) to its prior condition, reasonable wear and tear excepted.

E. Town or County-Provided Equipment. As used herein, "Town or County Equipment" means any and all facilities, equipment or devices supplied by the Town or County for use in connection with the services provided by Comcast hereunder. Comcast shall have no obligation to install, operate, or maintain Town or County Equipment. The Town and County, as applicable, shall have sole responsibility for providing maintenance, repair, operation and replacement of all Town or County Equipment, inside telephone wiring and other Town or County Equipment. Neither Comcast nor its employees, affiliates, agents or contractors will be liable for any damage, loss, or destruction to Town or County Equipment, unless caused by the negligence or willful misconduct of Comcast. Town or County Equipment shall at all times be compatible with the Network as determined by Comcast in its sole discretion. In addition to any other service charges that may be imposed from time to time, the Town or County shall be responsible for the payment of service charges for visits by Comcast's employees or agents to a service location when the service difficulty or trouble report results from the use of Town or County Equipment or facilities provided by any party other than Comcast.

V. Term and Termination

A. Term. This Agreement shall commence upon the Effective Date hereof and, unless otherwise terminated earlier in accordance with this Agreement, shall remain in full force and effect for five (5) years (the "**Initial Term**"). The Town and County shall have two (2) consecutive options to extend the Initial Term for an additional period of two (2) years (each a "**Renewal Term**"), subject to the terms and conditions established in Section VI.B. below; provided however that if the term of the Franchise of either the Town or County is extended, the option to extend the term of this Agreement shall include the right to extend for a term concurrent with the term of the extended Franchise. The Initial Term and the Renewal Term (if any) shall collectively be referred to as the "**Term.**"

B. Option to Renew.

(1) The Renewal Term(s) shall be automatic unless the Town or County gives Comcast ninety (90) days prior written notice of intent not to renew.

(2) Each Renewal Term shall commence immediately after the expiration of the immediately preceding Term. Each Renewal Term shall be upon and subject to the same terms and conditions of the immediately preceding Term.

C. Termination for Default.

(1) A party shall be in default under this Agreement if:

(a) such party fails to timely perform any material obligation under this Agreement, and such failure continues for a period of thirty (30) days after written notice of such failure given by the other party; or

(b) such party becomes the subject of any proceedings under any bankruptcy or insolvency laws provided that, in the case of any involuntary proceeding, such

proceeding is not dismissed within sixty (60) days.

(2) Upon default, and at any time thereafter, the non-defaulting party may, at its option, declare this Agreement to be in default, and may terminate this Agreement upon written notice to the defaulting party and may pursue all other available remedies at law and in equity, all of which shall be cumulative. No express or implied waiver by either party of any event of default shall in any way be, or be construed to be, a waiver of any further or subsequent event of default.

VI. Warranties; Limitation of Liability; Disclaimers

A. Certain Covenants and Warranties of Comcast. Comcast will perform all services under this Agreement using a degree of skill, care, and judgment consistent with customarily accepted best business practices in the industry.

B. Disclaimer of Warranties.

(1) I-Net construction and I-Net maintenance shall be provided pursuant to the terms and conditions in this Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMCAST EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.**

(2) Without limiting the generality of the foregoing, Comcast does not warrant that any of its services, Comcast Equipment, software, or the Town's or County's use of the I-Net will be uninterrupted, error-free, or free of latency or delay, or that the services, Comcast Equipment, software or the Town's or County's use of the I-Net will meet the requirements of the Town and County or their end-users, or that the services, Comcast Equipment, software, or the I-Net will prevent unauthorized access by third-parties.

(3) Comcast's services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the services could lead to severe injury to business, persons, property or environment ("**High Risk Activities**"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required.

(4) In no event shall Comcast be liable for any loss, damage or claim arising out of or related to: (i) stored, transmitted, or recorded data, files, or software; (ii) any act or omission of Town or County, its users or third-parties; (iii) interoperability, interaction or interconnection of the services with applications, equipment, services or networks provided by Town, County or third-parties; or (iv) loss or destruction of any Town or County Equipment, hardware, software, files or data resulting from any virus or other harmful feature or from any attempt to remove it. The Town and County are advised to back up all data, files and software at regular intervals.

C. Limitation of Liability.

(1) **THE AGGREGATE LIABILITY OF COMCAST FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, AND NOT OTHERWISE LIMITED HEREUNDER, WHETHER IN CONTRACT, TORT, IN LAW OR IN EQUITY, OR OTHERWISE, SHALL NOT EXCEED DIRECT DAMAGES EQUAL TO THE SUM TOTAL OF PAYMENTS MADE BY TOWN AND COUNTY TO COMCAST DURING THE ONE YEAR PERIOD IMMEDIATELY**

PRECEDING THE EVENT FOR WHICH DAMAGES ARE CLAIMED. THIS LIMITATION SHALL NOT APPLY TO AMOUNTS PAID BY WAY OF INDEMNITY PURSUANT TO SECTION VII BELOW, OR TO THE TOWN AND COUNTY'S LIABILITY FOR THE FEES DUE FOR THE SERVICES HEREUNDER.

(2) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT; PROVIDED HOWEVER, THAT NOTHING HEREIN IS INTENDED TO LIMIT TOWN AND COUNTY'S LIABILITY FOR THE FEES DUE FOR THE SERVICES HEREUNDER.

VII. Defense; Indemnification and Responsibility for Damages

A. Comcast hereby agrees to defend, indemnify, reimburse and hold harmless Town and County, their appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property made by third parties ("Claims"), arising out of, resulting from, or relating to the work performed under this Agreement to the extent attributable to the negligence or willful misconduct of Comcast or any employee or contractor of Comcast. This indemnity shall not apply to the extent any such Claim is attributed to the negligence or willful misconduct of Town or County. Comcast's duty to defend and indemnify the Town and County shall arise at the time written notice of the Claim is first provided to Comcast by the Town or County, regardless of whether Claimant has filed suit on the Claim. Comcast's duty to defend and indemnify shall arise even if Town or County is the only party sued.

B. Process. Comcast will defend any and all Claims covered by Section VII.A. above which may be brought or threatened against the Town or County and will pay on behalf of the Town or County any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims. Such payments on behalf of the Town or County shall be in addition to any other legal remedies available to the Town or County and shall not be considered the Town's or County's exclusive remedy.

C. Relationship to Insurance. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Comcast under the terms of this indemnification obligation. Comcast shall obtain, at its own expense, any additional insurance that it deems necessary for the Town's and County's protection.

D. Responsibility for Damages. The Town will be responsible to Comcast, its parent, subsidiary and affiliated companies and entities and their officers, directors, employees, and agents for any claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) caused by (i) the Town's negligence or breach of contractual obligations, or (ii) arising out of any Qualified I-Net User's use of the I-Net provided under the Agreement, including without limitation with respect to libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the I-Net. The County will be responsible to Comcast, its parent, subsidiary and affiliated companies and entities and their officers, directors, employees, and agents for any claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) caused by (i) the County's negligence or breach of contractual obligations, or (ii) arising out of any Qualified I-Net User's use of the I-Net provided under the Agreement, including without limitation with respect to libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications

via the I-Net. Notwithstanding the foregoing, nothing contained herein shall be considered or construed as a waiver of any of the coverages or protections of the Colorado Governmental Immunity Act, as amended.

E. Survival. This Section VII shall survive the expiration or earlier termination of this Agreement.

VIII. Confidential Information and Privacy

A. Definition of Confidential Information. "Confidential Information shall mean all information regarding either party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential" or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the generality of the foregoing, Confidential Information shall include, even if not marked, the Agreement, promotional materials, proposals, quotes, rate information, discount information, subscriber information, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance) and invoices, as well as the parties' communications regarding such items. Comcast acknowledges and agrees that the terms of this Agreement are not Confidential Information.

B. Disclosures and Use. All Confidential Information disclosed by either party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third-party without the disclosing party's express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care.

C. Exceptions. Notwithstanding the foregoing, each party's confidentiality obligations hereunder shall not apply to information that: (i) is already known to the receiving party without a pre-existing restriction as to disclosure; (ii) is or becomes publicly available without fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third-party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party; (iv) is developed independently by the receiving party without use of the disclosing party's Confidential Information; or (v) is required to be disclosed by law or regulation. In addition, Comcast recognizes that the Town and County must comply with the Colorado Open Records Act ("CORA"). If a request for Confidential Information is made to the Town or County pursuant to CORA, the Town or County shall provide prompt written notice of the request to Comcast, so that Comcast may evaluate its options to seek protection of its Confidential Information.

D. Remedies. Notwithstanding any other section of this Agreement, the non-breaching party shall be entitled to seek equitable relief to protect its interests pursuant to this Section VIII, including, but not limited to, injunctive relief.

E. Monitoring of Services. Comcast assumes no obligation to pre-screen or monitor the Town's or County's use of the I-Net or its other services, including without limitation postings and/or transmission. However, the Town and County acknowledge and agree that Comcast and its agents shall have the right to pre-screen and monitor such use from time to time and to use and disclose such results to the extent necessary to operate its services properly, to ensure compliance with applicable use policies, to protect the rights and/or property of Comcast, or in emergencies when physical safety is at issue, and that

Comcast may disclose the same to the extent necessary to satisfy any law, regulation, or governmental request. Comcast shall have no liability or responsibility for content received or distributed by Town or County or their users through any use of I-Net or Comcast's other services. For the avoidance of doubt, the monitoring of data described in this Section VIII.E refers to aggregate data and types of traffic (protocol, upstream/downstream utilization, etc.). Comcast does not have access to the content of encrypted data transmitted across Comcast networks.

F. Survival of Confidentiality Obligations. The obligations of confidentiality and limitation of use described in this Section VIII shall survive the expiration and termination of the Agreement for a period of two (2) years (or such longer period as may be required by law).

IX. Miscellaneous Terms

A. Force Majeure. Neither party (and in the case of Comcast, Comcast affiliates and subsidiaries) shall be liable to the other party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cut, acts of regulatory or governmental agencies, unavailability of right-of-way or materials, or other causes beyond the party's reasonable control, except that Town or County's obligation to pay under this Agreement shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

B. Publicity. The Agreement provides no right to use any party's or its affiliates' trademarks, service marks, or trade names, or to otherwise refer to the other party in any marketing, promotional, or advertising materials or activities. Neither party shall issue any publication or press release relating to, or otherwise disclose the existence of the terms and conditions of any contractual relationship between Comcast and the Town and County, except as permitted by the Agreement or otherwise consented to in writing by the other party.

C. Assignment or Transfer. Neither party shall assign any right, obligation or duty, in whole or in part, or of any other interest hereunder, without the prior written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, Comcast may assign the Agreement without the Town's or County's consent to any affiliate or to any entity that acquires all or substantially all of the assets of Comcast relating to this Agreement (provided that such entity also assumes Comcast's obligations under the Franchise). All obligations and duties of either party under this Agreement shall be binding on all successors in interest and assigns of such party. Nothing herein is intended to limit Comcast's use of third-party consultants and contractors to perform under this Agreement.

D. Entire Understanding. The Agreement constitutes the entire understanding of the parties related to the subject matter hereof. The Agreement supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning I-Net or colocation on the Leased Premises or the parties' rights or obligations relating to I-Net or colocation on the Leased Premises, including the Colocation Agreement and any terms contained in the Franchise. Any prior representations, promises, inducements, or statements of intent regarding I-Net are of no effect. No subsequent agreement among the parties concerning the I-Net shall be effective or binding unless it is made in writing by authorized representatives of the parties.

E. Exports. The Town and County acknowledge that any products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations. The Town and County agree that it will not use distribute,

transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Comcast, Town and County also agree to sign written assurances and other export-related documents as may be required for Comcast to comply with U.S. export regulations.

F. Construction. In the event that any portion of the Agreement is held to be invalid or unenforceable, the parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the parties, and the remainder of the Agreement shall remain in full force and effect.

G. Survival. The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement.

H. Choice of Law. This Agreement shall be governed by the laws of the State of Colorado, without regard to the conflicts of laws principles thereof. Venue for any proceeding brought in connection with this Agreement shall be in Summit County.

I. No Third-Party Beneficiaries. This Agreement does not expressly or implicitly provide any third-party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

J. Parties' Authority to Contract. The persons whose signatures appear below are duly authorized to enter into the Agreement on behalf of the parties name therein.

K. No Waiver; Etc. No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s). This Agreement may be executed in counterpart copies.

L. Independent Contractors. The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the parties or to impose any liability attributable to such a relationship upon either party.

M. Headings. The article and section headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

N. Compliance with Laws. Each of the parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

O. Notices. Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service addressed to the other party as follows:

If to Comcast:

Comcast Business
ATTN: Vice President of Business Services
1601 Mile High Stadium Circle | Denver, CO 80204
Office: 303-603-0947

With copies to:

Comcast Business
ATTN: Director of Business Operations
1601 Mile High Stadium Circle | Denver, CO 80204
Office: 303-603-0908

and

Comcast Cable Communications Management, LLC
Attention: Cable Law Department
50th Floor,
1701 JFK Blvd
Philadelphia, PA 19103

If to Town:

Town of Breckenridge
Attention: Town Manager
150 Ski Hill Road
P.O. Box 168
Breckenridge, CO 80424

and

Town of Breckenridge
Attention: Town Attorney
150 Ski Hill Road
P.O. Box 168
Breckenridge, CO 80424

If to County:

Summit County
Attention: County Manager
Post Office Box 68
208 East Lincoln Avenue
Breckenridge, CO 80424

and

Summit County
Attention: County Manager
Post Office Box 68
208 East Lincoln Avenue
Breckenridge, CO 80424

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date first written above.

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

By _____

Name:

Title:

TOWN OF BRECKENRIDGE,
COLORADO

By: _____
Town Manager

Attest:

By: _____

Name: _____

Title: _____

COUNTY OF SUMMIT, COLORADO

By: _____
County Manager

Attest:

By: _____

Name: _____

Title: _____

Appendix A

I-Net Connections

1. Existing I-Net Connections. One fiber pair (two strands) connecting each of the following buildings to Comcast's Hub located at 524 Wellington Road, Breckenridge: (a) Summit County Courthouse, 208 Lincoln, Breckenridge (b) Summit County Justice Center, 501 North Park Avenue, Breckenridge; (c) Public Works Building, 1095 Airport Road, Breckenridge; (d) Golf Maintenance Facility, 1 Gold Run Gulch, Breckenridge; (e) Clubhouse, 200 Clubhouse Drive, Breckenridge; (f) Recreation Center, 880 Airport Road, Breckenridge; (g) Ice Rink, 189 Boreas Pass Road, Breckenridge; (h) Riverwalk Center, 150 West Adams, Breckenridge; (i) Breckenridge Town Hall, 150 Ski Hill Road.
2. All I-Net connections shall allow for internal communications between and among all facilities identified in this Appendix A, as well as be connected, via Town-owned fiber to the Breckenridge Police Department, 150 Valley Brook Road.
3. As of the date of the Effective Date, there are two fiber pairs (four strands) from Comcast's Hub located at 524 Wellington Road, Breckenridge, travelling past the exterior of the South Branch Library located at 504 Airport Road, Breckenridge, CO 80424, and not terminating at that location but rather continuing and terminating at the Justice Center, 501 N. Park Avenue, Breckenridge. Upon 120 days written notice from the County, Comcast will terminate one fiber pair (two strands) at the Library. The County is responsible for all costs and expenses incurring with this termination. If this termination is initiated and paid for by the County, an Existing I-Net Connection will be created consisting of one fiber pair (two strands) connecting Comcast's Hub and the South Branch Library. The County retains discretion to continue to utilize both pairs (four strands) at their current termination location within the Justice Center.

Appendix C

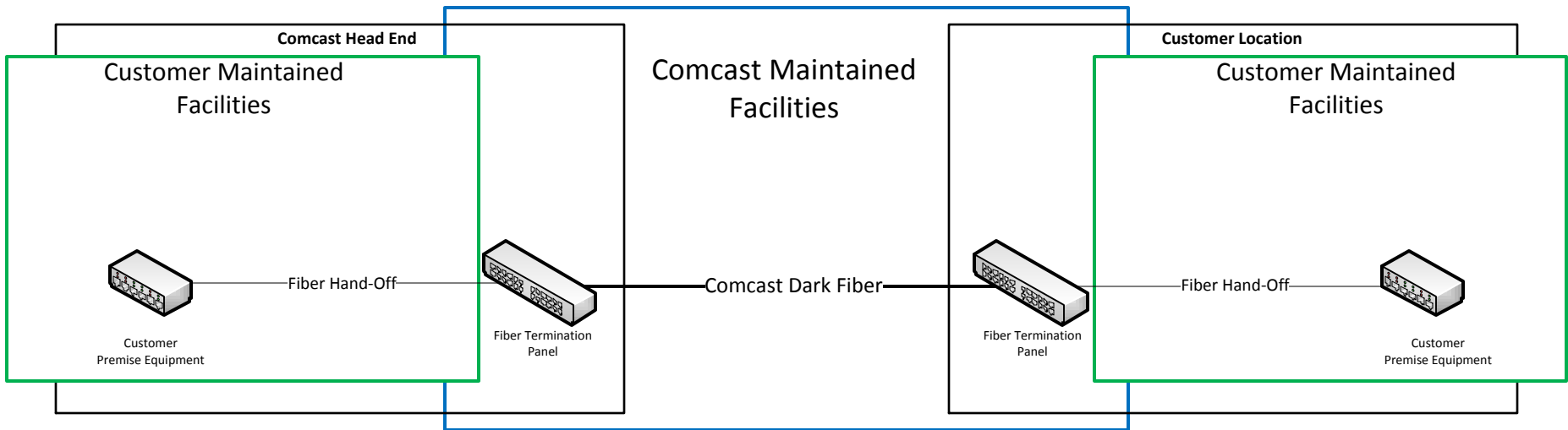
Enterprise Class products

- Ethernet Dedicated Internet Services
- Ethernet Transport Services
 - Ethernet Private Line
 - Ethernet Virtual Private Line
 - Ethernet Network Services
- Ethernet Intrastate Transport
- Enterprise Trunk Services
- Enterprise Voice Service (Business VoIP Services – fiber-based and Ethernet over HFC)

Business Services products

- Comcast Business TV
- Comcast Business Internet
- Comcast Business Class Voice (Business VoIP Services over coax)

Summit County Town of Breckenridge



TO: Breckenridge Town Council
FROM: Laurie Best-Community Development Department
RE: Pinewood 2 Low Income Housing Tax Credit Documents

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS BY TOWN OF BRECKENRIDGE FOR PINEWOOD 2

DATE: April 15, 2015 (for April 28, 2015 meeting)

A Resolution has been prepared to authorize the execution of documents that include the purchase of the CHFA bond, certain loan/ lender documents, construction documents, equity documents, partnership agreements, and contracts related to the financing, construction, operation, and management of Pinewood 2. These documents have been reviewed by Town staff and by the Town Attorney as well as outside counsel, and will only be presented for signature/execution after final approval by the Town Attorney, Town Staff, and the outside counsel. These documents provide for financing of the Pinewood 2 project utilizing the Low Income Housing Tax Credit (LIHTC) process that has been reviewed previously with the Town Council and must be executed to finalize the financing structure.

The intent is to start construction the end of April and to complete the 45 unit apartment project next summer. The LIHTC process will enable the Town to leverage the Housing Fund by generating \$3,972,717 in private equity for the project.

Staff recommends approval of the Resolution and will be available on April 28th to answer questions.

RESOLUTION # _____
Series 2015

A RESOLUTION BY THE TOWN OF BRECKENRIDGE (THE “TOWN”), A BODY CORPORATE AND POLITIC UNDER THE LAWS OF THE STATE OF COLORADO, AUTHORIZING THE PURCHASE OF MULTIFAMILY HOUSING REVENUE BOND (PINWOOD VILLAGE 2 PROJECT) SERIES 2015 AND A CONSTRUCTION LOAN TO PINWOOD VILLAGE 2, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP (THE “PARTNERSHIP”), IN CONNECTION WITH THE PINWOOD VILLAGE 2 HOUSING PROJECT IN BRECKENRIDGE, COLORADO (THE “PROJECT”).

WHEREAS, the Town does hereby adopt the following resolutions.

Section 1. Bond Purchase

WHEREAS, the Colorado Housing and Finance Authority (the “Authority”) has authorized the issuance of Multifamily Housing Revenue Bond (Pinewood Village 2 Project) Series 2015 in the maximum principal amount of \$7,000,000.00 (the “Bond”);

WHEREAS, the proceeds of the Bond are to be used to finance a portion of the costs of the acquisition, construction and equipping of the Project;

WHEREAS, the Town desires to purchase and to pay the purchase price of such Bond pursuant to and in accordance with the terms of a Financing Agreement by and among the Authority, the Town and the Partnership (the “Financing Agreement”);

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Breckenridge, Colorado that the Town be and is authorized, ratified, and directed to purchase and pay the purchase price of such Bond pursuant to the terms of the Financing Agreement;

RESOLVED FURTHER, that Town be and is authorized and directed to execute any and all documents in connection with the purchase of the Bond or the subsequent loan of the Bond proceeds to the Partnership (the “Bond Loan”) to finance a portion of the costs of the acquisition, construction and equipping of the Project,

RESOLVED FURTHER, that the Town be and is authorized to do such other acts and things, make such other agreements and execute and deliver such other contracts or writings required in connection with any of the foregoing.

RESOLVED FURTHER, that the foregoing resolution is in addition to, and does not limit and shall not be limited by, any resolution heretofore or hereafter adopted by the Town, and the foregoing resolutions shall continue in full force and effect until express written notice of their prospective rescission or modification, as to future transactions that have not been undertaken or committed for, has been received.

RESOLVED FURTHER, that any and all actions and transactions by or on behalf of the Town prior to the adoption of this resolution are and the same hereby are in all respects ratified, approved and confirmed.

Section 2. Construction Loan

WHEREAS, the Partnership intends to be the owner of a 45-unit rental housing project to be known as “Pinewood Village 2” located at 837 Airport Road in Breckenridge, Colorado;

WHEREAS, in order to develop the Project, the Partnership requires a loan in the approximate amount of \$9,725,446.00 to cover the costs of acquisition, construction and equipping the Project;

WHEREAS, the Town desires to authorize a construction loan to the Partnership;

WHEREAS, the Authority has authorized the issuance of the Bond to facilitate the development of the Project, and the Town has agreed to purchase and to pay the purchase price of such Bond;

WHEREAS, the proceeds of the Bond will be provided to the Partnership in the form of a loan in in the approximate amount of \$6,150,000.00, to finance the Project (the “Bond Loan”);

WHEREAS, in addition to the Bond Loan, the Town desires to lend approximately \$3,575,446.00 (the “Bridge Loan”) to the Partnership to facilitate the development of the Project; and

WHEREAS, the Bond Loan and the Bridge Loan shall collectively be referred to as the “Construction Loan” to the Partnership;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Breckenridge, Colorado that the Town be and is authorized, ratified, and directed to:

1. Lend the Bridge Loan funds to the Partnership on such terms and conditions as are typical in the industry; and
2. Execute a Loan Agreement between the Partnership and the Town;
3. Execute a Financing Agreement by and among the Authority, the Partnership and the Town relating to the Bond Loan and make the construction loan to the Partnership; and
4. Do such other acts and things, make such other agreements and execute and deliver such other contracts or writings required in connection with any of the foregoing.

RESOLVED FURTHER, that the foregoing resolution is in addition to, and does not limit and shall not be limited by, any resolution heretofore or hereafter adopted by the Town, and

the foregoing resolutions shall continue in full force and effect until express written notice of their prospective rescission or modification, as to future transactions that have not been undertaken or committed for, has been received.

RESOLVED FURTHER, that any and all transactions by or on behalf of the Town prior to the adoption of this resolution are and the same hereby are in all respects ratified, approved and confirmed.

Section 3. Authority.

This Resolution is adopted pursuant to Section 1-9-1 of the Breckenridge Town Code.

Section 4. Miscellaneous.

The provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision shall, for any reason, be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions. All resolutions, orders or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby superseded. This Resolution shall be in full force and effect from and after its passage and approval, in accordance with law.

[Signature Page to Follow.]

10235347v2

PASSED, ADOPTED AND APPROVED this _____, 2015.

John G. Warner, Mayor

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney Date

Memo



To: Breckenridge Town Council Members
From: Helen Cospolich, Municipal Services Manager
Date: 04/28/2015
Subject: Motion to Cancel the May 12, 2015 Town Council Regular Meeting

Staff understands Council may desire to cancel the May 12, 2015 Regular Meeting because it occurs the same day as the Town Council Budget Retreat.

Section 4.1 of the Council Procedures and Rules of Order states "The Council, by majority consent, may dispense with the holding of any regular meeting."

As such, in order to cancel the May 12th Regular Meeting, Council must first entertain a motion to cancel the meeting and may reach majority consent by voice vote.

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein P.E., Assistant Town Engineer
DATE: April 22, 2015
RE: Public Projects Update

South Main Street Electric (Transformer)

An agreement was recently signed with Xcel Energy to install a transformer near Jefferson Ave & Main Street (west of Main Street-near the Blue River). The transformer will provide power to the electrical outlets which were installed last year on the south end of Main Street, between Adams Ave and Park Ave. Xcel Energy has scheduled to begin the transformer installation in late May. The transformer and associated electrical outlets are scheduled to be operational by the July 4th holiday.

Main Street Prospector Park

The landscape contractor, 2V's Landscape & Irrigation, began landscaping work in the park this week. Landscaping work will include new irrigation, trees, shrubs, perennials, and grass. While the landscape work is being completed, the playground equipment installer will also begin installing the equipment for the playground, which is scheduled to start in May. Landscaping and playground equipment are scheduled to be finished prior to the July 4th holiday.

The concrete base for the "Tom's Baby" sculpture will be poured this spring, but the sculpture is not scheduled to be completed and installed until this fall.

The BHA is currently designing a historical artifact exhibit for the park. The exhibit will include two mining sheaves and an interpretive sign explaining the significance of the sheaves. We are anticipating the installation of the exhibit to occur this fall.



Two sheaves from a local mine which will be displayed at the exhibit in Prospector Park.

SH 9 Median (Section A)

Section "A" of the proposed median improvements for State Highway 9 has been advertised for bids from contractors for the past few weeks. Staff will receive bids from interested contractors on April 24th, and will report the results of the bidding to the Council at the work session.

CDOT has also mobilized contractors on SH 9 this past week in Section "A" and they have begun work to complete final punch list items including their work in the medians, final signing, final grading and seeding. CDOT has indicated to Staff that their work will be completed in June. Daily single lane closures on SH 9 north of Coyne Valley Road to the Town limits should be expected for the next few weeks.

SH 9 Median (Section B)

After proposing three design alternatives to Town Council for Section "B" of the Median Beautification Project, Staff has proceeded with constructing the full design for the project, as shown in the bid plans. The project has been awarded to Columbine Hills Concrete, who is scheduled to begin construction on April 27th. Town is still waiting for CDOT to approve the ROW permit for Section B, which is expected to be returned this week. Single-lane closures in both directions of Highway 9 should be expected from April 27th until project completion in order to facilitate construction activities. Lane closures will be removed during nights and weekends. Construction is scheduled to be completed prior the July 4th holiday.

SH 9 Median and Roundabout (Section C)

Construction for Section "C" of the Median Beautification Project is scheduled to begin next week on April 27th. In order to reduce costs on the project, Town staff will be completing a portion of the work on the project. Construction will begin with the streets department excavating the existing fill from the median next week. The landscaping contractor, 2V's Landscape & Irrigation, will begin their work on May 4th. Single-lane closures in both directions of Highway 9 should be expected from April 27th until project completion in order to facilitate construction activities. When work is being completed in the roundabout, traffic may be detoured onto Airport Road and Valley Brook Street. Lane closures and detours will be removed during nights and weekends. Construction is scheduled to be completed prior to the July 4th holiday.

Breckenridge Grand Vacations Community Center (Landscaping)

The contractor, Spectrum General Contractors, is scheduled to mobilize back on to the Community Center project the week of April 27th to begin work completing the exterior punch list items they were not able to complete this past fall. As reported previously this work includes items such as exterior painting of doors and railing along with general final clean-up of the site. The project mechanical contractor will also be seen on the exterior reading deck beginning next week making repairs to the in slab-heating system. Over the winter a small section of the deck was not melting snow properly due to what is believed to be a small plug in the line, and will be repaired under warranty.

Weather permitting the crews will begin work on the final landscaping in May with the goal of having all of the exterior work completed by June 26th. During this period the Community Center will remain open with very little disruption expected to the public.

North Ridge Waterline Replacement

The work to replace the waterline on North Ridge Street is on schedule to begin the week of May 4th weather permitting. North Ridge Street will be closed through the construction area during May to allow for the relocation of the waterline and an XCEL Energy electric line. Town Staff and the Contractor will work with residents on North Ridge to maintain access to homes within the project limits. Residents in the area of the construction project have been contacted and notified about the project. It is expected this water project will be completed prior to the Memorial Day holiday.

Old Masonic Hall

The contractor has begun preparing for the heated sidewalk installation on the south side of Washington Avenue. Pedestrian access will be accommodated on the new north sidewalk and Washington Avenue will be closed to vehicular traffic during the sidewalk construction. The alleys will remain open. The building is scheduled to be open by mid-June and the final landscaping completed by the July 4th holiday.

Breckenridge Theater

The general contractor, Base Building Solutions, is currently receiving subcontractor bids for the project. A guaranteed maximum price (GMP) will be established for the project by mid-May and construction is slated to begin in mid-June, pending approval of the GMP.

Blue River Restoration

Staff, along with our consultant Tetra Tech, continues to work on the preliminary design of the new Blue River restoration alignment and Coyne Valley Road structure. The restoration limits run from Coyne Valley Road north to near Fairview Boulevard. The river alignment is generally being held to the western portion of the property to maintain connections to natural areas.

It is expected that our consultant will continue to work through the design and construction drawing for the restoration through this summer along with work to acquire permits from FEMA and the Army Corp. Provided we can obtain permitting in a reasonable time frame it is our goal to advertise a portion of the project for bids late this summer or early fall to allow for construction in late fall weather permitting, or the spring of 2016.

Ice Arena Parking Lot Expansion

Bids were received and opened last week for the Ice Arena Parking Lot Expansion Project. Two contractors submitted bids: Columbine Hills Concrete and Betone Civil Constructors. Columbine Hills Concrete submitted the low bid for the project; however, the project has not yet been awarded as the bids are still being evaluated.

Construction is scheduled to begin on September 8th, after the Labor Day Holiday. The project will be completed in late October and will add approximately 62 new parking spaces to the Ice Arena parking lot.

Asphalt Overlay and Concrete Rehab 2015

Staff has recently awarded the 2015 Asphalt Overlay project to Columbine Hill Concrete, and the Concrete Rehabilitation work to All Concrete Solutions. Construction work for the Concrete Rehab Project is scheduled to begin on April 27th at various locations throughout Town. Asphalt Overlay work is scheduled to begin in early May. Traffic delays and detours should be expected throughout these projects in order to facilitate construction activities. Both projects are scheduled to be completed by the July 4th holiday.

<u>Asphalt Locations</u>	<u>Description</u>
▪ Watson Avenue	from Park Avenue to the Transit Center
▪ French Street	from 100 North to 400 South
▪ Rounds	South of Dyer
▪ Broken Lance	Near the Blue River Crossing
▪ Ice Rink Lot	Parking area to the right of main entrance only
▪ Lomax Drive	Cul-de-sac only
▪ Main Street Alley	East alley 100 South, and 300 South
▪ Airport Road	from Floradora Drive north to County section
▪ Four O'clock Rd.	approximately 1500 LF near Trappers Glen
▪ Spencer Court	approximately 1200 LF
▪ Olivia Lane	Bus travel area
▪ Golf Course Parking	Entrance and south parking area
▪ Ridge Street	200 North

<u>Concrete Locations</u>	<u>Description</u>
Various Isolated Locations	failed sections of C&G, sidewalk and pans

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: April 23, 2015
SUBJECT: Committee Reports for 4-28-2015 Council Packet

Summit Stage Advisory Board	March 25, 2015	James Phelps
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Under Old Business – Jim Andrews provided updates with respect to slight revisions of the 2015 budget, Summit Stage Marketing efforts, and the smart Bus technology procurement. The Stage continues to focus on marketing efforts for further promotion of the free transit service. The Stage will be working with the selected vendor for the implementation of smart bus technologies. This will be a phased deployment of technology with the auto passenger counting system, Bus locator, and mobile app being the first to be deployed. New Business- Ridership for the fixed route and contracted Purple Route saw increases for the month of February. Overall operating costs (expenses, maintenance, and fuel) all saw decreases for the month. Mass Transit Tax receipts for January 2015 were \$1,061,040, 200K over the 2015 budget projection. 23.3% over January 2014.

Housing and Childcare Committee	April 14, 2015	Laurie Best
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The Housing and Childcare Committee held its regular meeting on April 14, 2015. Attendees included Erin Gigliello, Gary Gallagher, Brian Waldes, Rick Holman, Peter Grosshuesch and Laurie Best from the Town. Also attending were Tim Casey, Eric Komppa, Sarah Batt, and Jon Peterson. Ben Brewer was absent. The following agenda items were covered:

1. Pinewood 2 Update:
The bulk of the meeting was dedicated to a review of the finance structure for Pinewood 2. Jon Peterson and Sarah Batt presented information to the Committee on the LIHTC process in general, the Pinewood 2 team, the development budget, the cost of LIHTC, the equity partner (MHEG), the documents to be executed, the guarantees and obligation of the Town, and the risks and how they are mitigated. CHFA authorized additional tax credits for this project and MHEG will increase their equity contribution from \$3.3m to \$3.9m. The total project budget is about \$10.03 and will be finalized once the GMP is negotiated, which should occur by April 15th. The goal is to present an Ordinance to the Council on April 28th authorizing the mayor to execute the necessary documents once they have been final checked by Tim Berry, to transfer ownership of the property to the llp as soon as possible after the 28th, authorize construction start as soon as possible after the 28th, pre-closing date is May 5th when Jon will deliver all of the Town-signed documents to Land Title, and closing will occur along with the initial funding on May 7th. On the 7th the Town will make the 1st loan to the llp, and MHEG will make their first contribution to the llp, and the llp will make a distribution of funds to pay back the Town for its pre-construction expenses.
2. Staff advised Committee of declining AMI which will impact some of the resale prices for certain neighborhoods-in no case will owners be required by the Town to sell for less than they paid
3. Staff advised the Committee that we are monitoring a potential foreclosure in Valley Brook. The meeting adjourned at 3pm. The next regularly scheduled meeting is May 11, 2015.

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissions Meeting	Mayor Warner	Verbal Report
Liquor Licensing Authority*	Helen Cospolich	No Meeting/Report
Wildfire Council	Matt Thompson	No Meeting/Report
Breckenridge Creative Arts	Robb Woulfe	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	Included
Police Advisory Committee	Chief Haynes	No Meeting/Report
CMC Advisory Committee	Tim Gagen	No Meeting/Report
Recreation Advisory Committee	Mike Barney	No Meeting/Report
Housing and Childcare Committee	Laurie Best	Included
Childcare Advisory Committee	Laurie Best	No Meeting/Report
Breckenridge Events Committee	Kim Dykstra	No Meeting/Report
Sustainability Task Force	Mark Truckey	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.

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: 4/28/15 WORK SESSION FINANCIAL PACKET
DATE: 4/22/15
CC: TIM GAGEN, RICK HOLMAN

Council expressed a desire to have a review of the Town's financial position before the Town Spring Retreat on May 12, 2015. This 'pre-review' of finances will allow for more discussion time at the retreat for other items.

Staff has included in this month's financial packet a review of Town-wide financial conditions. This memo will briefly list each item included in the packet;

1. **March 2015 Financial Report** – The first item is the usual monthly financial report. The "Other Info" section has the latest Marijuana Fund revenue information reflecting any potential impact from the removal of MJ sales from the down town core.
2. **2015 Spring Retreat Financial Review** – This information is intended to inform Council of the Town's overall financial position in advance of our retreat. Included in this report are;
 - a. **Tax Revenue Activity** – Including Sales, RETT, Property, and accommodations tax revenues actual and projections.
 - b. **Marketing Fund Detail** – Showing funding levels and income sources for the past 10 years
 - c. **2015 Budget Appropriations** – Detail of changes made to the 2015 document thus far.
 - d. **Fund Balance and Reserves Analysis** – Updated version of our fund balances and where we project them to be at the end of 2015. These have been updated with a column showing the 2015 appropriations.
 - e. **Fund Summary Sheets** – Brief snapshots of the Town's Funds and their 2014 pre-audit actual and 2015 projected positions.

We will run through each of these documents at our 4/28/15 work session, so please come with any questions you may have. Our goal is to have Council confident in their understanding of our financial position by the end of this agenda item. Please also feel free to contact staff before the meeting if you would like clarification of any items.



March 31, 2015 Financial Report

Finance & Municipal Services Division



Executive Summary

March 31, 2015

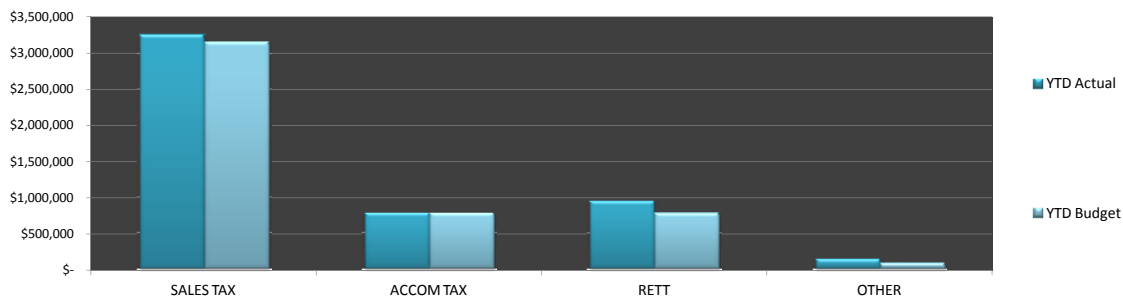
This report covers the first quarter of 2015. We are currently at 107% of budgeted revenue in the Excise fund (\$320k over budget). February sales taxes (received in March) were up from 2014 in most categories. RETT ended the first quarter at 121% of the YTD budget and exceeded the prior year's Q1 RETT revenue by over \$28k.

The General Fund 2015 YTD revenues are at 104% of budget and YTD expenses are slightly under budget at 96%.

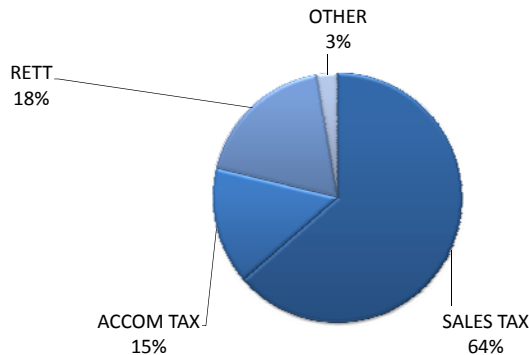
Other funds are performing according to budget with exceptions noted in the All Funds report narrative.

Sales Tax and Real Estate Transfer Tax started the year ahead of budget (see table below). For more information on tax revenues (by month and business sector), please see the Tax Basics section of the Financials.

Excise YTD Actual vs. Budget - by Source



YTD Actual Revenues - Excise



	YTD Actual	YTD Budget	% of Budget	Annual Budget	Prior YTD Actual	Prior Annual Actual
SALES TAX	\$ 3,256,543	\$ 3,160,965	103%	\$ 16,991,999	\$ 2,925,404	\$ 16,233,023
ACCOMMODATIONS TAX	777,692	776,881	100%	2,457,799	684,279	2,294,537
REAL ESTATE TRANSFER	949,334	783,918	121%	4,000,000	921,230	4,604,914
OTHER*	137,323	79,129	174%	755,336	92,243	611,701
TOTAL	\$ 5,120,893	\$ 4,800,893	107%	\$ 24,205,134	\$ 4,623,155	\$ 23,744,174

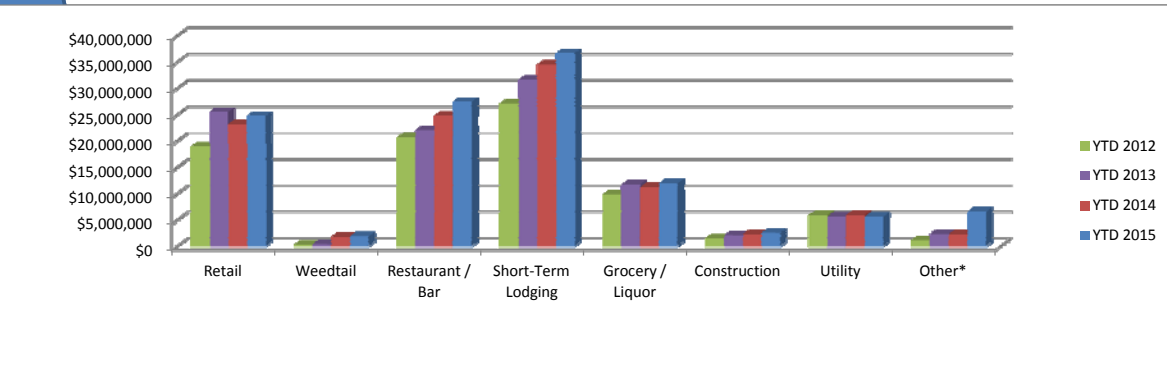
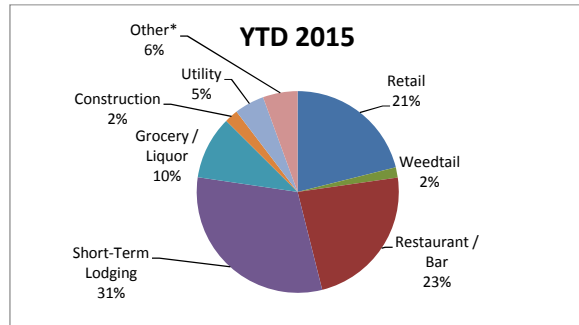
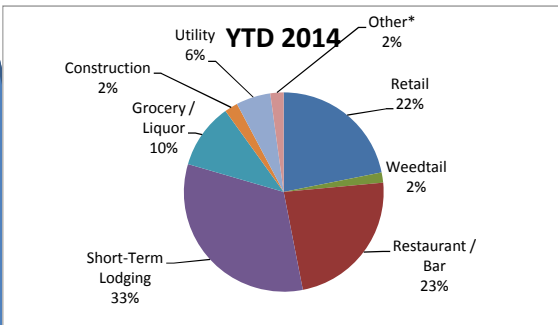
* Other includes Franchise Fees (Telephone, Public Service and Cable), Cigarette Tax, and Investment Income

The Tax Basics

Net Taxable Sales by Industry-YTD

Description	YTD 2012	YTD 2013	YTD 2014	2014		2014/2015		2015
				% of Total	YTD 2015	\$ Change	% Change	
Retail	\$18,894,437	\$25,455,874	\$23,102,943	21.87%	\$24,730,855	\$1,627,912	7.05%	21.10%
Weedtail	\$224,860	\$395,338	\$1,739,404	1.65%	\$1,879,128	\$139,724	8.03%	1.60%
Restaurant / Bar	\$20,577,326	\$21,978,278	\$24,743,552	23.42%	\$27,409,408	\$2,665,856	10.77%	23.38%
Short-Term Lodging	\$27,079,051	\$31,558,725	\$34,421,218	32.58%	\$36,600,859	\$2,179,641	6.33%	31.22%
Grocery / Liquor	\$9,819,678	\$11,670,779	\$11,154,567	10.56%	\$11,895,400	\$740,833	6.64%	10.15%
Construction	\$1,456,066	\$2,036,912	\$2,300,373	2.18%	\$2,551,786	\$251,412	10.93%	2.18%
Utility	\$5,829,691	\$5,569,826	\$5,891,722	5.58%	\$5,577,172	(\$314,551)	-5.34%	4.76%
Other*	\$1,117,372	\$2,332,238	\$2,286,450	2.16%	\$6,575,003	\$4,288,553	187.56%	5.61%
Total	\$84,998,481	\$100,997,970	\$105,640,230	100.00%	\$117,219,610	\$11,579,380	10.96%	100.00%

* Other includes activities in Automobiles and Undefined Sales.



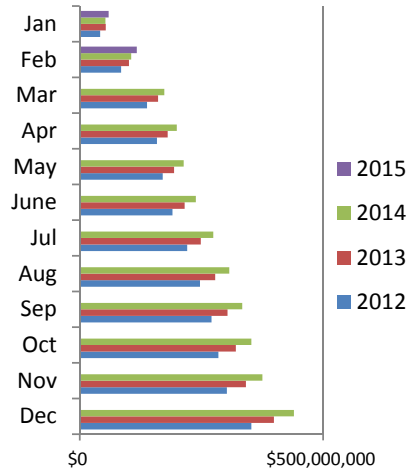
New Items of Note:

- February net taxable sales are currently ahead of 2014 by 9.76%.
- Restaurant/Bar fared better than the aggregate of all sectors.
- Construction fell behind prior year by 2.91% and Utilities by 5.34%; all other sectors exceeded prior year sales.
- Undefined sales remain high due to returns that have yet to be classified. Staff is awaiting clarification from the vendor.

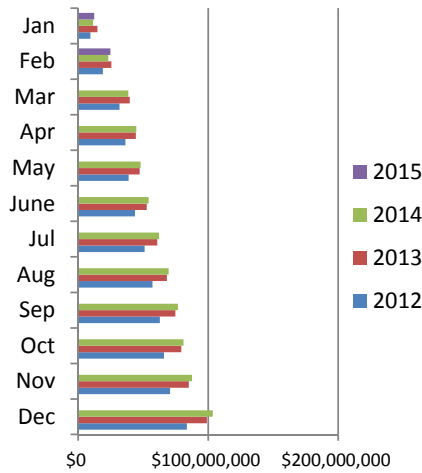
Continuing Items of Note:

- 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 20th 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.

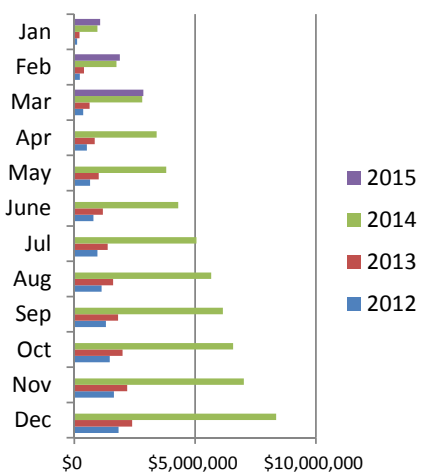
Net Taxable Sales by Sector - Town of Breckenridge Tax Base



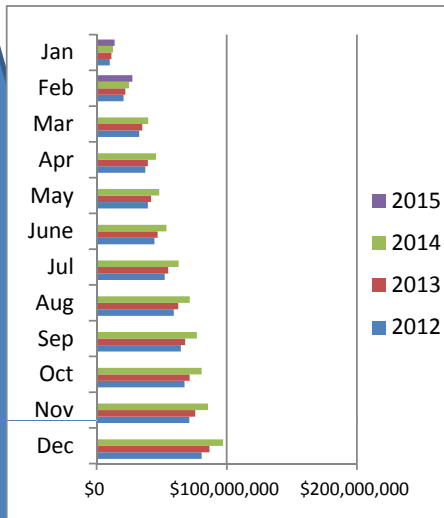
Total Net Taxable Sales					
	2012	2013	2014	2015	% change from PY
Jan	\$41,718,482	\$53,336,557	\$52,701,954	\$59,115,202	12.17%
Feb	\$43,279,998	\$47,661,413	\$52,938,275	\$58,104,407	9.76%
Mar	\$53,068,463	\$59,665,211	\$67,894,564	\$0	n/a
Apr	\$20,550,689	\$19,835,788	\$25,825,915	\$0	n/a
May	\$11,552,549	\$13,043,792	\$14,112,939	\$0	n/a
Jun	\$20,161,932	\$21,824,324	\$24,904,771	\$0	n/a
Jul	\$30,306,091	\$33,233,133	\$35,984,570	\$0	n/a
Aug	\$26,378,253	\$29,614,066	\$32,677,130	\$0	n/a
Sep	\$23,534,713	\$25,136,536	\$26,731,330	\$0	n/a
Oct	\$14,052,583	\$17,154,744	\$18,815,138	\$0	n/a
Nov	\$17,500,298	\$20,680,131	\$22,646,418	\$0	n/a
Dec	\$50,233,000	\$57,510,396	\$64,683,954	\$0	n/a
Total	\$352,337,052	\$398,696,089	\$439,916,958	\$117,219,610	



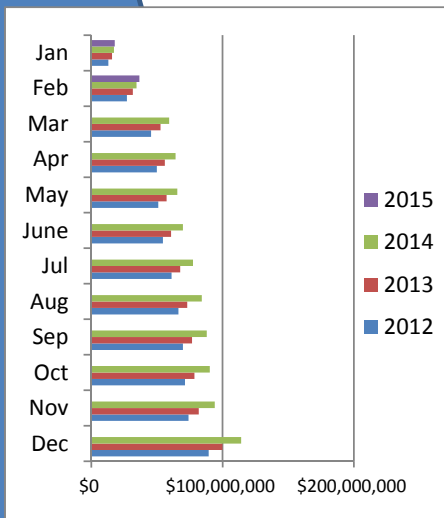
Retail					
	2012	2013	2014	2015	% change from PY
Jan	\$9,332,951	\$14,740,883	\$11,370,699	\$12,235,418	7.60%
Feb	\$9,561,486	\$10,714,990	\$11,732,244	\$12,495,436	6.51%
Mar	\$12,894,030	\$14,200,123	\$15,446,789	\$0	n/a
Apr	\$4,535,877	\$4,640,272	\$6,089,379	\$0	n/a
May	\$2,460,868	\$2,945,458	\$3,372,801	\$0	n/a
Jun	\$4,935,052	\$5,421,774	\$6,097,660	\$0	n/a
Jul	\$7,291,230	\$8,155,359	\$8,091,017	\$0	n/a
Aug	\$6,103,157	\$7,322,388	\$7,366,768	\$0	n/a
Sep	\$5,600,950	\$6,540,887	\$7,090,633	\$0	n/a
Oct	\$3,253,812	\$4,563,566	\$4,368,729	\$0	n/a
Nov	\$4,647,092	\$5,843,691	\$6,493,390	\$0	n/a
Dec	\$12,981,465	\$13,828,152	\$15,951,250	\$0	n/a
Total	\$83,597,969	\$98,917,546	\$103,471,358	\$24,730,855	



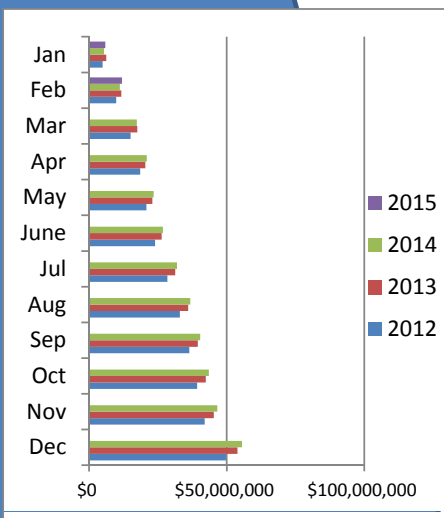
Weedtail					
	2012	2013	2014	2015	% change from PY
Jan	\$112,836	\$213,016	\$951,609	\$1,069,983	12.44%
Feb	\$112,024	\$182,322	\$787,796	\$809,146	2.71%
Mar	\$138,857	\$236,589	\$1,068,198	\$976,179	-8.61%
Apr	\$151,697	\$207,583	\$597,513	\$0	n/a
May	\$130,681	\$165,344	\$397,864	\$0	n/a
Jun	\$143,525	\$173,564	\$493,672	\$0	n/a
Jul	\$166,596	\$198,017	\$755,747	\$0	n/a
Aug	\$167,634	\$226,347	\$612,329	\$0	n/a
Sep	\$180,635	\$203,715	\$482,512	\$0	n/a
Oct	\$160,677	\$189,368	\$425,385	\$0	n/a
Nov	\$171,386	\$192,819	\$443,172	\$0	n/a
Dec	\$189,064	\$205,254	\$1,336,055	\$0	n/a
Total	\$1,825,612	\$2,393,937	\$8,351,852	\$2,855,307	



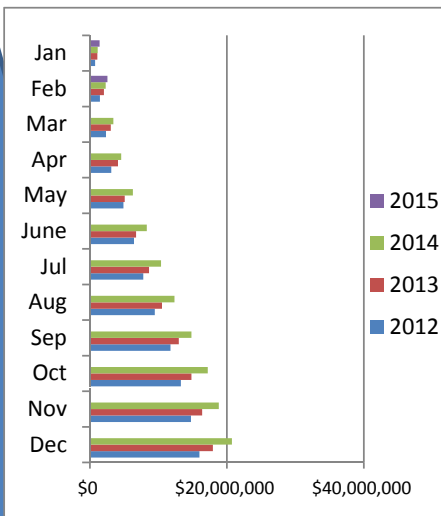
Restaurant / Bar					
	2012	2013	2014	2015	% change from PY
Jan	\$10,000,475	\$11,273,850	\$12,455,172	\$13,693,592	9.94%
Feb	\$10,576,852	\$10,704,428	\$12,288,380	\$13,715,816	11.62%
Mar	\$12,086,391	\$12,967,189	\$14,770,858	\$0	n/a
Apr	\$4,662,012	\$4,310,574	\$6,118,196	\$0	n/a
May	\$1,975,658	\$2,552,517	\$2,359,399	\$0	n/a
Jun	\$5,006,301	\$5,004,564	\$5,630,785	\$0	n/a
Jul	\$7,964,540	\$8,164,898	\$9,256,890	\$0	n/a
Aug	\$6,905,724	\$7,690,278	\$8,640,707	\$0	n/a
Sep	\$5,423,426	\$5,254,681	\$5,425,328	\$0	n/a
Oct	\$2,924,663	\$3,457,580	\$3,740,912	\$0	n/a
Nov	\$3,613,665	\$4,385,744	\$4,855,086	\$0	n/a
Dec	\$9,534,760	\$10,871,039	\$11,640,284	\$0	n/a
Total	\$80,674,467	\$86,637,342	\$97,181,996	\$27,409,408	



Short-Term Lodging					
	2012	2013	2014	2015	% change from PY
Jan	\$12,980,188	\$15,698,448	\$17,232,658	\$17,854,528	3.61%
Feb	\$14,098,863	\$15,860,278	\$17,188,560	\$18,746,330	9.06%
Mar	\$18,334,344	\$21,150,210	\$24,801,813	\$0	n/a
Apr	\$4,477,551	\$3,303,068	\$4,953,670	\$0	n/a
May	\$1,088,308	\$1,263,021	\$1,277,400	\$0	n/a
June	\$3,498,126	\$3,489,236	\$4,331,326	\$0	n/a
Jul	\$6,619,464	\$6,874,194	\$7,651,167	\$0	n/a
Aug	\$5,172,991	\$5,384,872	\$6,665,890	\$0	n/a
Sep	\$3,501,612	\$3,680,342	\$3,778,764	\$0	n/a
Oct	\$1,495,331	\$1,780,132	\$2,319,820	\$0	n/a
Nov	\$2,764,095	\$3,266,469	\$3,789,656	\$0	n/a
Dec	\$15,265,907	\$18,079,402	\$20,062,657	\$0	n/a
Total	\$89,296,780	\$99,829,670	\$114,053,381	\$36,600,859	



Grocery / Liquor					
	2012	2013	2014	2015	% change from PY
Jan	\$4,857,276	\$6,202,934	\$5,396,830	\$5,825,774	7.95%
Feb	\$4,962,402	\$5,467,845	\$5,757,737	\$6,069,625	5.42%
Mar	\$5,219,990	\$5,782,332	\$6,142,330	\$0	n/a
Apr	\$3,469,430	\$2,961,839	\$3,595,478	\$0	n/a
May	\$2,309,947	\$2,527,526	\$2,494,945	\$0	n/a
June	\$3,097,820	\$3,378,083	\$3,390,191	\$0	n/a
Jul	\$4,489,506	\$4,954,547	\$5,095,848	\$0	n/a
Aug	\$4,540,829	\$4,724,946	\$4,876,297	\$0	n/a
Sep	\$3,404,220	\$3,465,662	\$3,605,574	\$0	n/a
Oct	\$2,855,324	\$2,930,066	\$3,098,294	\$0	n/a
Nov	\$2,778,270	\$2,869,441	\$3,093,792	\$0	n/a
Dec	\$7,705,640	\$8,615,254	\$8,968,840	\$0	n/a
Total	\$49,690,652	\$53,880,474	\$55,516,155	\$11,895,400	

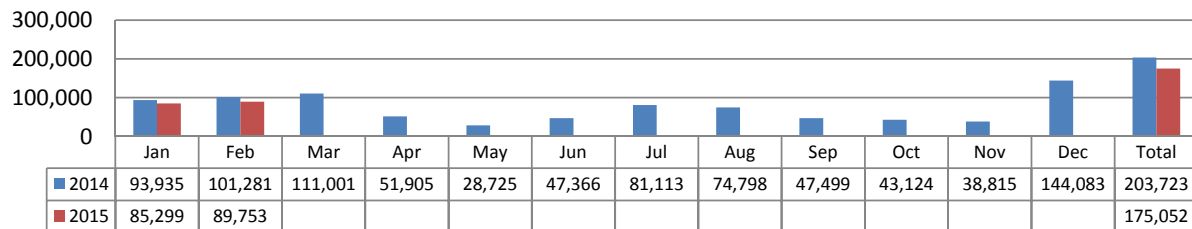


Construction					
	2012	2013	2014	2015 from PY	% change
Jan	\$752,255	\$1,072,239	\$1,129,003	\$1,414,518	25.29%
Feb	\$703,811	\$964,673	\$1,171,370	\$1,137,268	-2.91%
Mar	\$881,518	\$1,008,645	\$1,121,396	\$0	n/a
Apr	\$779,206	\$1,055,938	\$1,140,743	\$0	n/a
May	\$1,761,256	\$978,334	\$1,699,762	\$0	n/a
Jun	\$1,540,822	\$1,653,588	\$2,027,078	\$0	n/a
Jul	\$1,366,520	\$1,903,161	\$2,084,178	\$0	n/a
Aug	\$1,670,785	\$1,870,078	\$1,969,423	\$0	n/a
Sep	\$2,297,356	\$2,454,362	\$2,474,159	\$0	n/a
Oct	\$1,521,388	\$1,858,158	\$2,372,139	\$0	n/a
Nov	\$1,482,393	\$1,555,679	\$1,623,898	\$0	n/a
Dec	\$1,226,412	\$1,568,060	\$1,905,449	\$0	n/a
Total	\$15,983,720	\$17,942,915	\$20,718,596	\$2,551,786	

Disposable Bag Fees

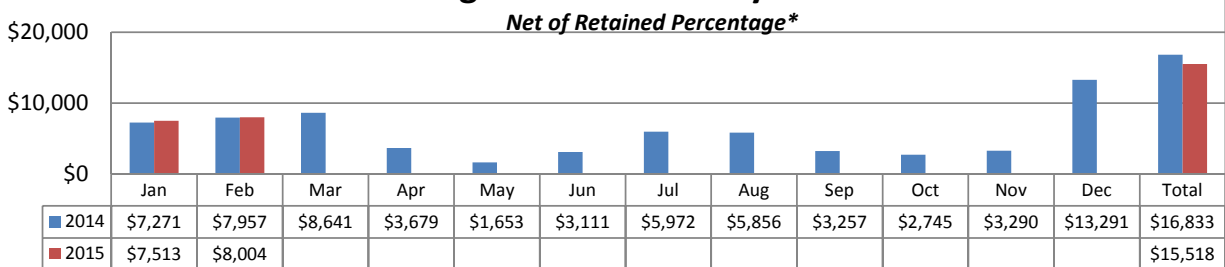
The Town adopted an ordinance April 9, 2013 (effective October 15, 2013) to discourage the use of disposable bags and achieve a goal of the SustainableBreck Plan. The ten cent fee applies to most plastic and paper bags given out at retail and grocery stores in Breckenridge. The program is intended to 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



Difference -\$8,636 -\$11,529

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.

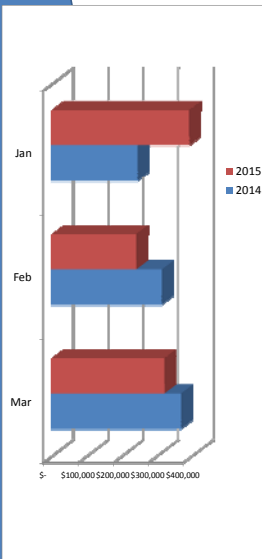
Real Estate Transfer Tax

New Items of Note:

- Revenue for the month of March was behind prior year by 12.8%, yet surpassed the monthly budget by \$68,050.
- Year to date, revenue is ahead of prior year by 2.17%, and has surpassed budget by \$165,416 (as of 3/31/15).
- Single Family Home sales currently account for the majority of the sales (39.16%), with Condominiums representing the next highest sales (26.19%) subject to the tax.

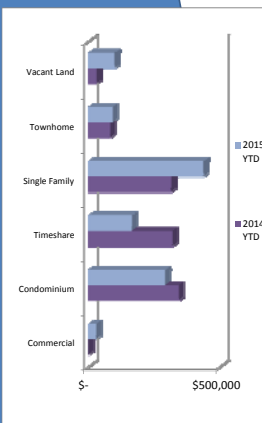
Continuing Items of Note:

- 2015 Real Estate Transfer Tax budget is based upon the monthly distribution for 2013.



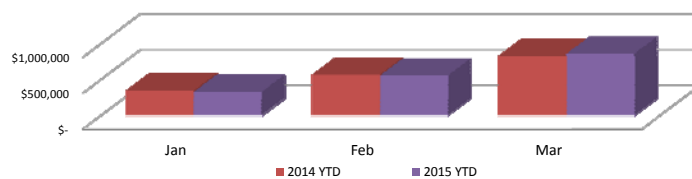
Total RETT						
	2013	2014	2015	% change	2015 Budget	+/- Budget
Jan	\$358,948	\$242,770	\$390,189	60.72%	\$321,765	\$68,424
Feb	\$234,357	\$311,353	\$239,023	-23.23%	\$210,080	\$28,943
Mar	\$281,202	\$367,107	\$320,123	-12.80%	\$252,073	\$68,050
Apr	\$380,279	\$343,886	\$170,219	-50.50%	\$340,887	-\$170,668
May	\$446,840	\$461,783	\$0	n/a	\$400,553	n/a
Jun	\$259,659	\$246,452	\$0	n/a	\$232,761	n/a
Jul	\$373,510	\$409,671	\$0	n/a	\$334,819	n/a
Aug	\$504,694	\$436,174	\$0	n/a	\$452,414	n/a
Sep	\$509,838	\$463,305	\$0	n/a	\$457,025	n/a
Oct	\$381,475	\$495,973	\$0	n/a	\$341,959	n/a
Nov	\$403,015	\$387,739	\$0	n/a	\$361,268	n/a
Dec	\$328,416	\$438,700	\$0	n/a	\$294,396	n/a
Total	\$4,462,232	\$4,604,914	\$1,119,553		\$4,000,000	-\$5,252

*April #'s are as of 04/20/2015



by Category					
Description	2014 YTD	2015 YTD	\$ change	% change	% of Total
Commercial	\$ 975	\$ 30,050	29,075	2982.05%	2.68%
Condominium	345,622	293,254	(52,367)	-15.15%	26.19%
Timeshare	319,689	165,158	(154,530)	-48.34%	14.75%
Single Family	314,017	438,375	124,357	39.60%	39.16%
Townhome	82,811	92,332	9,520	11.50%	8.25%
Vacant Land	32,633	100,384	67,752	207.62%	8.97%
Total	\$ 1,095,746	\$ 1,119,553	23,807	2.17%	100.00%

YTD Churn Analysis



General Fund Revenues Summary

March 31, 2015

These next two pages report on 2015 year to date financials for the 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 March, the Town's General Fund was at 104% of YTD budget (\$5.59M actual vs. \$5.37M budgeted). The variances are described below.

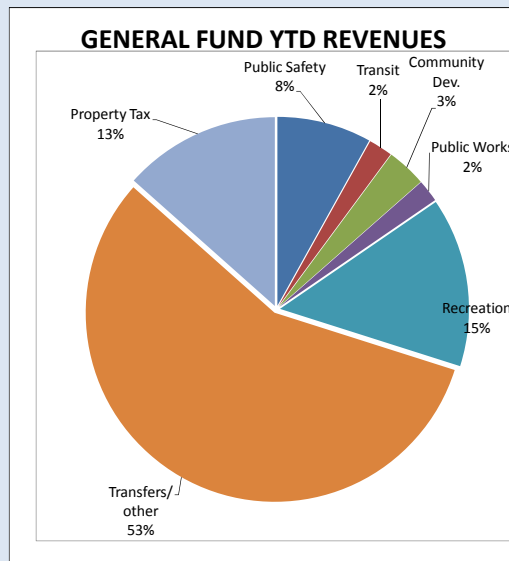
Variance Explanations:

Public Safety: pay parking revenue over budget by \$145k.

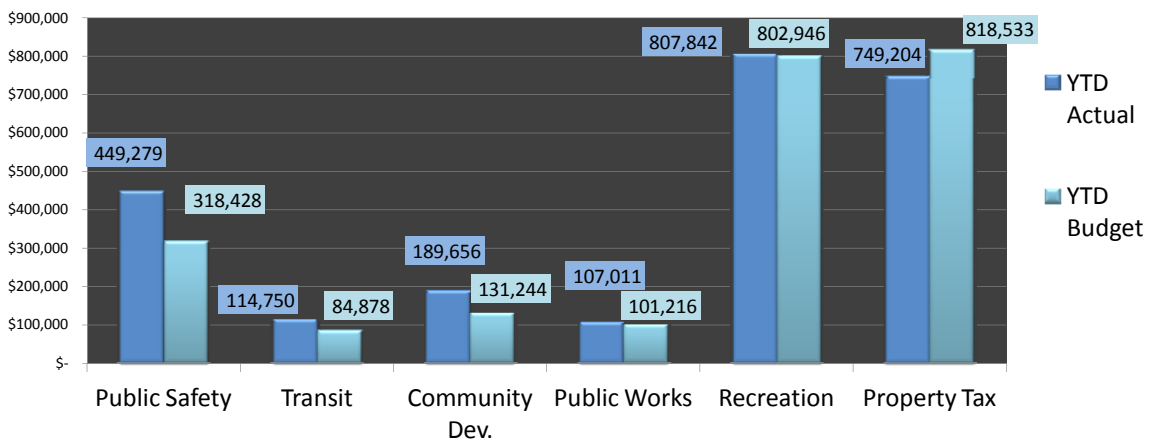
Transit: ahead of budget due to a recalculation and agreement of actual billable hours to the County.

Community Development: due to building permit and plan check fee revenues.

Property tax-timing. The Town will receive the full amount budgeted from the County unless there are abatements (none known at this time).



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



General Fund Expenditures Summary

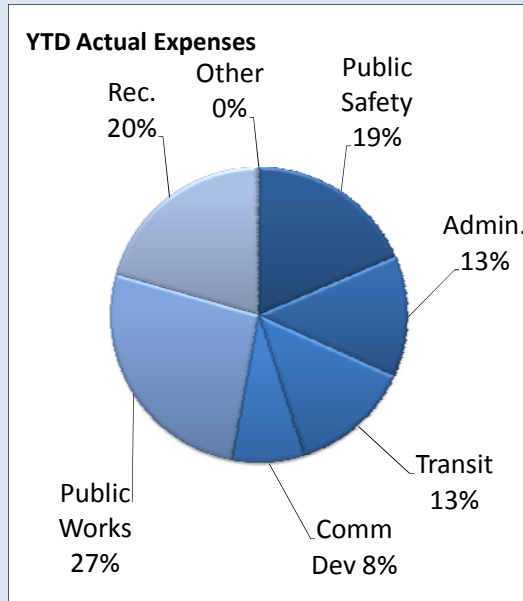
March 31, 2015

The General Fund at March 31, 2015 is at 96% of budgeted expense (\$5.39M actual vs. \$5.6M budgeted). The below graphs represent the cost of providing the services contained in this fund (Public Safety, Transit, Recreation, Public Works, Community Development, and Administration).

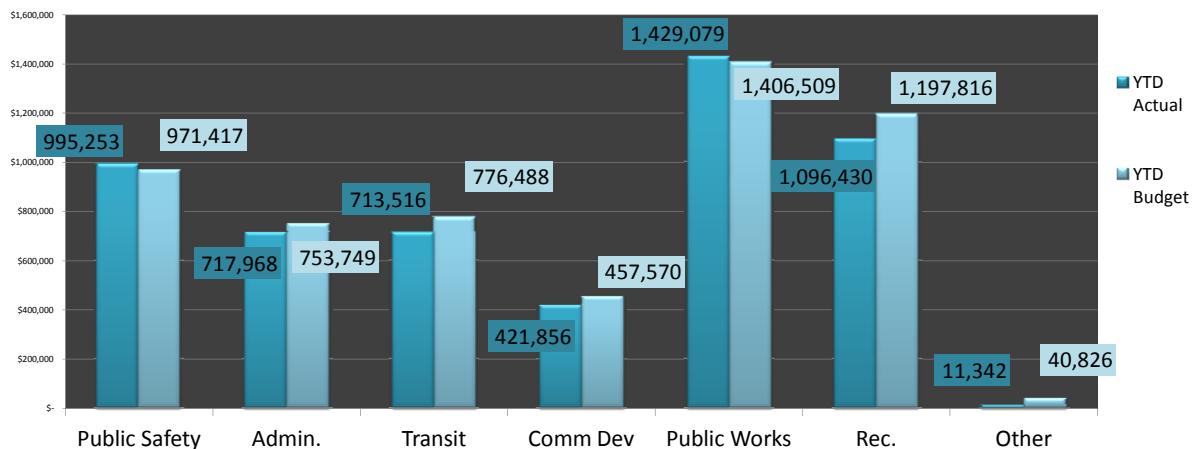
Variance Explanations:

Public Safety: Summit County Communications invoice received earlier than last year-timing.

Public Works: over budget due to Other Contracted Services hired for snow removal.



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



Combined Statement of Revenues and Expenditures

All Funds March 31, 2015

REVENUE	YTD Actual	YTD Budget	% of YTD Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 7,704,902	\$ 7,285,127	106%	\$ 33,443,183
2 Special Revenue	1,770,757	2,464,219	72%	9,702,958
3 Internal Service	902,127	878,482	103%	3,553,915
4 Subtotal General Governmental	\$ 10,377,786	\$ 10,627,828	98%	\$ 46,700,056
5 Capital Projects	300,651	73,472	409%	927,754
Enterprise Funds				
6 Utility Fund	620,988	620,078	100%	4,404,429
7 Golf	7,286	5,939	123%	2,205,624
8 Cemetery	1,300	6,279	21%	25,116
9 Subtotal Enterprise Funds	\$ 629,574	\$ 632,296	100%	\$ 6,635,169
10 TOTAL REVENUE	11,308,010	11,333,596	100%	54,262,979
11 Internal Transfers	10,114,082	10,114,082	100%	25,491,154
12 TOTAL REVENUE incl. x-fers	\$ 21,422,092	\$ 21,447,678	100%	\$ 79,754,133
EXPENDITURES				
	YTD Actual	YTD Budget	% of Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 6,917,972	\$ 6,922,725	100%	\$ 25,888,707
2 Special Revenue	3,443,272	4,840,650	71%	17,763,339
3 Internal Service	823,532	1,042,839	79%	3,929,105
4 Subtotal General Governmental	\$ 11,184,776	\$ 12,806,214	87%	\$ 47,581,151
5 Capital Projects	541,734	5,253,452	10%	5,253,452
Enterprise Funds				
6 Utility Fund	593,606	1,065,698	56%	4,694,279
7 Golf	260,668	262,715	99%	1,845,490
8 Cemetery	0	3,393	0%	13,572
9 Subtotal Enterprise Funds	\$ 854,275	\$ 1,331,806	64%	\$ 6,553,341
10 TOTAL EXPENDITURES	12,580,784	19,391,472	65%	59,387,944
11 Internal Transfers	10,078,080	10,078,080	100%	25,491,461
12 TOTAL EXPENDITURES incl. x-fers	\$ 22,658,864	\$ 29,469,552	77%	\$ 84,879,405
13 TOTAL REVENUE less EXPEND.	\$ (1,236,773)	\$ (8,021,874)	N/A	\$ (5,125,272)

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

March 31, 2015

The YTD breakdown of the revenue/expenses variances is as follows:

General Fund:

- Revenue:
 - Ahead of budget by \$219k-see General Fund Revenue page for more detail.
- Expense:
 - Under budget by \$219k. See General Fund Expense page of this report for more details.

Excise Fund:

- Revenue:
 - Ahead of budget by \$320k-see Executive Summary or Tax Basics for more information.

Capital Fund:

- Revenue:
 - Ahead of budget due to timing.
- Expense:
 - Under budget due to timing: expenditures budgeted at 100% but spending varies over the duration of the project.

Special Revenue Funds:

- Revenue:
 - Marketing Fund ahead of budget due to business licenses.
 - Affordable Housing under budget due to timing: Pinewood 2 tax credit rebates budgeted but not yet received
- Expense:
 - Affordable Housing and Open Space under budget due to capital expenditures which have not yet taken place.

Utility:

- Expense:
 - Under budget due to capital expenditures which have not yet taken place.

Internal Service Funds:

- Revenue:
 - Ahead of budget due to insurance recoveries
- Expense:
 - Under budget due to timing of capital expenditures

Fund Descriptions:

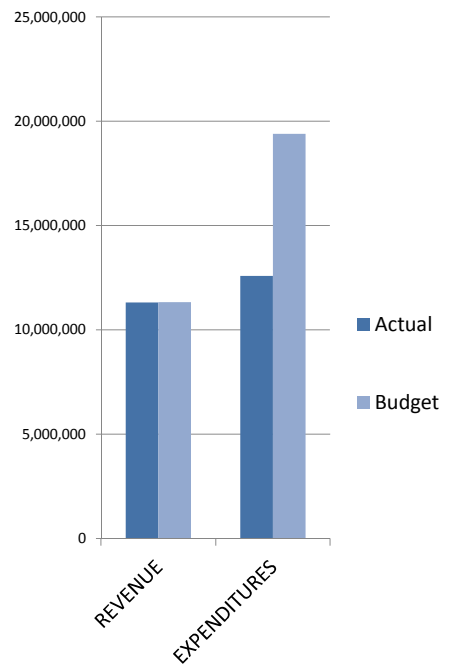
General Governmental - General, Excise, Capital, Special Projects, Child Care, Marijuana

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

Enterprise Funds: Golf, Utility, Cemetery

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

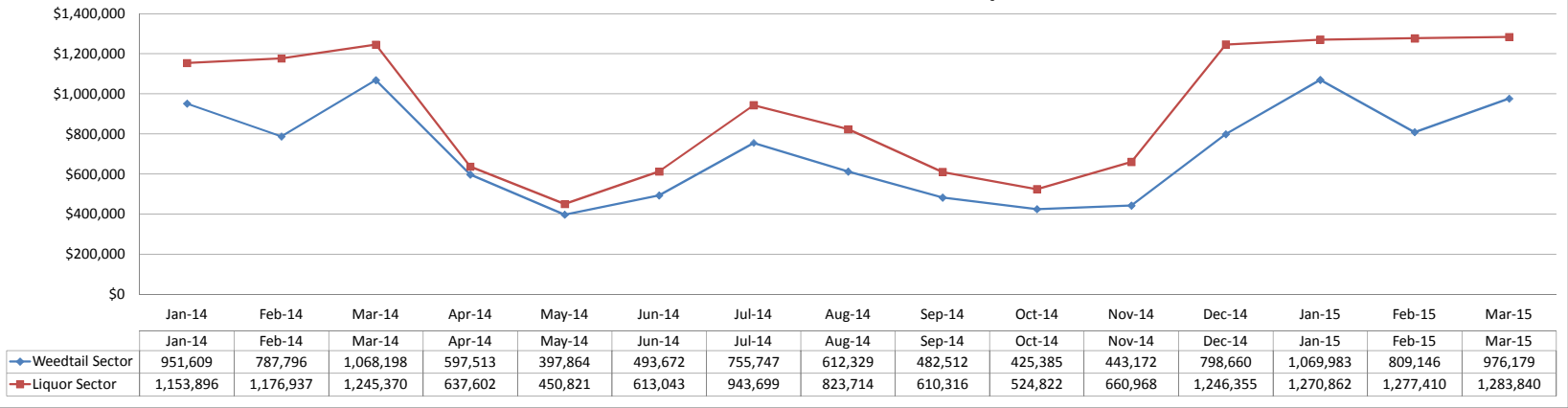
YTD Actual Revenues and Expenditures vs. Budget



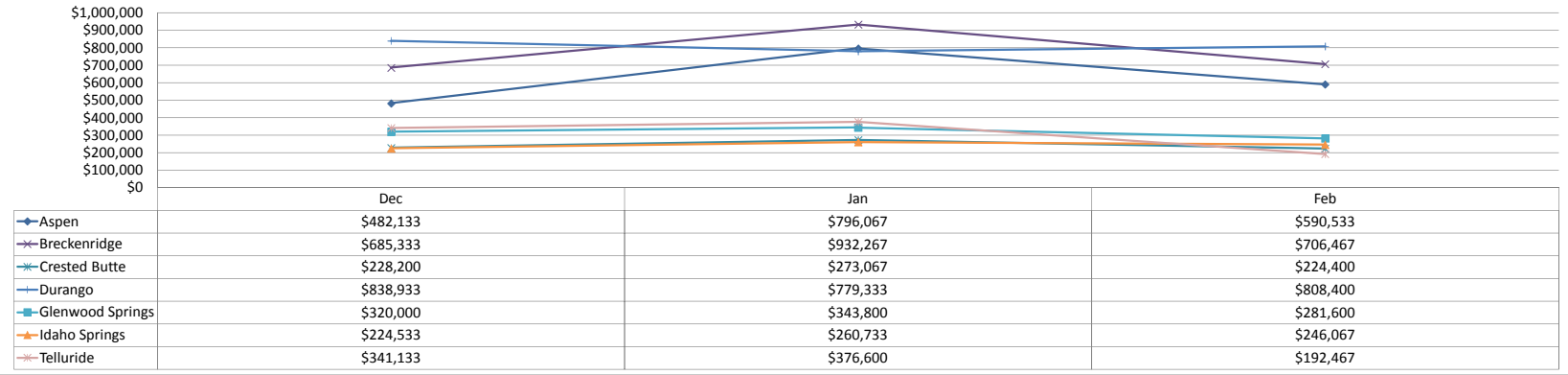
BRECKENRIDGE WEEDTAIL MEMORANDUM

The graphs below illustrate recent sales activity in the Marijuana Sector. On February 2, 2015, the Breckenridge Cannabis Club ceased sales of marijuana on Main Street and moved their marijuana retail location to Airport Road. The graphs below provide comparative data in order to allow for analysis on the subject. Staff has found since the legalization of recreational marijuana, sales in the Marijuana sector can be expected to follow the trends of the Liquor sector. The strong tie between the sectors does appear to deviate after the passage of the ordinance banning marijuana sales in the downtown core. However, you should also notice the deviation in February 2014; February 2015 sales of marijuana did exceed prior year sales. Additionally, in comparing sales activities with other mountain communities, it is clear that other communities (most remarkably Aspen), experienced the same February sales trend. Regarding March, Weedtail sales were down, as compared to prior year. March sales data from other mountain communities is not yet available.

Correlation between Weedtail & Liquor Sectors * includes medical & non-MJ sales

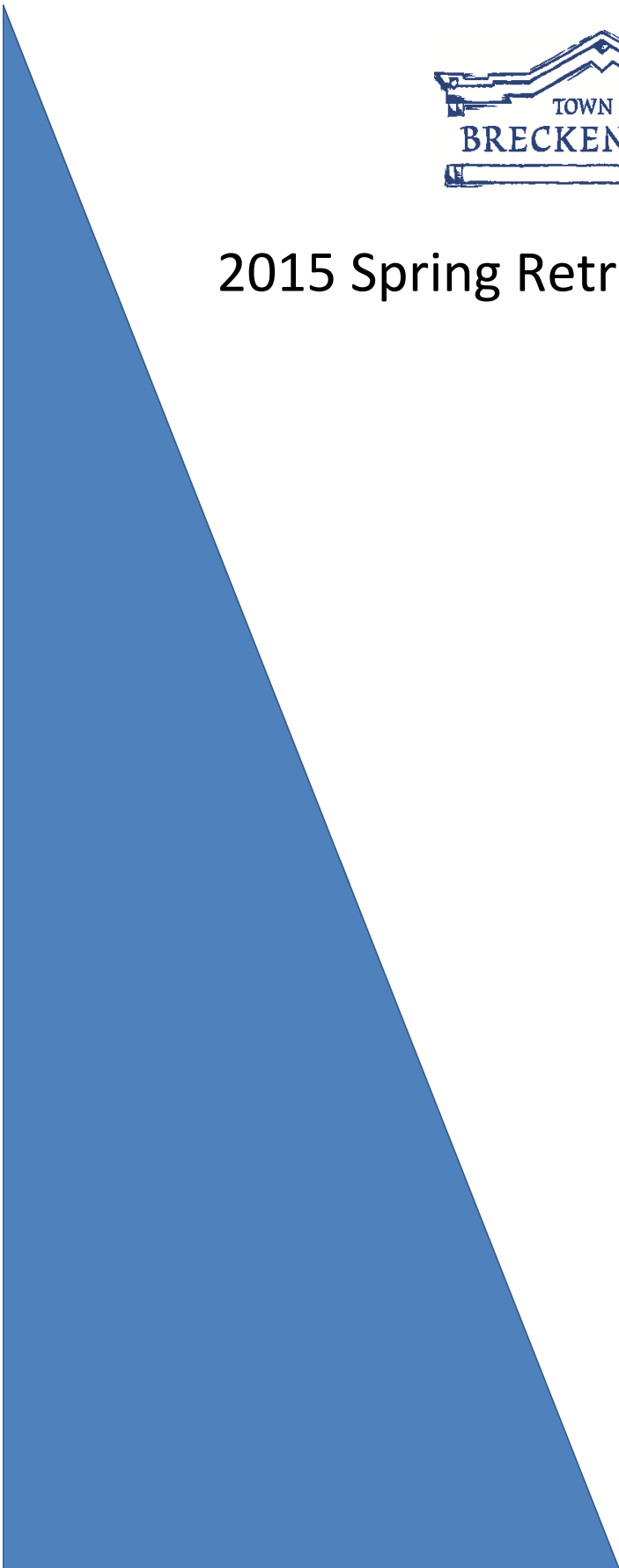


Recent Recreational MJ Sales Activity in Mountain Communities



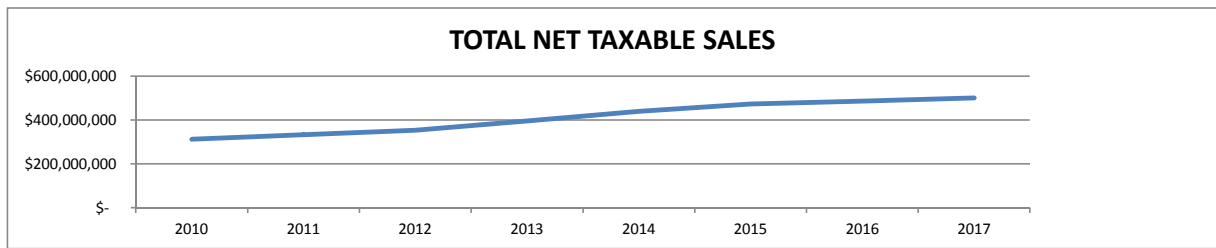
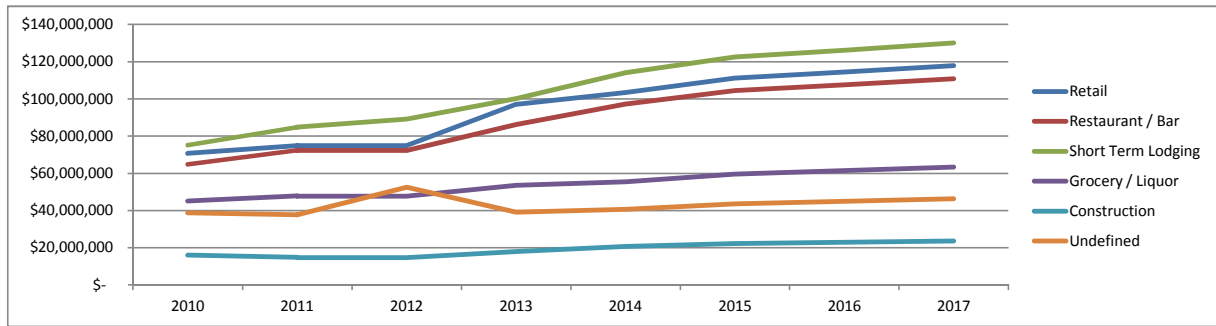


2015 Spring Retreat Financial Review



- sales activity forecast -

	Actual 2010	Actual 2011	Actual 2012	Actual 2013	Pre-Audit Actual 2014	Budget 2015	Proj. 2016	Proj. 2017
Retail	\$ 70,679,387	\$ 74,827,209	\$ 74,827,209	\$ 97,154,757	103,471,358	111,178,529	114,513,885	117,949,302
Weedtail	\$ 1,029,574	\$ 1,081,028	\$ 1,825,612	\$ 2,393,937	8,351,852	8,973,949	9,243,167	9,520,462
Restaurant / Bar	\$64,906,415	\$72,325,345	\$72,325,345	\$86,156,358	97,181,996	104,420,698	107,553,318	110,779,918
Short Term Lodging	\$75,162,464	\$84,810,225	\$89,108,126	\$100,118,503	114,053,381	122,548,765	126,225,228	130,011,985
Grocery / Liquor	\$45,024,575	\$47,771,730	\$47,771,730	\$53,548,439	55,516,155	59,651,333	61,440,873	63,284,099
Construction	\$15,955,006	\$14,693,010	\$14,693,010	\$17,942,915	20,718,596	22,261,842	22,929,697	23,617,588
Undefined	38,706,936	37,705,311	52,442,077	39,091,526	40,623,619	43,649,511	44,958,996	46,307,766
TOTAL NET TAXABLE SALES	\$ 311,464,356	\$ 333,213,857	\$ 352,993,108	\$ 396,406,434	\$ 439,916,958	\$ 472,684,626	\$ 486,865,165	\$ 501,471,120
Change	-	7.0%	5.9%	12.3%	11.0%	7.4%	3.0%	3.0%



Sales tax is by far the Town's largest revenue source, accounting for 34% of Town wide revenues.

Sales tax revenue decreased during the recession, dropping 9.9% in 2009 to \$13.2M. What we see on this page is the slow recovery of this revenue source over the past four years. Sales Tax revenue has returned to pre-recession levels, and our 2014 actual revenue of \$16.9M in the Excise Fund was our all time highest result.

The chart above shows dollar sales activity by sector (we do not track actual revenue by sector). Please remember sales activity does not track directly with sales tax revenue for several reasons (e.g. timing, State/County collection amounts).

-real estate transfer tax (RETT) revenue forecast

	Actual 2010	Actual 2011	Actual 2012	Actual 2013	Pre-Audit Actual 2014	Budget 2015	Proj. 2016	Proj. 2017
Vacant	\$ 77,746	\$ 129,887	\$ 325,081	\$ 455,505	182,005	158,096	161,258	162,871
Commercial	285,630	33,705	40,620	63,535	66,522	57,783	58,939	59,528
Condos	1,105,001	965,127	795,852	1,186,224	1,226,822	1,065,664	1,086,977	1,097,847
Single Family	1,003,042	1,086,198	1,157,007	1,350,792	1,562,179	1,356,967	1,384,107	1,397,948
Townhome	180,634	144,666	242,737	277,817	562,215	488,361	498,128	503,109
Timeshare	1,010,702	1,045,371	1,127,740	1,128,260	1,005,171	873,129	890,592	899,498
TOTAL RETT	\$ 3,662,755	\$ 3,405,788	\$ 3,689,075	\$ 4,462,232	\$ 4,604,914	\$ 4,000,000	\$ 4,080,000	\$ 4,120,800
Change	-	-7.0%	8.3%	21.0%	3.2%	-13.14%	2.00%	1.00%

2015

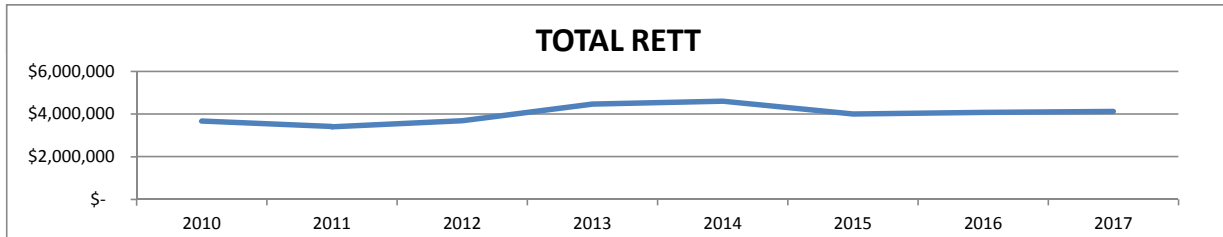
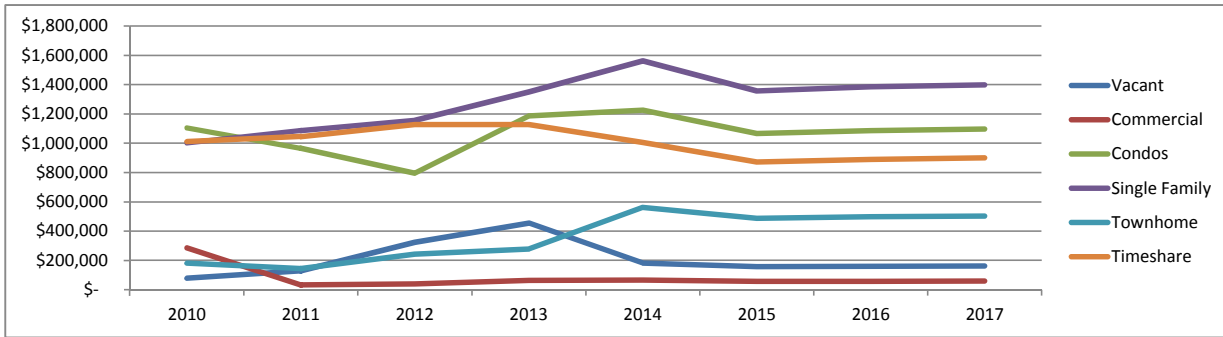
In 2015, one major time share project is coming on line. Overall we have budgeted conservatively based upon the historical churn and anticipated projects.

2016

We expect sales of the timeshare project referenced above (in 2015) will continue into 2016 and that overall sales will show a 2% increase.

2017

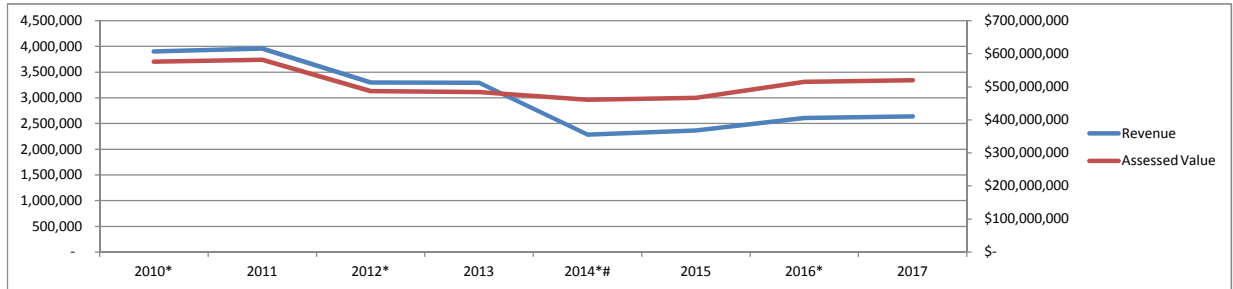
Projecting similar levels to 2016 as no projects are known at this time.



Predicting RETT revenues into the future involves two steps; one is to estimate the churn revenues, and the second involves the inclusion of any upcoming significant real estate projects known to us. In 2015, we have one large timeshare construction project scheduled that will have an upward influence on RETT revenues. We are also predicting this increase in inventory will contribute to more timeshare category revenues in subsequent periods. Churn has been forecast to be fairly stable for 2015.

- property tax -								
	Actual 2010*	Actual 2011	Actual 2012*	Actual 2013	Pre-Audit Actual 2014*#	Budget 2015	Proj. 2016*	Proj. 2017
Mill Rate	6.957	6.945	6.945	6.945	5.07	5.070	5.070	5.070
Property Tax Rev.	3,904,020	\$ 3,956,674	\$ 3,299,197	\$ 3,290,704	\$ 2,285,709	\$ 2,368,324	\$ 2,606,014	\$ 2,636,400
Change	-	1%	-17%	0%	-31%	4%	10%	1%
Assessed Value	\$ 576,093,270	\$ 582,216,260	\$ 487,101,900	\$ 484,016,670	\$ 461,244,650	\$ 467,124,960	\$ 515,000,000	\$ 520,000,000
Change	-	1%	-16%	-1%	-5%	1%	10%	1%

* - Denotes Assessment Year
- Denotes expiration of Debt Service Mill Levy

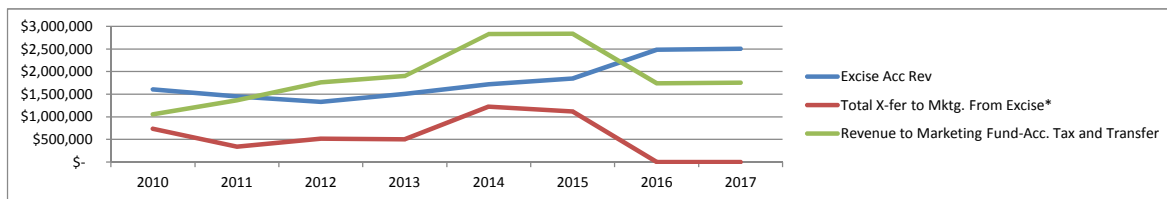


Property tax is a fairly steady revenue source, and is only subject to material fluctuations every even year when assessments are completed by the County.

2014 was the first year to include the effects of the debt service mill levy revenue expiration. It is important to note that the associated expense, i.e. the actual debt service payments, also expired in 2014, so there is no net effect to the Town. The last assessment that influenced the 2014 property tax revenue reduced our in-Town property value amounts. This was a lingering effect of the Great Recession. For the 2016 revenue year, we are anticipating that a combination of the continued economic recovery and additional inventory will lead to an increased assessed value amount.

-accommodations tax -								
Accommodation Tax Rate	2.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%	3.4%
	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Pre-Audit Actual	2015 Budget	2016 Proj.	2017 Proj.
Total Acc. Tax to the Town	\$ 1,928,555	\$ 2,821,675	\$ 3,016,580	\$ 3,411,171	\$ 3,900,712	\$ 4,178,300	\$ 4,220,083	\$ 4,262,284
Excise-Acc. Tax Revenue net of "GA"	\$ 1,607,129	\$ 1,453,331	\$ 1,330,744	\$ 1,504,928	\$ 1,720,902	\$ 1,843,343	\$ 2,482,377	\$ 2,507,201
Acc. Tax Directly to Marketing Fund	\$ 321,426	\$ 1,031,542	\$ 1,242,051	\$ 1,404,600	\$ 1,606,176	\$ 1,720,501	\$ 1,737,706	\$ 1,755,083
"Gentleman's Agreement" Addtl .5% Additional "Ask"		336,762	443,615	501,643	573,634	614,456	-	-
	733,296		75,725	0	647,004	500,044	-	-
Total X-fer to Mktg. From Excise*	\$ 733,296	\$ 336,762	\$ 519,340	\$ 501,643	\$ 1,220,638	\$ 1,114,500	\$ -	\$ -
Revenue to Marketing Fund-Acc. Tax and Transfer	\$ 1,054,722	\$ 1,368,303	\$ 1,761,391	\$ 1,906,243	\$ 2,826,814	\$ 2,835,001	\$ 1,737,706	\$ 1,755,083

* - In 2011, Council elected to transfer an additional .5% of Accommodations tax revenue to the Marketing Fund for 2011-2015



Accommodations tax revenue is relatively small in terms of dollar volume. However, this revenue stream is very important to the Town's marketing efforts, and also serves as an indicator of in-Town activity.

In 2011, the Accommodations tax rate was increased from 2.4% to 3.4%, but that increase was dedicated to the Marketing Fund and is shown on a separate line above. At that time, Council also committed to an additional .5% of Accommodation tax to the Marketing Fund for five years. The past and future effects of that arrangement are reflected above. Accommodations tax has typically tracked closely with Sales tax revenue, and we forecast this trend to continue.

The .5% additional transfer expires at the end of 2015. The effect of this change is reflected in the graph and data table above for illustrative purposes. It will be Council's decision to continue the transfer at its current level for 2016, or to make changes to that transfer going forward.

Both 2013 and 2014 have seen double-digit percentage increases in Accommodations tax revenue. This is influenced by both increased volume in this sector, as well as by rate levels.

The expiration of the .5% additional transfer to the marketing fund is noted above. The Excise Fund transfer expenses drop from 2015 to 2016 as a result of the transfer no longer being anticipated.

Ten Year Trends in Marketing Fund/Go Breck Funding:

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
MARKETING FUND REVENUE												
Accommodation Tax Revenue	252,070	275,907	315,072	360,789	356,668	295,507	321,426	1,031,542	1,242,051	1,404,600	1,606,176	1,720,501
Sales Tax Revenue	169,166	195,292	219,008	239,868	244,910	228,043	221,832	234,856	248,653	277,931	311,461	330,900
Business License Revenue	568,221	555,588	585,806	594,905	675,819	598,869	634,665	663,774	693,471	592,093	797,252	648,999
Transfer from Excise	70,000	20,000	20,000	130,000	300,000	435,000	733,296	336,762	519,340	501,643	1,220,638	1,114,500
Other Income	1,545	3,008	2,966	17,891	7,480	345	1,800	78,590	7,378	40,844	3,710	1,236
TOTAL	1,059,457	1,046,787	1,139,886	1,325,562	1,577,396	1,557,419	1,911,219	2,266,933	2,703,515	2,776,267	3,935,526	3,816,136

1% increase in tax rate (from 0.4 to 1.4%-250% increase)

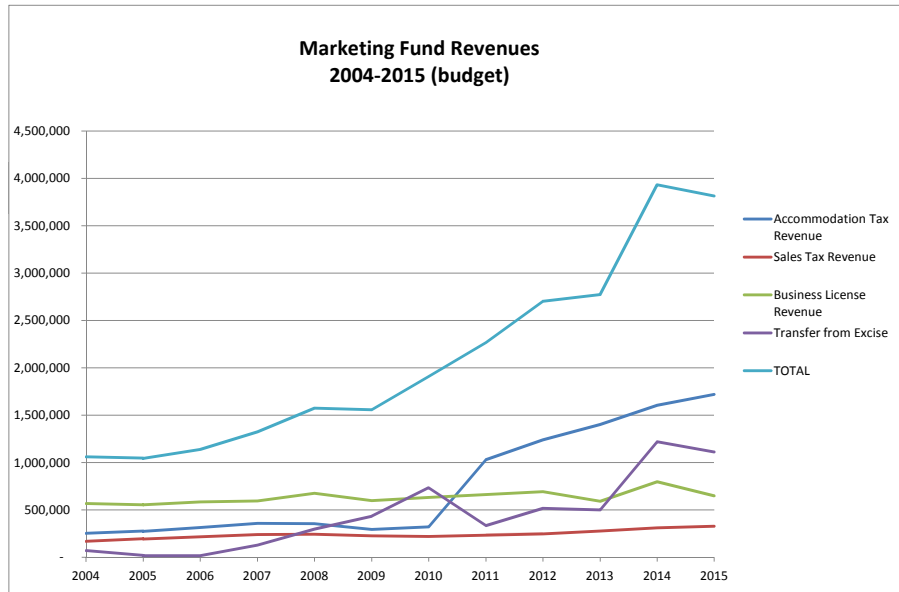
BUDGETED

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
MARKETING FUND EXPENSE												
DMO Funding	895,617	900,199	1,008,638	1,171,949	1,417,144	1,617,608	1,666,098	2,191,087	2,521,988	2,550,000	3,346,000	3,848,654
Other Marketing Expenditures	107,000	119,000	115,924	121,275	136,500	134,930	121,889	128,531	143,284	309,707	493,141	430,918
Total Marketing Expenditures	1,002,617	1,019,199	1,124,562	1,293,224	1,553,644	1,752,538	1,787,988	2,319,618	2,665,272	2,859,707	3,839,141	4,279,572

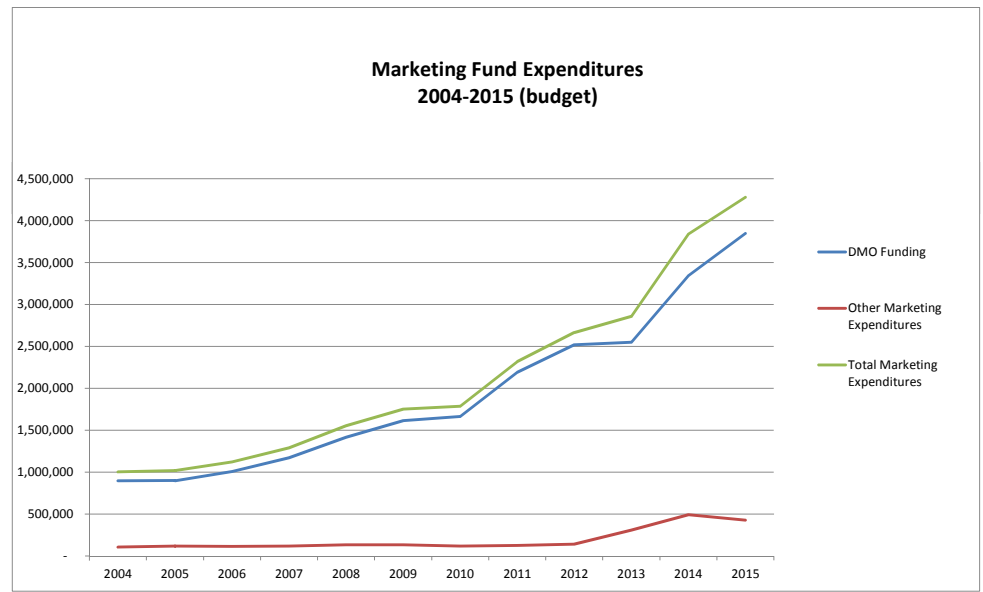
1% increase in tax rate (from 0.4 to 1.4%-250% increase)

BUDGETED

Graph of Revenues



Graph of Expenditures



Changes to the 2015 Budget

2014 Rollovers to 2015

<i>Revenues</i>		<i>Expenses</i>	
General Fund-		General Fund-	64,500
	BGVCC Opening 13,500		Lomax Mine and Briggie House purchase 32,500
			Green Team 5,000
			BGVCC Opening 27,000
		Excise Fund-	126,805
			Transfer to Special Projects 126,805
Special Projects-	(890,388)	Special Projects-	(890,388)
	Transfer from Excise to Special Projects 126,805		BHA Capital 126,805
	Revenue from Cultural Arts (1,017,193)		Operations-Arts and Culture (1,017,193)
	Total (876,888)		Total (699,083)

Supplemental Appropriations to the 2015 Budget

<i>Revenues</i>		<i>Expenses</i>	
General Fund	76,081	General Fund	2,050,500
	Parkway Center Feasibility Study Reimbursement 25,250		Parkway Center Feasibility Study 50,500
	COPs Grant-Year 1 50,831		Loan to Open Space Fund-To Pay Off B&B Loan 2,000,000
Excise	-	Excise	1,618,500
			Transfer to Capital 1,618,500
Capital Fund	1,618,500	Capital Fund	1,618,500
	Transfer from Excise 1,618,500		Breckenridge Grand Vacations Community Center 544,000
			Breckenridge Theater Addition 720,000
			Barney Ford Dumpster 90,000
			Airport Road Pedestrian Lighting 130,000
			SH 9 Median Landscaping Section "B" 132,000
			Fairview Roundabout 2,500
Open Space Fund	2,000,000	Open Space Fund	2,800,000
	Loan from General Fund-To Pay Off B&B Loan 2,000,000		Payoff 2005 B&B Loan 2,700,000
			Hoosier Bike Path 100,000
Special Projects Fund	-	Special Project Fund	15,001
			Wood Chip Pile Processing 15,000
			Recycle Lot Development 1

Gross Total Changes to 2015 Budget

Rollovers	(876,888)	Rollovers	(699,083)
Supplementals	3,694,581	Supplementals	8,102,501
Grand Total	2,817,693	Grand Total	7,403,418

Net Changes to 2015 Budget

Rollovers and first round of supplementals	13,500	Rollovers and first round of supplementals	191,305
Second Round of Supplementals	76,081	Second Round of Supplementals	4,484,001
Grand Net Total Change in Revenue	89,581	Grand Net Total Change in Expense	4,675,306

Round 1-net increase in expense (included in fund balance)	177,805
Round 2-net increase in expense (noted separately)	4,407,920
Total Increase in 2015 Expense	4,585,725

Town of Breckenridge Fund Balance and Reserves Analysis

	Required Reserves							Discretionary Reserves and Appropriated Amounts												
	Budgeted Fund Balance		TABOR	PPA	Debt	Dedicated Revenue	Total	Net	Medical	Debt	Operations Reserve	BHA	Equipment	Appropriated	Capital Reserve	Council Policy of 1/24/12	Total	Net	Supplemental Appropriations	New Available Fund Balance
	12/31/15																			
General Fund	23,244,566		1,189,351	650,000	-	1,839,351	21,405,215	600,000		7,029,780						7,629,780	13,775,435	(1,974,419)	11,801,016	
Excise Fund	8,361,262				567,228	568,608	7,792,654		564,408							4,430,408	3,362,246	(1,618,500)	1,743,746	
Sub 1							29,197,868										17,137,681	(3,592,919)	13,544,762	
Capital	-						-									-	-	-	-	
Special Projects	474,480						474,480				50,000					50,000	424,480	(15,001)	409,479	
Marijuana	(64,656)						(64,656)**									-	(64,656)	-	(64,656)	
Sub 2							29,672,349										17,497,505	(3,607,920)	13,889,585	
Utility	9,203,792			37,000		37,000	9,166,792									9,166,792	9,166,792	-	-	
Golf	2,186,132						2,186,132					162,000				2,024,132	2,186,132	-	-	
Cemetery	50,994						50,994						50,994			50,994	-	-	-	
Sub 3							41,025,273										17,497,505	(3,607,920)	13,889,585	
Garage Fund	6,932,368						6,932,368							6,932,368		6,932,368	-	-	-	
Information Tech.	783,884						783,884							783,884		783,884	-	-	-	
Facilities	2,004,389						2,004,389							2,004,389		2,004,389	-	-	-	
Sub 4							50,745,914										17,497,505	(3,607,920)	13,889,585	
Affordable Housing	9,283,139				741,398	741,398	8,541,741									8,541,741	8,541,741	-	-	
Open Space	910,358						910,358					33,000				877,358	877,358	(800,000)	-	
Conservation Trust	1,193				1,193	1,193	-									-	-	-	-	
Marketing	(38,151)						(38,151)***							(38,151)		(38,151)	-	-	-	
Child Care	2,489,291						2,489,291									2,489,291	2,489,291	-	-	
TOTAL	65,823,041	1,189,351	604,228	742,591	3,187,550	62,584,497		600,000	564,408	7,029,780	50,000	195,000	9,733,484	3,866,000		45,104,986	17,497,505	(4,407,920)	13,889,585	

Sub 1 The totals of the General and Excise funds. These are the most accessible funds for the Town, i.e. they have not been earmarked for specific purposes

Sub 2 This includes the Capital and Special projects fund totals. These funds have been designated for projects by Council, but they are not legally restricted.

Sub 3 Golf and Utility, the Town's enterprise funds, are included in this total. These funds are also not legally restricted, but do exist in enterprise funds and are designated for specific purposes. The operations and fund balances represented by these funds are funded by user fees.

Sub 4 The Town's internal service funds are included in this amount. These fund balances represent reserves for ongoing capital replacement expenses and have been accumulated over the years to service all the other funds' operations

TOTAL Included in this total are the special revenue funds. Part or all of these fund balances are legally designated for specific purposes and cannot be used for any purpose other than those designated.

	Budgeted Capital Expenses				RESERVED AMOUNT
	2016	2017	2018	TOTAL	
Capital	6,616,000	2,210,000	770,000	9,596,000	
(less) base funding	(2,750,000)	(2,750,000)	(2,750,000)	(8,250,000)	
Transfer from Child Care					
Total	3,866,000	(540,000)	(1,980,000)	1,346,000	3,866,000

NOTES * Capital expenses are budgeted assuming future revenue streams are adequate to fund at the budgeted level. As such, short and long term budgeted Capital amounts are subject to change. The Capital Reserve column reflects the 3 year funding reserve. The reserve was calculated assuming a base funding level of \$2.75 million annually. The amounts programmed in the CIP prepared for the 2015 budget years 2016-2017 above that level have been reserved.

** The Marijuana Fund was budgeted to a zero fund balance. However, actual revenues were less than projected which will result in a negative fund balance if no changes occur in 2015.

*** The Marketing Fund was budgeted to a zero fund balance. However, actual expenditures exceeded projected which will result in a negative fund balance if no changes occur in 2015.

TOWN OF BRECKENRIDGE
FUND BALANCE REPORT
GENERAL FUND

January 1, 2013	FUND BALANCE	\$	22,443,768
	ACTUAL REVENUE	\$	23,497,229
	ACTUAL EXPENSES	\$	24,423,229
	FUND BALANCE INCREASE/ (DECREASE)	\$	<u>(926,000)</u>
December 31, 2013	FUND BALANCE	\$	21,517,768
January 1, 2014	FUND BALANCE	\$	21,517,768
	ACTUAL REVENUE (PRE-AUDIT)	\$	21,828,324
	ACTUAL EXPENSES (PRE-AUDIT)	\$	20,160,149
	GAIN / (REDUCTION)	\$	<u>1,668,175</u>
December 31, 2014	FUND BALANCE	\$	23,185,944
January 1, 2015	FUND BALANCE	\$	23,185,944
	BUDGETED REVENUE	\$	21,147,961
	BUDGETED EXPENSES	\$	21,089,339
	BUDGETED GAIN / (REDUCTION)	\$	<u>58,622</u>
December 31, 2015	FUND BALANCE	\$	23,244,566
	TABOR RESERVED FUNDS-REQUIRED	\$	(1,189,351)
	PPA RESERVE-REQUIRED	\$	(650,000)
	MEDICAL INSURANCE RESERVE-DISCRETIONARY	\$	(600,000)
	OPERATIONS RESERVE-DISCRETIONARY	\$	(7,029,780)
	BUDGETED NET FUND BALANCE	\$	<u>13,775,435</u>
	2015 SUPPLEMENTAL APPROPRIATIONS	\$	<u>(1,974,419)</u>
	NEW BUDGETED NET FUND BALANCE	\$	<u>11,801,016</u>

TOWN OF BRECKENRIDGE
 FUND BALANCE REPORT
 EXCISE TAX FUND

January 1, 2013	FUND BALANCE	\$	12,588,998
	ACTUAL REVENUE	\$	22,118,556
	ACTUAL EXPENSES	\$	26,966,833
	ACTUAL GAIN / (REDUCTION)	\$	<u>(4,848,278)</u>
December 31, 2013	FUND BALANCE	\$	7,740,721
January 1, 2014	FUND BALANCE	\$	7,740,721
	ACTUAL REVENUE (PRE-AUDIT)	\$	26,120,174
	ACTUAL EXPENSES (PRE-AUDIT)	\$	25,976,929
	GAIN / (REDUCTION)	\$	<u>143,246</u>
December 31, 2014	FUND BALANCE	\$	7,883,967
January 1, 2015	FUND BALANCE	\$	7,883,967
	BUDGETED REVENUE	\$	24,205,134
	BUDGETED EXPENSES	\$	23,727,839
	BUDGETED GAIN / (REDUCTION)	\$	<u>477,295</u>
December 31, 2015	FUND BALANCE	\$	8,361,262
	RESERVED FOR DEBT SERVICE-REQUIRED	\$	(568,608)
	RESERVED FOR DEBT SERVICE-DISCRETIONARY	\$	(564,408)
	CAPITAL RESERVE-DISCRETIONARY	\$	(3,866,000)
	BUDGETED NET FUND BALANCE	\$	<u><u>3,362,246</u></u>
	2015 SUPPLEMENTAL APPROPRIATIONS	\$	<u>(1,618,500)</u>
	NEW BUDGETED NET FUND BALANCE	\$	<u><u>1,743,746</u></u>

MARKETING FUND

January 1, 2013	FUND BALANCE	\$	343,321
	REVENUE	\$	2,817,111
	EXPENSES	\$	2,859,742
	INCREASE/ (REDUCTION)	\$	(42,631)
December 31, 2013	FUND BALANCE	\$	300,690
January 1, 2014	FUND BALANCE	\$	300,690
	ACTUAL REVENUE (PRE-AUDIT)	\$	3,963,736
	ACTUAL EXPENSES (PRE-AUDIT)	\$	3,839,141
	INCREASE / (REDUCTION)	\$	124,595
December 31, 2014	FUND BALANCE	\$	425,285
January 1, 2015	FUND BALANCE	\$	425,285
	BUDGETED REVENUE	\$	3,816,136
	BUDGETED EXPENSES	\$	4,279,572
	BUDGETED INCREASE / (REDUCTION)	\$	(463,436)
December 31, 2015	FUND BALANCE	\$	(38,151)

GOLF FUND

JANUARY 1,2013	FUND BALANCE	\$	1,502,938
	REVENUE	\$	2,837,403
	EXPENSES	\$	<u>2,494,967</u>
	INCREASE/ (REDUCTION)	\$	<u>342,436</u>
DECEMBER 31,2013	FUND BALANCE	\$	<u><u>1,845,374</u></u>
JANUARY 1,2014	FUND BALANCE	\$	1,845,374
	PRE-AUDIT REVENUE	\$	2,124,763
	PRE-AUDIT EXPENSES	\$	<u>2,114,140</u>
	INCREASE/ (REDUCTION)	\$	<u>10,624</u>
DECEMBER 31,2014	FUND BALANCE	\$	<u><u>1,855,998</u></u>
JANUARY 1,2015	FUND BALANCE	\$	1,855,998
	BUDGETED REVENUE	\$	2,205,624
	BUDGETED EXPENSES	\$	<u>1,875,490</u>
	BUDGETED GAIN / (REDUCTION)	\$	<u>330,134</u>
DECEMBER 31,2015	FUND BALANCE	\$	<u><u>2,186,132</u></u>

WATER FUND

JANUARY 1,2013	FUND BALANCE	\$ 9,076,031
	REVENUE	\$ 3,483,985
	EXPENSES	\$ 3,506,763
	INCREASE/ (REDUCTION)	\$ (22,778)
DECEMBER 31,2013	FUND BALANCE	\$ 9,053,253
JANUARY 1,2014	FUND BALANCE	\$ 9,053,253
	PRE-AUDIT REVENUE	\$ 4,075,352
	PRE-AUDIT EXPENSES	\$ 3,192,811
	INCREASE/ (REDUCTION)	\$ 882,541
DECEMBER 31,2014	FUND BALANCE	\$ 9,935,794
JANUARY 1,2015	FUND BALANCE	\$ 9,935,794
	BUDGETED REVENUE	\$ 4,419,429
	BUDGETED EXPENSES	\$ 5,151,431
	BUDGETED GAIN / (REDUCTION)	\$ (732,002)
DECEMBER 31,2015	FUND BALANCE	\$ 9,203,792
	FULLY APPROPRIATED FUND BALANCE	\$ 9,166,792
	RESERVED FOR DEBT SERVICE-REQUIRED	\$ 37,000
DECEMBER 31,2015	BUDGETED NET FUND BALANCE	\$ -

OPEN SPACE FUND

JANUARY 1,2013	FUND BALANCE	\$	569,650
	REVENUE	\$	2,124,928
	EXPENSES	\$	2,067,611
	INCREASE/ (REDUCTION)	\$	57,317
			626,966
DECEMBER 31,2013	FUND BALANCE	\$	626,966
JANUARY 1,2014	FUND BALANCE	\$	626,966
	PRE-AUDIT REVENUE	\$	2,435,818
	PRE-AUDIT EXPENSES	\$	2,130,046
	INCREASE/ (REDUCTION)	\$	305,772
			932,738
DECEMBER 31,2014	FUND BALANCE	\$	932,738
JANUARY 1,2015	FUND BALANCE	\$	932,738
	BUDGETED REVENUE	\$	2,694,671
	BUDGETED EXPENSES	\$	2,717,051
	BUDGETED GAIN / (REDUCTION)	\$	(22,380)
			910,358
DECEMBER 31,2015	FUND BALANCE	\$	910,358
	WELLINGTON ORO RESERVE	\$	33,000
DECEMBER 31,2015	FUND BALANCE	\$	877,358
	2015 SUPPLEMENTAL APPROPRIATIONS	\$	(800,000)
	NEW BUDGETED NET FUND BALANCE	\$	77,358

AFFORDABLE HOUSING FUND*

JANUARY 1,2013	FUND BALANCE	\$	10,392,320
	REVENUE	\$	3,639,796
	EXPENSES	\$	935,433
	INCREASE/ (REDUCTION)	\$	<u>2,704,363</u>
DECEMBER 31,2013	FUND BALANCE	\$	<u><u>13,096,684</u></u>
JANUARY 1,2014	FUND BALANCE	\$	13,096,684
	PRE-AUDIT REVENUE	\$	2,398,027
	PRE-AUDIT EXPENSES	\$	1,206,458
	INCREASE/ (REDUCTION)	\$	<u>1,191,568</u>
DECEMBER 31,2014	FUND BALANCE	\$	<u><u>14,288,252</u></u>
JANUARY 1,2015	FUND BALANCE	\$	14,288,252
	BUDGETED REVENUE	\$	5,761,603
	BUDGETED EXPENSES	\$	10,766,716
	BUDGETED GAIN / (REDUCTION)	\$	<u>(5,005,113)</u>
DECEMBER 31,2015	FUND BALANCE	\$	<u><u>9,283,139</u></u>
	FULLY APPROPRIATED FUND BALANCE	\$	<u>(9,283,139)</u>
DECEMBER 31,2015	FUND BALANCE	\$	<u><u>-</u></u>

*Until 2014, the Affordable Housing Fund also encompassed the Child Care program

CHILD CARE FUND

JANUARY 1,2014	FUND BALANCE	\$	0
	PRE-AUDIT REVENUE	\$	3,198,323
	PRE-AUDIT EXPENSES	\$	3,047,089
	GAIN / (REDUCTION)	\$	<u>151,234</u>
DECEMBER 31,2014	FUND BALANCE	\$	<u><u>151,234</u></u>
JANUARY 1,2015	FUND BALANCE	\$	151,234
	BUDGETED REVENUE	\$	3,106,524
	BUDGETED EXPENSES	\$	768,467
	BUDGETED GAIN / (REDUCTION)	\$	<u>2,338,057</u>
DECEMBER 31,2015	FUND BALANCE	\$	<u><u>2,489,291</u></u>
	FULLY APPROPRIATED FUND BALANCE	\$	(2,489,291)
DECEMBER 31,2015	FUND BALANCE	\$	<u><u>-</u></u>

*The Child Care fund previously existed as a department in the Affordable Housing Fund. It was first broken out into its own fund in the 2014 budget.

MARIJUANA FUND

JANUARY 1,2013	FUND BALANCE	\$	-
	REVENUE	\$	154,424
	EXPENSES	\$	46,212
	INCREASE/ (REDUCTION)	\$	<u>108,212</u>
DECEMBER 31,2013	FUND BALANCE	\$	<u>108,212</u>
JANUARY 1,2014	FUND BALANCE	\$	108,212
	PRE-AUDIT REVENUE	\$	452,533
	PRE-AUDIT EXPENSES	\$	139,665
	GAIN / (REDUCTION)	\$	<u>312,868</u>
DECEMBER 31,2014	FUND BALANCE	\$	<u>421,080</u>
JANUARY 1,2015	FUND BALANCE	\$	421,080
	BUDGETED REVENUE	\$	490,704
	BUDGETED EXPENSES	\$	976,440
	BUDGETED GAIN / (REDUCTION)	\$	<u>(485,736)</u>
DECEMBER 31,2015	FUND BALANCE	\$	<u>(64,656)</u>

*Marijuana taxes were previously collected in the Excise Fund. The Marijuana Fund was established in the 2013 budget cycle.

SPECIAL PROJECTS FUND

JANUARY 1,2013	FUND BALANCE	\$ 104,568
	REVENUE	\$ 1,250,550
	EXPENSES	<u>\$ 1,074,695</u>
	INCREASE/ (REDUCTION)	<u>\$ 175,855</u>
DECEMBER 31,2013	FUND BALANCE	<u><u>\$ 280,423</u></u>
JANUARY 1,2014	FUND BALANCE	\$ 280,423
	PRE-AUDIT REVENUE	\$ 2,925,667
	PRE-AUDIT EXPENSES	<u>\$ 2,649,488</u>
	GAIN / (REDUCTION)	<u>\$ 276,178</u>
DECEMBER 31,2014	FUND BALANCE	<u><u>\$ 556,601</u></u>
JANUARY 1,2015	FUND BALANCE	\$ 556,601
	BUDGETED REVENUE	\$ 2,403,810
	BUDGETED EXPENSES	<u>\$ 2,485,931</u>
	BUDGETED GAIN / (REDUCTION)	<u>\$ (82,121)</u>
DECEMBER 31,2015	FUND BALANCE	<u><u>\$ 474,480</u></u>
	BHA CAPITAL RESERVE	\$ (50,000)
	BUDGETED FUND BALANCE	<u><u>\$ 424,480</u></u>
	2015 SUPPLEMENTAL APPROPRIATIONS	<u>\$ (15,001)</u>
	NEW BUDGETED NET FUND BALANCE	<u><u>\$ 459,479</u></u>

MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director of Community Development

DATE: April 15, 2015 for April 28 Town Council Meeting

SUBJECT: EnergySmart Residential Program Update

In January of 2014 the High Country Conservation Center (HC3) kicked off the EnergySmart Residential Program in Summit County. The program is intended to encourage energy efficiency in residential homes and is subsidized by Breckenridge, Frisco, Summit County, and rebates from Xcel. The program was modeled after successful programs in Aspen and Eagle County.

Residential homeowners in these jurisdictions are eligible to participate in the program. Homeowners pay \$100 to receive an energy audit as a first step in the program (the standard price for an audit is \$350, with Xcel rebates and Town subsidies making up this difference in cost). HC3 experts provide free “green coaching” to homeowners, which includes explaining the audit recommendations and assisting homeowners in arranging energy upgrades. The program also provides financial incentives to homeowners that undertake energy upgrades. Examples of energy upgrades include placement of additional insulation in key locations or replacement of lighting (from incandescent bulbs to CFLs or LEDs). The results of these efforts are energy cost savings to the homeowners and an overall reduced carbon footprint in our community, which furthers the goals of the SustainableBreck Plan.

In the first year of the program, 41 residences in Breckenridge participated and received audits. Fourteen of those residences undertook energy upgrades that were recommended in the audits. In the first year of the program, the energy upgrades generated over \$138,000 in work to local contractors and auditors. HC3 would like to continue this interest in 2015 and also increase the percent of homes that take the step beyond the audit to actually implement energy efficiency upgrades in their homes. Eleven audits have already been conducted in Breckenridge this year. Please refer to the attached flyer that HC3 has developed that summarizes the program efforts in Breckenridge in more detail.

In order to further incentivize homeowners to undertake energy upgrades, for 2015 EnergySmart is providing up to \$400 (maximum 50 % match) to homeowners that implement energy upgrades. The Town of Breckenridge has played a key role in funding this effort. In 2014 we allocated \$10,000 through the Green Team fund towards the EnergySmart program. In 2015 the allocation was increased to \$16,655, which has helped finance the \$400 incentives. Frisco and Summit County have similarly increased their contributions towards their programs.

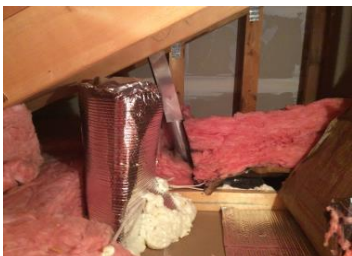
This memo is intended as an update and no Council action is required. HC3 staff will be in attendance at the Council’s April 28 meeting to provide further background on the program and to answer any questions that the Council may have.



Terry and Theresa Perkins had a whole house retrofit performed by About Saving Heat involving air-sealing, insulation and lighting.



Crawl space conversion, insulation, radiant barrier and vapor barrier. Reduced air leakage, moisture infiltration and improved comfort in living space above.



Insulated, air-sealed recessed can light retrofit. Heat loss and ice dam prevention.

Energy Smart Colorado Breckenridge

Overview

HC3 launched Energy Smart Colorado in January 2014 with the following goals:

- Stimulate the Local Workforce
- Save Residents Energy and Money
- Improve Occupant Comfort and Safety
- Reduce Summit County's Carbon Footprint

Project Results and Economic Development

During 2014, we completed 41 home energy audits in Breckenridge. So far in 2015, we've completed eleven energy audits in Breckenridge with a goal to complete 27 this year. Program audits have been evenly distributed among four local auditors.

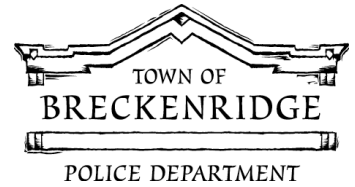
Fourteen Breckenridge homeowners completed energy retrofit projects last year. These projects generated over \$138,800 for local auditors and contractors, reduced carbon emissions by 101,340 lbs., helped save 27,755 kWh annually and saved residents an estimated \$7,400 annually on their power bills. This year we will complete 14 additional home retrofit projects in Breckenridge. Currently, we have four Breckenridge retrofit projects underway with a goal of ten for the year. Homeowner rebates for retrofit projects are up to \$400 in 2015.

Countywide Results

- In 2014, 123 audits were conducted, generating \$46,125 for four local auditors.
- In 2014, 42 energy retrofit projects were completed, generating \$260,214 for local contractors.
- Achieved a 35% audit to retrofit conversion rate

"HC3 connected us with a contractor to perform the work and then followed up with us to be sure we were satisfied. They also assisted with getting us our rebates and suggested future low cost improvements."

-Terri Perkins



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: April 20, 2015
Subject: Final Parking & Transit Taskforce Update

The Parking & Transit Taskforce, which consists of a diverse mixture of community members, has been meeting two or three times per month since December 2014. The following is a summary of the work completed by the Parking & Transit Taskforce, including strategy recommendations that were developed based on the primary goal to **increase the availability of close-in parking for customers**. In addition, the taskforce took into consideration the following ancillary goals:

- Use the customer experience to drive plan development & decision-making.
- Create a fun, intuitive, effortless transportation system that incorporates the FreeRide, Summit Stage, and Breckenridge Ski Resort transit operations.
- Ensure Transit operations within the Town are uniform and seamless.
- Develop an easy, instinctive, real-time way-finding system using both established and new technologies for Parking & Transit.
- Develop strategies focused on decreasing the circulation of traffic and associated congestion.
- Ensure the Parking & Transit system is developed in a manner consistent with the character of the Town of Breckenridge.
- Develop a comprehensive marketing & education plan that augments specific Parking & Transit goals, including increased turnover and enhanced economic vitality.

The success of a comprehensive Parking & Transit Master Plan is contingent on several initiatives working in conjunction with one another. However, there is flexibility in the recommended strategies and in most cases different combinations of initiatives can be effectively implemented to achieve the primary goal as developed by Council.

Core Pay Parking

After a final review of metered parking, the taskforce recommends implementing metered parking within the core of town to include Main Street, streets within one block of Main Street and core lots (i.e. Ice House, Tonopah). The Taskforce believes full implementation within the core will be most effective in increasing the availability of parking by decreasing employee occupancy and allowing for increased availability of spaces for our customers. A partial implementation would potentially displace parking problems in some areas and accentuate them in others.

Any strategies that incorporate metered parking within the core of Town will require an extensive marketing and education campaign directed at business owners and employees with the purpose of changing the current culture.

If Council chooses not to implement metered parking in the core, the taskforce recommends implementing no skier, no employee and no re-parking on core streets and in core lots.

Employee Parking

In order for any parking strategies to be successful the parking program must be revised to address employee parking. The current parking program allows employees working in the parking district to purchase a permit for \$50 with additional, limited quantity, higher priced permits available as well. The following lists available employee permits and permissible parking areas:

Permit Type	Cost	Permissible Lots & Streets	Number Sold - 14/15
South Employee	\$50	Tiger Dredge, Klack Placer, 100 to 400 S French St	283
North Employee	\$50	Tiger Dredge, Wellington, East Sawmill, 100 N Ridge St, 100 N French St	782
Klack Placer	\$50	Klack Placer	43
Tiger Dredge	\$50	Tiger Dredge	114
Late Night Employee	\$50	Any Town owned parking lot or on Main St from 2-6am; available to employees of businesses within the parking district who work from 2-6am	38
Lower Exchange	\$350	Lower Exchange Lot; limited quantity	21
Courthouse	\$150	Courthouse Lot; limited quantity	25
			1306

Of all the permissible lot and street locations for employee parking there are a total of 698 spaces. These lot and street locations are shared with other users thereby reducing the total available spaces for employees to park close to the core of Town.

At Council’s request staff has been collecting additional information on the parking patterns of employees with permits, as well as trying to determine how many employees are working in the Town, and parking in the core. With regard to the overall number of employees, based on business licenses, there are approximately 4,900 employees working within the Town. However, as we know, not all employees are working at the same time, nor do they all work within the core.

Community Service Officers were able to develop a very limited picture of re-parking by documenting the license plates of vehicles parked in locations throughout the core of town on six (6) days this season. They found that anywhere from 39 to 67 vehicles were re-parking each day. The most problematic areas were as follows:

- The Exchange lot (lower, outdoor spaces), the Ice House lot, and the Tonopah lot. CSOs found, on average, 20 vehicles per day re-parking. With a total 120 spaces in these three lots, the 20 vehicles impact 17% of the available customer spaces.
- On the 200 block of South Ridge Street CSOs found, on average, 7 vehicles per day re-parking in this area with 50 available spaces. These 7 vehicles impacted 14% of the available spaces.
- Additionally, CSOs found an average of 14 vehicles moving from one street to another, one lot to another, or from a street to a lot.

Community Service Officers also attempted to determine the number of employees parking on a given day by counting the number of vehicles with employee parking permits. Counts were conducted on three days in March (Saturday, Tuesday, and Wednesday). On average there were 327

employees parked in permissible employee spaces. The most employees were parked on Wednesday.

Recommendation for Designated Employee Parking & Intercept Lots

A review of survey data demonstrated a need for designated employee parking. Currently, permit parking in both lots and on-street is shared. Employees, skiers, and residents are commonly parking in the same locations. On busy days employees arriving later in the day or employees who leave for an appointment during the work day may be unable to find a space in an allowable location. As a result, employees will park in 3 hour parking locations.

With this information in mind, the taskforce recommends designating specific locations for employee only parking, as well as creating specifically selected intercept lots with increased transit options. The recommended areas for employee designated parking are as following:

- Tiger Dredge Horseshoe area (approximately 35 spaces)
- Klack Placer Lot (73 spaces)
- ½ of East Sawmill Lot (south-end) (45 spaces)
- Wellington Lot (46 spaces)
- French Street Lot (34 spaces)

* Some spaces may be utilized by residential parking permit holders

These total a possible 233 spaces for employee use. In addition, the current parking program would remain in place allowing employees to park in assigned lots when space allows. To address concerns that employees would be more likely to drive into town searching for an available space instead of utilizing intercept lots and transit options, the taskforce recommends the implementation of blackout dates, like those used by Beaver Run. Blackout days would be implemented for non-designated spaces on peak days.

In addition to designated parking for employees the taskforce recommends the Ice Rink and Satellite lots be utilized as intercept lots. The Ice Rink lot is heavily utilized and has been known to fill with overnight lodging guests and skiers. Within the last two months staff has been working with the lodging community to move overnight guests to a designated location in the Satellite lot. Although moving overnight guests will free up spaces, the Ice Rink is a high demand lot and staff expects employees and skiers to fill the vacated spaces. In order to facilitate the use of this lot as an employee intercept lot, the task force recommends eliminating skier parking or converting this lot into a pay lot for day use (pay would not be required for employees or Ice Rink patrons).

The Satellite lot currently provides ample room for employee parking. An area to the north, near CMC and the existing FreeRide stop, can be designated for employee parking. The taskforce also recommends lot improvements to include, at a minimum, increased transit, paving, shelter, and lighting. The taskforce also recommends consideration of structures in both locations.

Transit

James Phelps and Mari-Beth Lewis Baker provided the taskforce with information on current transit routes and educated members on the connection between the Summit Stage and FreeRide systems. The taskforce determined that additional information was needed to establish specific transit needs for employees utilizing intercept lots. As a result, a survey was distributed to employers and employees designed to gather information on a number of topics including transit use patterns and

arrival/departure times. This information can be used by transit to determine timing and frequency of routes. Surveys are due by end of business on Thursday, April 23rd.

Generally, with designated employee intercept lots at the north and south ends of Town the movement of employees into the core via transit will require an increase in transit operations. An initial review of transit needs includes:

- Expanded service on routes servicing intercept lots or employee specific service to/from intercept lots.
- Provide 20 minute service.
- A transit circulator from a F-lot/Tiger Dredge Structure.
- As previously stated, Satellite lot improvements to include: sufficient lighting, shelter from the elements, and the overall conditions of the lot.

F-Lot/Tiger Dredge Parking Structure

The taskforce believes it is important to have a strategically located parking structure to consolidate traffic thus reducing confusion and circling. There are several factors that make F-lot/Tiger Dredge a viable location for a structure. These include:

- RRC survey results indicate that 52% of customers parking in the F-lot intended to go to Main Street and they tend to return to their vehicle later in the day as compared to other lots.
- A centrally located structure versus smaller structures in more remote locations consolidates traffic, reducing confusion and circling.
- The natural grade of the F-lot/Tiger Dredge lots provides an opportunity for more spaces below grade and therefore potentially eliminating the need to go more than one level above grade at Park Avenue.
- A planned roundabout at 4 O’Clock Road and Park Avenue will assist with traffic ingress/egress.
- A structure would include a pedestrian bridge over Park Avenue for customers accessing Peak 9 thereby decreasing the large number of pedestrians crossing Park Avenue at peak times and reducing traffic congestion.
- A structure would include a roundabout at Village Road and Park Avenue.

The taskforce felt the size of a structure, the aesthetics, and all potential impacts on traffic should be considered. Further, a cost/benefit analysis should be considered to provide guidance on what size structure is appropriate.

If a parking structure is erected, the Task Force recommends locating some employee designated parking to the structure. The taskforce also recommends Council consider the viability of parking structures at the intercept lots to accommodate both skiers and employees.

Public Private Partnerships

The concept of public/private and private/private partnerships has come up in several meetings. The taskforce feels strongly that there may be viable options for parking customers or night employees in private lots during busy times. For example:

- Church lots during the week
- Town Hall at night

- Closed businesses
- School lots at night and during school breaks

Way-finding & Technology

With regard to transit in general, the taskforce feels strongly that real-time applications to enhance the user experience are important. More specifically, it is imperative that workers have access to applications that allow them to determine when their bus will arrive. There is also a strong interest in utilizing similar technology for parking; and integrating transit and parking technologies to allow users “one stop shopping”.

Technology should be utilized when possible to ensure easy, instinctive, real-time way-finding that works in conjunction with transit way-finding.

Wrap Up

I will be present at the work session on Tuesday, April 28th to answer any questions and receive Council feedback on any additional information necessary for the May 12th Retreat.

Below is the list of taskforce participants.

Breckenridge Parking & Transit Taskforce		
Name	Business	Type of Business
Hilary Chu	BGV	Lodging
Brandon Gonski	Peak 1/AVA	Transportation
Peyton Rogers	Great Western Lodging	Lodging
Robin Theobald	Property owner	Retail
David Levinson	Slifer Smith & Frampton	Realtor
Jeri Heminghous	Slifer Smith & Frampton	Realtor
James Phelps	TOB Transit	PW
Gary Shimanowitz	Breckenridge Ski Resort	Ski Resort
Leslie Sikon	Lodgepole Interiors	Retail
Dan Corwin	Breckenridge Assoc.	Realtor
Teryn Guadagnoli	Modis	Restaurant
Julie Chandler	NRO	Events
Currie Craven	Beaver Run	Lodging
David Wilcox	Summit Mountain Rentals	Lodging
Peter Baaken	Hearthstone	Restaurant



MEMO

TO: Town Council
FROM: Director of Communications
DATE: April 22 (*for April 28, 2015 meeting*)
RE: In-kind use of Town cultural facilities
CC: Robb Woulfe, BCA

At the March 24th joint meeting between Town Council and the Breckenridge Creative Arts Board of Directors, Council members inquired about how other municipalities handle In-kind or discounted use of cultural facilities from nonprofit organizations (NPO).

So, as you prepare for your discussion on BCA's rate structure, here are the highlights of the research on how municipalities handle these requests.

- Ten (10) towns/cities were interviewed: Silverthorne, Vail, Aspen, Fort Collins, Park City, Lakewood, Lone Tree, Parker, Greeley and Loveland; however, Vail does not have a cultural facility and Park City does not program their auditorium.
- Of the 10, four do not offer any In-kind services, three have a 'formal' process, and three have 'nothing formal' - one only offers tickets, one is by special request and one is for meeting rooms only (limit of one/month).
- One offers facility rental, labor, and equipment (in-house) at 100%, one offers 'special exception' rental for events that are free & open to the public for inspirational or information purposes for \$100, and one offers a co-promotion option with a 50/50 split or free facility rental but labor at cost if co-promoting.
- Eight (excluding Vail and Park City) have NPO rental rates varying from 'minimal' to 65% off full rate; labor and equipment rates range from full rate to covering 'hard' costs.
- The review process is handled by staff's recommendation to Council in four municipalities and by a Council-appointed commission's recommendation to Council in two towns/cities.
- Two municipalities have an internal fund transfer system for departments utilizing their respective cultural facility.
- For those with a formal process, it is done annually along with the budget process.
- Two municipalities have a cap or limit on the number of In-kind or co-promotion arrangements; one has a cap on the number of alcohol donations (as they handle the bar).
- Majority (except for one who offers In-kind) only offer rates or donation to local NPOs.

In addition, the highlights for the cash grant program includes:

- Six have an established cash grant program, of which one is in the first year of a pilot program; three do not; one is unsure.
- Five report it is an annual process along with the budget; one accepts applications three times per year.

Following is the memo from BCA which was previously sent to Council regarding rate structure.

Thank you.



To: Town Council Members
From: Breckenridge Creative Arts
Re: Riverwalk Center Rate Structure
Date: April 17, 2015

Council Members,

Thank you again for making time for us, on your most recent meeting agenda, to present an update of the actions of Breckenridge Creative Arts (BCA) during our first 75 days as a standalone organization as well as upcoming events.

As we discussed, among our first priorities pertaining to the formation of our new organization and our stewardship of the Town's cultural assets were the establishment of:

- an effectively functioning organizational structure, including subcommittees such as Public Art and Community Engagement Committees;
- best in class governance practices; and
- robust operating processes and procedures.

These priorities were established with the goal of creating a sustainable foundation upon which the organization can develop capabilities and programming to further promote Breckenridge as a creative destination.

As part of these priorities, BCA undertook a benchmarking study of 18 other performing arts facilities in the region that are similar to the Riverwalk Center (RWC) to determine market rates for facility utilization, equipment, and services. This study informed the development of a rate structure for the RWC. The proposed Commercial and Not for Profit rate structures provides a detailed, transparent listing of all services available/provided to users of the facility. We believe this level of detail and transparency will assist the council in determining their future

position with respect to the issuing of grants or other subsidies for organizations requesting utilization of the RWC.

What follows are the details that underpinned our recent presentation on these matters. As mentioned during the recent meeting, we recommend the Town Council support both the proposed Not for Profit Rates and the proposed financial relationship with the RWC Resident Companies as they are consistent with the current published rates, the BCA budget, and the rate philosophy for the other BCA managed facilities. To date, we have had limited conversations with some resident companies (RC) and not-for-profit (NFP) organizations on this matter. Once we have greater guidance from the Council, we intend to continue and expand our discussions with these companies/organizations.

With respect to the request from the Breckenridge Backstage Theatre (BBT) that they be considered a resident company of the RWC, BCA is supportive of that financial treatment for performances during the period of their displacement, subject to prearranged dates and calendar availability. During this transitional time, BBT would be expected to follow the same terms and conditions as other resident companies (NRO/BMF) of RWC in 2015-2016. The request that this status extend beyond their displacement and also be available for fund-raising purposes will have to be considered carefully by the Town in the context of calendaring restrictions and the agreements with other resident companies, as well as requests for utilization of other BCA managed facilities.

After your review, should you wish to discuss this further or have any questions please contact me.

Best Regards,

A handwritten signature in black ink, appearing to read 'Robb Woulfe', with a long horizontal flourish extending to the right.

Robb Woulfe
President + CEO
Breckenridge Creative Arts

Breckenridge Creative Arts Riverwalk Center Rate, Resident Companies and NFP Charges

Commercial and Non-Profit Rates:

- The BCA Commercial Rates for the Riverwalk Center (RWC) and its equipment were established after a benchmarking study versus 18 other facilities in the region. These rates, which are shown in Exhibit A, reflect market rates for similar size and style facilities and equipment in the region
- The BCA Not for Profit (NFP) Rates represent a significant discount to the established commercial rate with the facility/staff charges reflective of a ~40% discount and the equipment ~35%. In contrast, the other venues surveyed offered discounts ranging from 0 to 25%
- For the Facility NFP rate, we also explored the direct cost of operating the facility (utilities, exterior maintenance, etc.). Based on 2014 utilization of ~150 days, these costs reflect a direct cost per occupancy day of ~\$750. This does not include any allocation of indirect costs (staff salaries, IT, etc.) Thus, BCA believes that from both market rate and cost analysis perspectives, the proposed \$800 NFP facility charge represents an appropriate charge. To ease our NFPs transition, however, for 2015, BCA has honored the previous pricing of \$500/day.
- As noted above, the non-profit rate for specialized equipment is at a discount of ~35%. As this equipment was not previously available, any 'cost increase' analysis would not be valid.
- With respect to staff charges, many services were previously provided by town staff at no incremental cost to the town or user. As the volume of programming increases, neither TOB nor BCA staff can support those services and external staff must be hired at an incremental cost to those budgeted for BCA or the Town.. The NFP rates reflect the average direct cost of external staff providing those services.

Resident Companies

- The RWC Resident Companies, the NRO and BMF, are the primary users of the RWC and are mission aligned with the development of

Breckenridge as a creative destination. Consequently, the TOB has traditionally provided the facility at no charge, although some direct charges have been passed back to the resident companies in specific years (e.g. chair moves.) In addition, as noted above, TOB staff has previously provided services (e.g. technical and house supervision) that can no longer be absorbed within the context of expanded programming.

- BCA has recommended that the facilities, as well as the specialized equipment, continue to be provided at no charge, but that the direct incremental costs (not included in BCA’s budget) be passed through to the resident companies in a staggered manner from 2015 through 2017. We believe this recommendation
 - is consistent with the town’s relationship with the resident companies;
 - respects their historic contribution to the creative development; and
 - is in concert with the town’s direction to BCA to operate its facility along ‘best practices’.

In addition, this approach provides a ‘line of sight’ to future expenses and enables our partner organization to better plan.

Proposed Phasing of RWC Direct Costs

	BCA Proposed RWC Charges per Performance			
	Past	2015	2016	2017
<u>Depreciable Assets</u>				
NFP Daily Rental	0	0	0	0
Base Equipment (House Lights, Microphone)	0	0	0	0
Specialized Equipment (Either Sound or Projection Packag	0	0	0	0
<u>Direct Incremental Costs</u>				
Box Office Set Up (1 event)	0	0	0	0
Box Office (4 hours)	0	0	0	200
Technician (Sound Engineer or Video Operator) (8 hours)	0	285	285	285
Technical Supervision (8 hours)	0	0	250	250
House Supervisor (5 Hours)	0	0	0	200
Chair Moves (if requested)	500	500	500	500
Cleaning Fee/Day	0	0	150	150

Exhibit B provides the detailed calculations of the estimated cost impact on the Resident Companies.

- Historically, the Credit Card fees associated with the purchase of Tickets through the RWC box office have been absorbed by the TOB. BCA recommends that, that these costs be passed back to the Resident Companies at the average cost of ~3% (the actual average cost will be determined once BCA knows whether the TOB rates negotiated with credit card companies will transfer to BCA.) The 3% pass back charge represents ~ \$0.72/ticket (assuming 80% are charged). See Exhibit C for the details of the estimated Credit Card Fees
- The summary impact of the direct costs and the change in credit card fees is estimated as follows:

Financial Impact on Resident Company

National Repertory Orchestra

Orchestral Season (16 performances)	2015	2016	2017
Incremental Facility/Staff Utilization Charges	1,425	7,825	14,225
Estimated Credit Card Fees	4,262	4,262	4,262
Estimated Financial Impact	<u>\$ 5,687</u>	<u>\$ 12,087</u>	<u>\$ 18,487</u>
<i>Estimated Financial Impact per Ticket</i>	<i>\$ 0.96</i>	<i>\$ 2.04</i>	<i>\$ 3.12</i>

Breckenridge Music Festival

Orchestral Season (15 performances)	2015	2016	2017
Incremental Facility/Staff Utilization Charges	1,425	7,425	13,425
Estimated Credit Card Fees	2,430	2,430	2,430
Estimated Financial Impact	<u>3,855</u>	<u>9,855</u>	<u>15,855</u>
<i>Estimated Financial Impact per Ticket</i>	<i>\$ 1.14</i>	<i>\$ 2.92</i>	<i>\$ 4.70</i>

Blue River Season (5 performances)

Incremental Facility/Staff Utilization Charges	2,925	4,925	6,925
Estimated Credit Card Fees	2,592	2,592	2,592
Estimated Financial Impact	<u>5,517</u>	<u>7,517</u>	<u>9,517</u>
<i>Estimated Financial Impact per Ticket</i>	<i>\$ 1.53</i>	<i>\$ 2.09</i>	<i>\$ 2.64</i>

Total Estimated Financial Impact	<u>\$ 9,372</u>	<u>\$ 17,372</u>	<u>\$ 25,372</u>
<i>Estimated Avg Financial Impact per Ticket</i>	<i>\$ 1.34</i>	<i>\$ 2.49</i>	<i>\$ 3.64</i>

Note: The Higher Estimated Financial Impact per Ticket for the BMF Orchestral is a result of the lower estimated number of tickets per performance (225) versus the NRO (370) and Blue River Series (720) The estimated tickets were based on 2014 Actuals

- For 2015, if the town were to decide to absorb the incremental direct charges or credit card fees for the NRO and the BMF seasons, the estimated incremental cash impact is as follows:

'Cash' Impact on Town of Breckenridge to Absorb Costs

	2015	
Credit Card Fees	9,284	<i>Not included in BCA Budget</i>
External Technician	4,275	<i>Not included in BCA Budget</i>
Chair Moves	1,500	<i>Not Included in BCA Budget</i>
	\$ 15,059	

Note: This reflects the TOB impact for the NRO and BMF Resident Companies ONLY

Utilization of RWC by other NFPs

- The RWC has also been used by other NFPs. The NFPs have either received subsidization of their utilization through the 'in-kind' grant process or have paid the NFP rate in effect at the time. The 2014 utilization of the RWC was as follows:

2014 Riverwalk Center Utilization

	Days	% of Days
'Free Days'		
Town Partnership	34.5	
Resident Companies (NRO/BM)	63	
In Kind Grant	12.5	
	110	77%
NFP Rate Days	30	21%
Commercial Rate Days	3	2%
	143	

- As noted in the discussion of NFP rates, BCA believes the proposed discounts to the commercial rates (between 35 and 50%) result in appropriate rates for NFP utilization of the facility. If the town were to decide to provide incremental subsidies for utilization of the facility, equipment and staff, the estimated cash impact on the town (inclusive of resident companies) is as follows:

Potential Cash Impact on Town - RWC Only			
	Resident Companies or Granted	\$	
Facility Rent	50	25,000	<i>\$25,000 in Facility Rentals included in BCA Revenue</i>
Specialized Equipment	50	-	<i>Sunk Cost, however, no funds generated to cover maintenance or repairs</i>
Technician (Sound or Video)	50	14,250	<i>Incremental costs not contemplated in BCA budget</i>
Technical Supervision	100	25,000	<i>Incremental costs not contemplated in BCA budget</i>
House Supervisor	100	-	<i>Costs contemplated in BCA 2015 budget</i>
Chair Moves	50	25,000	<i>Incremental costs not contemplated in BCA budget</i>
Cleaning	100	15,000	<i>Incremental costs not contemplated in BCA budget</i>
		<u>\$ 112,175</u>	
Credit Card Fees - RWC NRO/BMF		9,284	<i>Incremental costs not contemplated in BCA budget</i>
Credit Card Fees - Other RWC		11,760	<i>Assumes 40 Performances at 400 Tickets @ \$35 Ticket (80% Credit Card;3% Fee)</i>
		<u>\$ 21,044</u>	
Potential Incremental Cash Impact on the Town		<u>\$ 133,219</u>	

Exhibit A RWC Commercial and NFP Rates

Riverwalk Center Per Diem Rates

	Commerical Rates	Avg Performance Estimate		Notes
	Current	Past NFP	2015 NFP Rates	
Depreciable Assets				
NFP Daily Rental	1500	500	500	\$800 Published Rate; For 2015, the 2014 rate of \$500 is being honored
Base Equipment (House Lights, Microph	0	0	0	
Specialized Equipment (Either Sound or	875	Not Available	650	See full list; Estimate based on a 'package' of utilization
Direct Incremental Costs				
Box Office Set Up (1 event)	500	0	0	Waived for NFP for 2015 (\$350 NFP Charge)
Box Office (4 hours)	240	0	200	Charged only If Box Office Utilized
Technician (Sound or Video - 8 hours)	450	0	285	Charged only if Specialized Equipment Utilized
Technical Supervision (8 hours)	350	0	250	Service previously provided by TOB Staff
House Supervisor (5 Hours)	350	0	0	Service previously provided by TOB Staff; anticipate continuing through 2016
Chair Moves (if requested)	825	500	500	Charges for Service not consistantly applied; reflects both in/out moves
Cleaning Fee/Day	300	0	150	Services provided by Third Party Cleaning company
	<u>\$ 5,390</u>	<u>\$ 1,000</u>	<u>\$ 2,535</u>	
				53% Discount versus Commercial Rate
				Incremental Difference from Published Rates \$ 2,855
				Incremental Difference from Past NFP \$ 1,535
				Incremental Difference from Past NFP w/out Equipment Utilization \$ 600

Equipment Published Rates

	Commercial	NFP Rates
Full Sound System	750	500
Piano	500	400
Addiitonal Piano Tuning	150	150
Clearcom Headset	200	50
2-way Radios	25	10
Portable sound set-up	300	150
Additional Microphones	100	25
Digital Projector	800	700
Flat Screen Panel Display	200	80
	<u>\$ 3,025</u>	<u>\$ 2,065</u>
	NFP Discount	32%

Please note, for most performances, only a portion of the above list is required

Exhibit B Estimated Cost Impact on Resident Companies

Estimated Impact on Resident Company of Proposed RWC Charges (NRO)

	Proposed RWC Charges per Performance				Shows per Season	Tickets per Show	Estimated RWC Charges per Season		
	Past	2015	2016	2017			2015	2016	2017
Depreciable Assets									
NFP Daily Rental	0	0	0	0	16				
Base Equipment (House Lights, Microphone)	0	0	0	0	370				
Specialized Equipment (Sound or Projection)	0	0	0	0					
Direct Incremental Costs									
Box Office Set Up (1 event)	0	0	0	0	100%	16	-	-	-
Box Office (4 hours)	0	0	0	200	100%	16	-	-	3,200
Technician (Sound or Video - 8 hours)	0	285	285	285	30%	5	1,425	1,425	1,425
Technical Supervision (8 hours)	0	0	250	250	100%	16	-	4,000	4,000
House Supervisor (5 Hours)	0	0	0	200	100%	16	-	-	3,200
Chair Moves (if requested)	500	500	500	500	0%	0	-	-	-
Cleaning Fee/Day	0	0	150	150	100%	16	-	2,400	2,400
							\$ 1,425	\$ 7,825	\$ 14,225
<i>Estimated Season Ticket Volume</i>							5,920	5,920	5,920
<i>Impact per Ticket</i>							\$ 0.24	\$ 1.32	\$ 2.40

Estimated Impact on Resident Company of Proposed RWC Charges (BMF - Orchestral Series)

	Proposed RWC Charges per Performance				Shows per Season	Tickets per Show	Estimated RWC Charges per Season		
	Past	2015	2016	2017			2015	2016	2017
Depreciable Assets									
NFP Daily Rental	0	0	0	0	15				
Base Equipment (House Lights, Microphone)	0	0	0	0	225				
Specialized Equipment (Sound or Projection)	0	0	0	0					
Direct Incremental Costs									
Box Office Set Up (1 event)	0	0	0	0	100%	15	-	-	-
Box Office (4 hours)	0	0	0	200	100%	15	-	-	3,000
Technician (Sound or Video - 8 hours)	0	285	285	285	30%	5	1,425	1,425	1,425
Technical Supervision (8 hours)	0	0	250	250	100%	15	-	3,750	3,750
House Supervisor (5 Hours)	0	0	0	200	100%	15	-	-	3,000
Chair Moves (if requested)	500	500	500	500	0%	0	-	-	-
Cleaning Fee/Day	0	0	150	150	100%	15	-	2,250	2,250
							\$ 1,425	\$ 7,425	\$ 13,425
<i>Estimated Season Ticket Volume</i>							3,375	3,375	3,375
<i>Impact per Ticket</i>							\$ 0.42	\$ 2.20	\$ 3.98

Estimated Impact on Resident Company of Proposed RWC Charges (BMF - Blue River Series)

	Proposed RWC Charges per Performance				Shows per Season	Tickets per Show	Estimated RWC Charges per Season		
	Past	2015	2016	2017			2015	2016	2017
Depreciable Assets									
NFP Daily Rental	0	0	0	0	5				
Base Equipment (House Lights, Microphone)	0	0	0	0	720				
Specialized Equipment (Sound or Projection)	0	0	0	0					
Direct Incremental Costs									
Box Office Set Up (1 event)	0	0	0	0	100%	5	-	-	-
Box Office (4 hours)	0	0	0	200	100%	5	-	-	1,000
Technician (Sound or Video - 8 hours)	0	285	285	285	100%	5	1,425	1,425	1,425
Technical Supervision (8 hours)	0	0	250	250	100%	5	-	1,250	1,250
House Supervisor (5 Hours)	0	0	0	200	100%	5	-	-	1,000
Chair Moves (if requested)	500	500	500	500	60%	3	1,500	1,500	1,500
Cleaning Fee/Day	0	0	150	150	100%	5	-	750	750
							\$ 2,925	\$ 4,925	\$ 6,925
<i>Estimated Season Ticket Volume</i>							3,600	3,600	3,600
<i>Impact per Ticket</i>							\$ 0.81	\$ 1.37	\$ 1.92

Exhibit C Estimated Credit Card Fees

Box Office Credit Card (NRO)

	Estimated Net Impact of Credit Card Fees/Ticket Service Fee Changes		
	2015	2016	2017
Number of Tickets Sold	5,920	5,920	5,920
Per Ticket Revenue to Organization	\$ 30	\$ 30	\$ 30
Ticket Revenue	\$ 177,600	\$ 177,600	\$ 177,600
% by Credit Card	80%	80%	80%
Charge Back Percentage to Organization	3.0%	3.0%	3.0%
Estimated Credit Card Fees for Orchestral Season Performance	\$ 4,262	\$ 4,262	\$ 4,262
Estimated Cost for Performance			
<i>Estimated Cost per Ticket</i>	\$ 0.72	\$ 0.72	\$ 0.72

Box Office Credit Card (BMF - Orchestral)

	Estimated Net Impact of Credit Card Fees/Ticket Service Fee Changes		
	2015	2016	2017
Number of Tickets Sold	3,375	3,375	3,375
Per Ticket Revenue to Organization	\$ 30	\$ 30	\$ 30
Ticket Revenue	\$ 101,250	\$ 101,250	\$ 101,250
% by Credit Card	80%	80%	80%
Charge Back Percentage to Organization	3.0%	3.0%	3.0%
Estimated Credit Card Fees for Orchestral Season Performance	\$ 2,430	\$ 2,430	\$ 2,430
Estimated Cost for Performance			
<i>Estimated Cost per Ticket</i>	\$ 0.72	\$ 0.72	\$ 0.72

Box Office Credit Card (BMF - Blue River Series)

	Estimated Net Impact of Credit Card Fees/Ticket Service Fee Changes		
	2015	2016	2017
Number of Tickets Sold	3,600	3,600	3,600
Avg Per Ticket Revenue to Organization	\$ 30	\$ 30	\$ 30
Ticket Revenue	\$ 108,000	\$ 108,000	\$ 108,000
% by Credit Card	80%	80%	80%
Charge Back Percentage to Organization	3.0%	3.0%	3.0%
Estimated Credit Card Fees for Blue River Season Performance	\$ 2,592	\$ 2,592	\$ 2,592
Estimated Cost for Performance			
<i>Estimated Cost per Ticket</i>	\$ 0.72	\$ 0.72	\$ 0.72

Memorandum

TO: The Breckenridge Town Council

FROM: Tom Daugherty, Public Works Director

DATE: 4/23/2015

RE: Transit – Summer Black Route

As Council is aware, the Free Ride is not providing service for the Black Route this summer and the Town has been receiving requests from the public to keep the route. The Black route provides service on Ski Hill Road with terminus at Peak 7. For the last few summers, the Ski Area buses provided the Black route service from the Breckenridge Station to Peak 7/8 during the day, while the Fun Park is open, and the Free Ride has provided the Black route service in the early mornings and evenings to fill the gap. The Fun Park does not open this year until June 12 and is expecting to close on September 7 and the Ski Area will not be providing transit service outside of those dates. In addition, the Ski Area does not provide the Black route service outside the times that the Fun Park is open which are the early mornings and evenings. The Free Ride currently plans to stop providing the Black route on April 25 and will not resume until November 7. This leaves the Ski Hill Road and Peak 7/8 area without service during those gaps in 2015.

The current budgeted summer service plan is to operate two buses. One bus will service the Purple Route on 30 minute service and the other bus will be divided between the Yellow and Brown routes on a one-hour service level. In past years, the Free Ride was able to leverage the Ski Area's bus service to the Fun Park and re-route the Black route bus to the Yellow route during the day because that area was getting transit service from the Ski Area. This allowed the Free Ride to provide 30 minute service while the Fun Park was open and increased our service levels. Our current plan will not be providing the 30 minute service on Yellow because there will not be time available from the Black route.

The Council expressed a desire to keep the Black route and/or fill the gaps not provided by the Ski Area on the Black route. Staff has identified some options and they are outlined below.

Fill the Gaps

This option would be to add service to cover only the gaps for the Black Route. The ski area operates the Fun Park Express bus from 9:15 am – 5:45 pm from June 12 through Labor Day. There is currently not going to be any transit service on Ski Hill Road from April 25 to June 12 (when the Fun Park opens). Once the Fun Park opens, there will be a gap in the early morning from 6:15 am – 9:15 am and at night from 5:45 pm – 11:15 pm. After Labor Day, there again would be no transit service available on Ski Hill Road

through November 7th. With this concept, staff is projecting a potential increase of 15,913 passengers could be achieved over the service plan that is currently budgeted.

While we would achieve a similar level of ridership to 2014 on the Black Route, we would still lose the ridership on the Yellow Route by not being able to increase the service frequency to 30 minutes during the day from mid-June through Labor Day. Staff projects that the Yellow Route could be down by as much as 40% or more compared to last summer. That would equate to more than 18,800 passengers.

The cost to provide a 3rd bus to cover the gap periods for the Black Route only would be \$88,172.60 and would equate to an estimated cost of \$5.54 per passenger.

This option is problematic from a management standpoint because of the work schedule and the bus would have a scheduled layover of 30 minutes for each hour service cycle of the Black Route. It would be challenging to staff and not as efficient as restoring a 3rd summer bus on a full schedule.

Add a Third Bus

Another option would be to add a 3rd bus to the summer service plan to do the Black Route and maximize the potential by also adding service for the Orange Route. The Orange Route has not operated in the summer since 2010. This option would provide service to the new Breckenridge Grand Vacations Community Center/Library and would be well utilized by the daycare centers to access the summer story time programs, as well as may be utilized by destination guests for the downtown core. In summer 2010, the ridership on the Orange Route was 11,747 passengers. Staff believes that number would grow based upon the addition of the Arts District and the Community Center/Library.

In this option, we would have one Bus doing the Purple Route on a 30 minute service cycle, one Bus to do Yellow/Black on a one-hour service cycle and retain the ability to go to a 30 minute service cycle on Yellow when the Fun Park is open, and the third bus would do Brown/Orange on a one-hour service cycle. With this concept, staff is projecting a potential increase of 59,123 passengers could be achieved over the service plan that is currently budgeted.

The cost for this option would be \$120,820.36 and would equate to an estimated cost of \$2.04 per passenger, which is within standard transit industry metrics for viability.

This option would be easier to staff and manage because the service would be consistent throughout the summer season.

Staff will be available for questions at the work session.