



**TOWN OF
BRECKENRIDGE**

Town Council Regular Meeting
Tuesday, February 14, 2023, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS HOLDING HYBRID MEETINGS. This meeting will be held in person at Breckenridge Town Hall and will also be broadcast live over Zoom. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 547-3127, at least 72 hours in advance of the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - JANUARY 24, 2023

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

A. PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

B. BRECKENRIDGE SKI RESORT UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2023

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2023

1. *COUNCIL BILL NO. 3, SERIES 2023 - A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES*

2. *COUNCIL BILL NO. 4, SERIES 2023 - A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE*

3. *COUNCIL BILL NO. 5, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3, PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM REQUIREMENTS*

4. *COUNCIL BILL NO. 6, SERIES 2023 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO*

*FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT*

B. RESOLUTIONS, SERIES 2023

1. *RESOLUTION NO. 3, SERIES 2023 - A RESOLUTION APPOINTING A RELIEF JUDGE AND FIXING THEIR COMPENSATION*
2. *RESOLUTION NO. 4, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) INNOVATIVE AFFORDABLE HOUSING INCENTIVES GRANT*
3. *RESOLUTION NO. 5, SERIES 2023 - RESOLUTION APPROVING COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION ON BEHALF OF THE FAMILY AND INTERCULTURAL RESOURCE CENTER*

C. OTHER

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

- A. CAST/MMC (Mayor/Town Manager)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Mr. Bergeron)
- C. BRECKENRIDGE TOURISM OFFICE (Mr. Carleton)
- D. BRECKENRIDGE HISTORY (Ms. Saade)
- E. BRECKENRIDGE CREATIVE ARTS (Mr. Rankin)
- F. BRECKENRIDGE EVENTS COMMITTEE (Ms. Owens)
- G. CHILD CARE ADVISORY COMMITTEE (Mr. Beckerman)
- H. WORKFORCE HOUSING COMMITTEE (Mr. Carleton/Mr. Rankin)
- I. SOCIAL EQUITY ADVISORY COMMISSION (Ms. Saade)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR FEBRUARY AND MARCH

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of January 24, 2023, to order at 7:00pm. The following members answered roll call: Todd Rankin, Kelly Owens, Carol Saade, Jeffrey Bergeron, Dick Carleton, Jay Beckerman and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – JANUARY 10, 2023

With no changes or corrections to the meeting minutes of January 10, 2023, Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Deputy Town Manager Shannon Haynes stated there were no changes to the agenda. Mayor Mamula declared the agenda approved as presented.

IV) COMMUNICATIONS TO COUNCIL

A) PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Public Comment.
There were no comments and Public Comment was closed.

B) BRECKENRIDGE TOURISM OFFICE UPDATE

Lucy Kay, Director of the BTO, stated the BTO has moved to Key Data from DMX with the purpose of obtaining real time data for reporting. She also stated they have looked at the winter season and Key Data has Town bookings down 9% over 2021 for the full winter season. Kay stated the BTO is looking at President's Day weekend to be down about 10%, and other holidays are down 3% over last year, which is consistent with the rest of the travel sector. She also stated the "B Like Breckenridge" campaign is being launched locally tomorrow, and free English classes will be offered for hospitality employees. She stated Snow Sculpture Championships is this weekend, with reservations required on Saturday.

V) BLACK HISTORY MONTH PROCLAMATION

Mayor Mamula read the proclamation into record.

VI) BARNEY FORD DAY PROCLAMATION

Mayor Mamula read the proclamation into record.

VII) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2022 & 2023 - PUBLIC HEARINGS

1) COUNCIL BILL NO. 1, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 4 PERTAINING TO ALCOHOL TAKEOUT AND DELIVERY PERMIT NOTIFICATION

Mayor Mamula read the title into the minutes. Helen Cospolich, Town Clerk, stated there were no changes to this ordinance from first reading. Mayor Mamula asked how businesses would be notified of this ordinance, and Cospolich stated they will receive an email and letter about the new requirement.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Bergeron moved to approve COUNCIL BILL NO. 1, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 4 PERTAINING TO ALCOHOL TAKEOUT AND DELIVERY PERMIT NOTIFICATION. Beckerman seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2023

1) COUNCIL BILL NO. 2, SERIES 2023 - AN ORDINANCE CREATING LAND USE DISTRICT 46 AND PLACING 8.8 ACRES OF THE STILLSON PROPERTY IN THE NEW LAND USE DISTRICT 46. (A portion of TR 6-77 Sec 31 Qtr 4 Mining

Claim(s) cont 38.868 acres STILLSON PATCH PLACER MYRTLE ANNIE LODE MS#1466, 8.8 acres, more or less)

Mayor Mamula read the title into the minutes. Michelle Dollmaier, Planner III, stated this ordinance creates a new LUD, 46, for the purpose of an upcoming housing development on Stillson Patch Placer. She stated staff will assure the land use map is consistent with the proposed zoning before second reading.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Bergeron moved to approve COUNCIL BILL NO. 2, SERIES 2023 - AN ORDINANCE CREATING LAND USE DISTRICT 46 AND PLACING 8.8 ACRES OF THE STILLSON PROPERTY IN THE NEW LAND USE DISTRICT 46. (A portion of TR 6-77 Sec 31 Qtr 4 Mining Claim(s) cont 38.868 acres STILLSON PATCH PLACER MYRTLE ANNIE LODE MS#1466, 8.8 acres, more or less).

Mayor Mamula read the title. Saade seconded the motion.

The motion passed 7-0.

B) RESOLUTIONS, SERIES 2023

1) RESOLUTION NO. 2, SERIES 2023 - A RESOLUTION PROVIDING TOWN ATTORNEY ASSISTANT FOR MUNICIPAL PROSECUTION AND ESTABLISHING RATES

Mayor Mamula read the title into the minutes. Kirsten Crawford, Town Attorney, stated this resolution is a renewal of the retainer agreement for Bob Gregory as the Town's prosecuting attorney and makes minor additions to this contract, including a rate change and awarding minor Town benefits.

Mayor Mamula opened the public hearing. There were no public comments and the hearing was closed.

Bergeron moved to approve RESOLUTION NO. 1, SERIES 2023 - RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY, COLORADO, AND THE TOWNS OF BRECKENRIDGE, FRISCO, AND SILVERTHORNE, COLORADO. Owens seconded the motion.

The motion passed 7-0.

C) OTHER

1) LIQUOR, MARIJUANA AND TOBACCO LICENSING AUTHORITY APPOINTMENT

Mayor Mamula stated there is an open seat on the Liquor and Marijuana Authority due Taryn Power's resignation and there are two applicants for this position, Haley Littleton and Sean Fitzsimmons. The Council members voted by ballot. Littleton received 6 votes and Fitzsimmons received 1 vote.

Owens moved to appoint Haley Littleton to the LIQUOR, MARIJUANA AND TOBACCO LICENSING AUTHORITY. Bergeron seconded the motion.

The motion passed 7-0.

VII) PLANNING MATTERS

A) PLANNING COMMISSION DECISIONS

Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

VIII) REPORT OF TOWN MANAGER AND STAFF

Reports of Town Manager and Staff were covered during the afternoon Work Session.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

Reports of Mayor and Council Members were covered during the afternoon Work Session.

A. CAST/MMC

- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE
- C. BRECKENRIDGE TOURISM OFFICE
- D. BRECKENRIDGE HISTORY
- E. BRECKENRIDGE CREATIVE ARTS
- F. BRECKENRIDGE EVENTS COMMITTEE
- G. CHILD CARE ADVISORY COMMITTEE
- H. WORKFORCE HOUSING COMMITTEE
- I. SOCIAL EQUITY ADVISORY COMMISSION

X) OTHER MATTERS

Bergeron asked about where we stand about regulating plastic water bottles and Crawford stated the ordinance will be coming this spring and it would be effective beginning in 2024. Haynes stated we will have time between the passage of the ordinance and when it becomes effective to determine how we will implement it.

Owens stated the Streets department is doing a great job of clearing the streets of snow.

Bergeron asked about low water pressure, and staff stated they were not aware of any problems and will look into it.

XI) SCHEDULED MEETINGS

- A) SCHEDULED MEETINGS FOR JANUARY, FEBRUARY AND MARCH

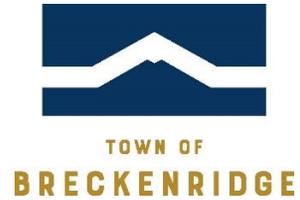
XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:26pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor



Memo

To: Town Council
From: Jessie Burley, Sustainability + Parking Manager
Date: 2/7/2023
Subject: First Reading – Reduction of single use plastics and recycled paper carryout bag fee

At the January 10, 2023 Council work session, Staff reviewed with Council the Breckenridge disposable bag fee and Colorado's Plastics Pollution bill HB 21-1162. At Council's direction, Staff is proposing the following ordinance for first reading. It repeals and replaces title 5, chapter 12 to establish an ordinance to reduce single use plastics and increase recycled paper carryout bag fee.

The purpose of this ordinance is to comply with provisions in Colorado HB 21-1162 and to expand regulations to limit single use plastics in order to meet the material management goals adopted in the SustainableBreck Plan (2022). Specifically, the ordinance:

1. Requires customers opt-in to single-use plastic service ware and condiments at retail food establishments until July 1, 2024 at which time they are prohibited.
2. Raises the recycled carryout bag fee to 25 cents and requires carryout bags to be 100% recycled content. The first 60% of the fees collected are remitted to the Town and the remaining 40% can be kept by the store for certain uses. Business with remaining inventory of 40% recycled content paper bags can use them until depleted.
3. Immediately bans all plastic beverage containers in any Town facility, park, or special event permitted by the Town.
4. Establishes a ban on polystyrene containers in retail food establishments beginning January 1, 2024 and other plastic carryout containers beginning July 1, 2024.
5. Prohibits all businesses from selling plastic beverage containers less than half gallon in size as well as offering plastic service ware beginning July 1, 2024.
6. Establishes penalties.

It is Staff's recommendation that Council approve this ordinance on first reading.

A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES.

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

Section 1. That title 5, chapter 12, entitled "DISPOSABLE BAG FEE" is hereby repealed and replaced in its entirety with the following language underlined to read as follows:

CHAPTER 12
REDUCTION OF SINGLE USE PLASTICS AND
RECYCLED PAPER CARRYOUT BAG FEE

5-12-1: DEFINITIONS:

As used in this Chapter, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinarily accepted meanings within the context that they are used.

BUSINESS: means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, corporations or any other legal entity whether for profit or not for profit. The definition of business is specifically intended to include both minor festival events and major festival events.

CONTAINER: means a receptacle upon which or inside which food may be placed for consumption, whether or not the receptacle can be fully closed. Container includes hinged food containers, plates, bowls, bottles, cups, and trays.

COMPOSTABLE PLASTIC BAG: Any bag made of a thin, flexible plastic material, including but not limited to plant based, cellulosic, polylactic (PLA), or bioplastic. May contain labeling such as compostable, degradable, biodegradable, or oxo-biodegradable.

CUSTOMER: Any person who makes a retail purchase from store.

1 EXPANDED POLYSTYRENE: means blown polystyrene, commonly known as Styrofoam™, and
2 any other expanded or extruded foam consisting of thermoplastic petrochemical materials
3 utilizing a styrene monomer and processed by techniques that may include:
4 (a) for expandable bead polystyrene, fusion of polymer spheres;
5 (b) injection molding;
6 (c) foam molding; and
7 (d) for extruded foam polystyrene, extrusion blow molding.
8 FARMERS' AND ARTISANS' MARKET: A market at which local farmers and artisans sell their
9 products and crafts directly to consumers.
10 FOOD: means any raw, cooked, or processed edible substance, ice, beverage, or ingredient
11 used or intended for use or for sale, in whole or in part, for human consumption.
12 FINANCE DIRECTOR: The Finance Director of the town, or such person's designee.
13 PLASTIC: means a synthetic material made from linking monomers through a chemical reaction
14 to create a polymer chain that can be molded or extruded at high heat into various solid forms
15 that retain their defined shapes during their life cycle and after disposal.
16 PLASTIC BEVERAGE CONTAINER: means a beverage container less than half gallon in size
17 and may or may not contain a lid.
18 POINT OF SALE: means a check-out stand, cash register, or other point at which a sales
19 transaction occurs in a store or retail food establishment or, for products that are ordered
20 remotely from a store or retail food establishment and delivered, the location where the products
21 are delivered.
22 POSTCONSUMER RECYCLED CONTENT: Any material that would otherwise be destined for
23 solid waste disposal, having completed its intended end use and product life cycle.
24 Postconsumer recycled material does not include materials and byproducts generated from
25 original manufacturing and fabrication process.
26 READY-TO-EAT FOOD: means food that is cooked or otherwise prepared in advance for
27 immediate consumption.

1 RECYCLED PAPER CARRYOUT BAG: means a bag that is one hundred percent recycled
2 material other post-consumer content furnished to a customer at a store or retail food
3 establishment at the point of sale for use by the customer to transport or carry purchased items.

4 Recycled carryout bag does not include:

5 (i) a bag made of paper when the paper has a basis weight of thirty pounds or less;

6 (ii) a bag that a pharmacy provides to a customer purchasing prescription medication; (iii) a bag
7 that a customer uses inside a store to:

8 (a) package loose or bulk items, such as fruits, vegetables, nuts, grains, candy, or greeting
9 cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans,
10 mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;

11 (b) contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that,
12 if they were to come in contact with other items, could dampen or contaminate the other items;
13 or

14 (c) contain unwrapped prepared foods or bakery goods; or

15 (iv) a laundry, dry cleaning, or garment bag.

16 RETAIL FOOD ESTABLISHMENT: means a retail operation that stores, prepares, or packages
17 food for human consumption or serves or otherwise provides food for human consumption to
18 consumers directly or indirectly through a delivery service, whether such food is consumed on
19 or off the premises or whether there is a charge for such food. "Retail food establishment" does
20 not mean:

21 (a) Any private home;

22 (b) Private boarding houses;

23 (c) Hospital and health facility patient feeding operations licensed by the Colorado department
24 of public health and environment;

25 (d) Child care centers and other child care facilities licensed by the department of human
26 services;

27 (e) Hunting camps and other outdoor recreation locations where food is prepared in the field
28 rather than at a fixed base of operation;

- 1 (f) Food or beverage wholesale manufacturing, processing, or packaging plants, or portions
2 thereof, that are subject to regulatory controls under state or federal laws or regulations;
- 3 (g) Motor vehicles used only for the transport of food;
- 4 (h) Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and
5 nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws
6 related to food and food labeling;
- 7 (i) Establishments that handle only nonpotentially hazardous prepackaged food and operations
8 serving only commercially prepared, prepackaged foods requiring no preparation other than the
9 heating of food within its original container or package;
- 10 (j) Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for
11 sale;
- 12 (k) Automated food merchandising enterprises that supply only prepackaged nonpotentially
13 hazardous food or drink or food or drink in bottles, cans, or cartons only, and operations that
14 dispense only chewing gum or salted nuts in their natural protective covering;
- 15 (l). The donation, preparation, sale, or service of food by a nonprofit or charitable organization in
16 conjunction with an event or celebration if such donation, preparation, sale, or service of food:
- 17 ii. Does not exceed the duration of the event or celebration or a maximum of fifty-two days
18 within a calendar year; and
- 19 iii. Takes place in the county in which such nonprofit or charitable organization resides or is
20 principally located.
- 21 (m) A home, commercial, private, or public kitchen in which a person produces food products
22 sold directly to consumers pursuant to the "Colorado Cottage Foods Act", section 25-4-1614.
- 23 REUSABLE CARRYOUT BAG means a carryout bag that is designed and manufactured for at
24 least one hundred twenty-five uses, can carry at least twenty-two pounds over a distance of one
25 hundred seventy-five feet, has stitched handles, and is made of cloth, fiber, or other fabric or a
26 recycled material such as polyethylene terephthalate (pet). "Reusable carryout bag" does not
27 include bags made of biologically based polymers such as corn or other plant sources; except
28 that a carryout bag made of hemp is a reusable carryout bag if it is designed and manufactured
29 in accordance with the above specifications.

1 SINGLE-USE FOOD SERVICEWARE means all types of single-use items provided by a retail
2 food establishment or third-party delivery platform, including, but not limited to, utensils,
3 chopsticks, napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail
4 sticks, designed for a single-use.

5 SINGLE-USE CONDIMENT means packaged, single-serving condiments, such as relishes,
6 spices, sauces, confections, or seasonings, that requires no additional preparation and that is
7 used on a food item. This includes, but is not limited to, ketchup, mustard, mayonnaise, soy
8 sauce, salsa, syrup, jam, jelly, salt, sweeteners, pepper, or chile pepper.

9 STORE means a grocery store, supermarket, convenience store, liquor store, dry cleaner,
10 pharmacy, drug store, clothing store, or other type of retail establishment, a farmers' market,
11 roadside market or stand, festival, or other temporary vendor or event that includes temporary
12 vendors at which carryout bags are traditionally provided to customers. STORE includes a
13 small store that operates solely in Colorado, has three or fewer locations in the state, and is not
14 part of a franchise, corporation, or partnership that has physical locations outside of Colorado.

15 THIRD-PARTY DELIVERY PLATFORM means any person, website, mobile application, or
16 other internet service that offers or arranges for the sale of food and beverages prepared by,
17 and the same-day delivery or same-day pickup of food and beverages from retail food
18 establishments.

19 5-12-2: RESTRICTIONS ON THE USE OF SINGLE-USE PLASTIC BAGS:

20 Stores are prohibited from providing customers single-use plastic carryout bags.

21 5-12-3: OPT-IN FOR ACCESSORIES PROVIDED BY RETAIL FOOD
22 ESTABLISHMENTS OR THIRD PARTY DELIVERY PLATFORMS:

23 A. Retail food establishments shall not provide straws, single-use condiments and/or
24 single-use serviceware unless a customer requests them at the point of ordering whether online,
25 by phone, or in-person. The penalties established in section 5-12-11 below shall be applicable
26 only to retail food establishments but not individual employees.

27 B. Third-party delivery platforms shall not provide single-use condiments and/or single-use
28 serviceware unless a customer requests them.

29 C. This section shall not apply to:

1 1. Self-service stations inside retail food establishments or special events providing
2 for single-use condiments and single-use serviceware.

3 2. Prepackaged items that include single-use condiments and single-use
4 serviceware.

5 3. Meals provided as part of a social service to vulnerable populations, including
6 without limitation, meals provided by school systems, homeless shelters and programs that
7 deliver meals to the elderly.

8 4. Specific accessories used by third-party delivery platforms, including cup lids,
9 spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.

10 D. On July 1, 2024, this section 5-12-3 shall hereby be repealed.

11 5-12-4: RECYCLED PAPER CARRYOUT BAG FEE:

12 A. A store shall collect twenty-five (\$.25) cents for each recycled paper carryout bag
13 provided to a customer at the point of sale.

14 B. A store shall provide an itemized receipt with the number of recycled paper carryout
15 bags provided to a customer per each transaction.

16 C. If a store has paper carryout bags containing at least forty (40) percent postconsumer
17 recycled content remaining in their inventory on the effective date of this ordinance, a store may
18 provide the remaining inventory to customers until the inventory is gone; provided, however, the
19 store shall charge twenty-five (\$.25) cents per bag provided.

20 5-12-5: SIGNAGE:

21 Stores shall conspicuously display a sign in a location inside or outside the store that alerts
22 customers about the recycled paper carry out bag fee.

23 5-12-6: STORE COLLECTION, REMITTANCE, USES OF THE RECYCLED PAPER CARRY
24 OUT BAG FEE:

25 A. Unless the fees collected in any quarter total less than twenty (20) dollars, a
26 store shall remit 60% of the first twenty-five (\$.25) cents of the fee to the Town of Breckenridge
27 and the store shall retain 40% of the remaining portion of the twenty-five (\$.25) cents.

1 B. A store shall only use the retained portion of the bag fee for the following
2 purposes:

3 1. To provide educational information to customers about the fee;

4 2. To provide the signage required;

5 3. To train staff in the implementation and administration of the fee;

6 4. To improve or alter infrastructure or computer programs to allow for the
7 implementation, collection, administration of the fee;

8 5. To encourage the use of reusable bags, and/or promote the recycling of
9 paper bags; and/or,

10 6. To improve infrastructure to increase recycling.

11 5-12-7: TOWN RECYCLED PAPER CARRY OUT BAG FEE FUND AND USES:

12 A. Administration of the fund.

13 1. The fee shall be administered by the finance director and in a manner that separately
14 tracks the collection and expenditure of such fees.

15 2. The fees collected in accordance with this section shall not be used for general
16 municipal or governmental purposes or spending, nor shall the fund ever be transferred to or
17 become part of the Town's general fund.

18 B. All sums of money collected by the Town per this section are intended to be used
19 exclusively for the following purposes:

20 1. Staffing, administration and enforcement of the program;

21 2. Developing recycling, composting, or other waste diversion programs;

22 3. Educating and developing outreach for the entire community, including residents,
23 business, and visitors to the Town;

24 4. Purchasing and installing equipment, reusable bags, and other materials designed to
25 minimize bag pollution, including but not limited to, recycling containers, and waste receptacles.

26 5-12-8: BAN ON SINGLE USE PLASTICS AND POLYSTYRENE:

1 A. Single use plastic beverage containers are prohibited for sale or use in any building or
2 portion of a building that the Town owns or leases, any building or portion of the building leased
3 to the Town, any Town park, and any special event of the Town or under a permit issued by the
4 Town.

5 B. Beginning January 1, 2024, a retail food establishment in the Town of Breckenridge shall
6 be prohibited from selling or offering for sale any product in any container that is made of
7 polystyrene products, also known in certain nomenclature as the trademarked name of
8 Styrofoam™.

9 C. Beginning July 1, 2024, any business in the Town of Breckenridge shall be prohibited
10 from selling or offering for sale any plastic beverage containers and further shall be prohibited
11 from providing plastic straws, single-use plastic food serviceware, and/or single-use
12 condiments.

13 D. Beginning July 1, 2024, any retail food establishment shall be prohibited from selling or
14 offering for sale all single use plastic containers.

15 5-12-9: EXEMPTIONS:

16 This chapter does not apply to:

17 A. A bag brought into a store by a customer and used to transport goods from the store.

18 B. A bag that was previously used and made available to customers at a store.

19 C. A bag provided to a customer at no charge if the customer presents, at the time of
20 purchase, a benefit card or similar documentation reflecting participation in a federal, state,
21 county or Town income-qualified aid program, including but not limited to benefits delivered via
22 Electronic Benefits Transfer (EBT) such as the federal Supplemental Nutrition Assistant
23 Program (SNAP) or Supplemental Nutrition Program for Women, Infants and Children (WIC).

24 5-12-10: AUDITS; RECORDS; PENALTIES:

25 A. Each store shall maintain accurate and complete records of the recycled paper carryout bag
26 fees collected, the number of bags provided to customers, the form and recipients of any notice
27 required pursuant to this chapter, and any underlying records, including any books, accounts,
28 invoices, or other records necessary to verify the accuracy and completeness of such records. It
29 shall be the duty of each store to keep and preserve all such documents and records, including

1 any electronic information, for a period of three years from the end of the calendar year of such
2 records.

3 B. If requested, each store shall make its records available for audit by the finance director
4 during regular business hours for the Town to verify compliance with the provisions of this
5 chapter. All such information shall be treated as confidential commercial documents.

6 C. If any person fails, neglects, or refuses to collect or pay the bag fee, the finance director
7 shall make an estimate of the fees due, based on available information, and shall add thereto
8 penalties, interest, and any additions to the fees. The finance director shall serve upon the
9 delinquent store personally, by electronic mail or by first class mail directed to the last address
10 of the store on file with the town, written notice of such estimated fees, penalties, and interest,
11 constituting a Notice of Final Determination, Assessment, and Demand for Payment, (also
12 referred to as "Notice of Final Determination") due and payable within 30 calendar days after the
13 date of the notice.

14 D. If payment of any amount of the bag fee due to the Town is not received on or before the
15 applicable due date, penalty and interest charges shall be added to the amount due in the
16 amount of:

17 1. A penalty of ten percent (10%) of total due; and,

18 2. Interest charge of one (1%) percent of total penalty per month.

19 5-12-11: Fines and Penalties:

20 A. Upon the first violation, a one (1) time only written warning notice that a violation has
21 occurred shall be issued by the Town to store, business, and/or retail food establishment, as the
22 case may be. No monetary penalty shall be imposed for the first violation.

23 B. Upon a subsequent violation and conviction, the Town shall impose a penalty that shall
24 not exceed:

25 1. Fifty dollars (\$50.00) for the first violation after the written warning;

26 2. One hundred dollars (\$100.00) for the second violation in the same calendar year of the
27 first violation; and

1 3. Three hundred dollars (\$300.00) for the third and each subsequent violation in the same
2 calendar year of the earlier violations.

3 4. No more than one (1) penalty shall be imposed within a seven (7) day period.

4 5-12-12: APPEAL OF NOTICE OF FINAL DETERMINATION:

5 A. A store may request a hearing on any proposed fee imposed under this chapter after
6 receiving a notice of final determination, by filing a written request for hearing within thirty (30)
7 calendar days of the date of mailing of the notice of final determination. The request for hearing
8 shall set forth the reasons for and amount of changes in the notice of final determination that the
9 store seeks and such other information as the finance director may prescribe.

10 B. The manager or their designated hearing officer shall conduct the hearing under the
11 procedures prescribed by chapter 19 of title 1 of this code, except that the manager shall notify
12 the store in writing of the time and place of the hearing at least ten (10) days before it is
13 scheduled. The hearing shall be held within sixty (60) days of the date of receipt of the request
14 for a hearing, unless the Town and the store mutually agree to a later date or the hearing officer
15 otherwise has good cause to extend the time to hold a hearing.

16 C. The manager shall make a final decision and such decision shall be a final decision for
17 purposes of appeal to district court under C.R.C.P. Rule 106.

18 **Section 2.** The Town Council hereby finds, determines and declares that this ordinance
19 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
20 and improve the order, comfort and convenience of the Town of Breckenridge and the
21 inhabitants thereof.

22 **Section 3.** This ordinance shall be published and become effective as provided by
23 Section 5.9 of the Breckenridge Town Charter.

24

25 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
26 PUBLISHED IN FULL this 14th day of February, 2023. A Public Hearing shall be held at the
27 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
28 ____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
29 Town.

30 TOWN OF BRECKENRIDGE, a Colorado municipal corporation

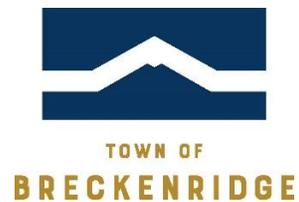
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By: _____

Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk



Memo

To: Town Council
From: Jessie Burley, Sustainability + Parking Manager
Date: 2/7/2023
Subject: Re: Recycled Paper Bag Carryout Fee Tax Code Exemption

This is first reading of an ordinance that accompanies the plastics pollution bill and clarifies that the recycled paper carryout fee is exempt from the Town's sales tax code. This is consistent with the existing disposable bag fee.

Staff recommendations approval on first reading.

A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE.

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

Section 1. That a new subsection EE is hereby added to section 3-1-4 entitled "ITEMS EXEMPT FROM TAX" and underlined to read as follows:

EE. ____ The Breckenridge Recycled Paper Carryout Bag Fee established in chapter 12 of title 5.

Section 2. The Town Council hereby 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 3. 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 14th day of February, 2023. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of ____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

1

By: _____

2

Eric S. Mamula, Mayor

3

4 ATTEST:

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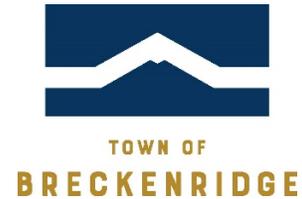
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9 Helen Cospolich, CMC,

10 Town Clerk



Memo

To: Breckenridge Town Council Members
Cc: Rick Holman, Shannon Haynes
From: James Phelps, Director Public Works
Date: 2/8/2023
Subject: A Bill for Ordinance (First Reading) Amending Title 12 -Municipal Water Utility, Chapter 3 – Cross Connections, Backflow Assembly compliance and civil penalties.

The Town of Breckenridge is the owner/operator of the municipal water utility. The Town is required by Colorado Department of Public Health and Environmental (CDPHE) to have a backflow prevention and cross connection control program. The town has had a backflow and cross connection program dating back fifty years or more. The last amendment to Title 12, Chapter 3, in Oct. 2016 included language requiring property owners to perform and report annually specific information of backflow devices. CDPHE over the last few years has adopted policy and implemented stronger compliance ratios and requirements for operators of municipal water utilities. CDPHE requires a ninety percent backflow program compliance rate of the water utility owner.

Town Code requires property owners to comply if the owner has a backflow assembly. This requirement includes an annual third-party inspection and submission of the pass/fail report to the Public Works Department. Currently, town code does not include a section for penalizing non-compliant property owners. CDPHE requires the town water utility to submit an annual report to demonstrate policy compliance. A compliance rate of less than 90 percent can result in a violation for the owner of the water utility. CDPHE has strict language for remedy of a program violation that includes mailing notices to all water customers.

The ordinance for approval will amend Title 12, Chapter 3. The amended language will provide authority to the town water utility to impose civil penalties to property owners that are in noncompliance of Town Code program requirements.

Chapter 3, Section 12-3-9 outlines compliance language and calendar days for compliance once noticed by the water utility. Failure to comply includes escalating penalties up to termination of water service for noncompliant property owners.

With the Town Council's approval of the attached ordinance, the ordinance will be in effect April 2023.

Staff will be present to answer any questions.

**A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3,
PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION
CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL
PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM
REQUIREMENTS.**

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

Section 1. That section 12-3-4 of the code is hereby amended to add new definitions
that shall be placed in alphabetical order to read as follows:

COMPLAINANT: The responsible party who has filed an appeal of civil penalties imposed under
this chapter.

RESPONSIBLE PARTY: The person billed for water service provided by the town, or the owner
of the property served by town water if the owner is different than the person billed. In the event
that the property owner and the person billed for town water service are different, the owner
shall be solely responsible for all obligations and duties of this section.

Section 2. That section 12-3-5 is hereby repealed and replaced with the language
underlines as follows:

A. All properties that are connected to the town's water system, except single-family
residential uses without a fire suppression system, shall be subject to a survey for cross
connections.

B. If a cross connection has been identified, the responsible party shall install an
appropriate backflow prevention assembly and/or method at the responsible party's water
service connection within one hundred twenty (120) days of its discovery.

C. The responsible party shall ensure that any backflow prevention assembly is installed in
the following manner and/or location:

1. Downstream of the water meter or as close to that location as deemed practical
by the town.

2. Provides access for maintenance, testing, and repair.

3. Provides adequate drainage from the discharge of water from reduced pressure
principle backflow prevention assemblies. Such discharge shall be conveyed in a manner which
does not impact the waters of the state.

1 4. Protected in a manner to prevent freezing. Those assemblies and methods used
2 for seasonal services may be removed in lieu of being protected from freezing; provided,
3 however, that devices must be reinstalled and then tested by a certified cross connection control
4 technician prior to the service being activated.

5 5. Does not have connections or tees between the meter and the containment
6 backflow prevention assembly.

7 6. Provides a pressure controlling device where a backflow prevention assembly or
8 method is installed on a water supply system using storage water heating equipment such that
9 thermal expansion causes an increase in pressure

10 7. Reduced pressure principle backflow preventers shall not be subject to flooding.

11 8. In instances where a reduced pressure principle backflow preventer cannot be
12 installed, the responsible party shall install approved backflow prevention devices or methods at
13 all cross connections within the responsible party's plumbing system.

14 D. Existing buildings shall comply with all requirements of this chapter except for fire
15 sprinkler systems where the installation of a backflow prevention assembly or method will
16 comprise the integrity of the fire sprinkler system.

17 E. For new buildings, all building plans must be submitted to the town's building official for
18 review and approval in accordance with the adopted building codes in title 8, chapter 1, as
19 amended from time to time. In addition to requirements of this section, the plans must show:

20 1. Water service type, size and location;

21 2. Meter size and location;

22 3. Backflow prevention assembly size, type and location; and

23 4. Fire sprinkler system(s) service line, size, and type of backflow prevention assembly.

24 i. All fire sprinkling lines shall have a minimum protection of an approved double check
25 valve assembly for containment of the system.

26 ii. All glycol (ethylene or propylene) or antifreeze systems shall have an approved
27 reduced pressure principle backflow preventer for containment.

28 iii. Dry fire systems shall have an approved double check valve assembly installed
29 upstream of the air pressure valve.

30 iv. In cases where the installation of a backflow prevention assembly or method will
31 comprise the integrity of the fire sprinkler system the town will not require the backflow
32 protection. The town will measure chlorine residual at the service connection once a month and
33 perform periodic bacteriological testing at the site. If the town suspects water quality issues, the

1 town will evaluate the practicability of requiring that the fire sprinkler system be flushed
2 periodically.

3 **Section 3.** That section 12-3-6 entitled “INSPECTIONS, TESTING, AND REPAIR” shall
4 be amended by deleting the language stricken and adding the language underlined to read as
5 follows:

6 12-3-6: INSPECTIONS, TESTING, AND REPAIR:

7 A. The town shall require inspection testing, maintenance, and repairs and replacement of all
8 backflow prevention assemblies and methods, and of all required installations within the
9 responsible party’s plumbing system in the cases where containment assemblies and/or
10 methods cannot be installed. All costs for design, installation, maintenance, testing and as
11 needed repair and replacement are to be borne by the responsible party.

12 B. The responsible party shall have a certified cross connection control technician test, at
13 the responsible party’s sole expense, all Bbackflow prevention devices or methods shall be
14 tested by a certified cross connection control technician upon installation and tested at least
15 annually, thereafter. The tests shall be made at the expense of the owner.

16 4. C. The responsible party shall have a certified cross connection control technician
17 inspect, at responsible party’s sole expense, Any backflow prevention device or method
18 that is nontestable shall be inspected at least once annually by a certified cross connection
19 control technician. The inspections shall be made at the expense of the owner.

20 BD. Within sixty (60) days of a failed test, the backflow prevention devices shall be repaired
21 and retested or replaced and tested at the expense of the owner. If not properly repaired and
22 retested or replaced and tested within sixty (60) days of a failed test, the town has the authority
23 to complete one of the following actions:

- 24 1. Control the cross-connection;
- 25 2. Remove the cross-connection; or
- 26 3. Suspend water service to the water using property where the cross-connection is
27 located.

28 C. The responsible party shall test and calibrate Ttesting gauges shall be tested and calibrated
29 for accuracy at least once annually.

30

1 **Section 4.** That section 12-3-7 entitled “REPORTING AND RECORDKEEPING:” shall
2 be amended by deleting the language stricken and adding the language underlined to read as
3 follows:

4 A. The responsible party shall retain ~~Copies~~ of records of test reports, repairs, and retests, or
5 replacements ~~shall be kept by the owner~~ for a minimum of three (3) years.

6 B. The responsible party shall submit to the town via www.trackmybackflow.com ~~Copies~~ of
7 records of test reports, repairs and retests ~~shall be submitted to the town via~~
8 ~~www.trackmybackflow.com by~~ of the testing company or testing technician.

9 C. Test reports shall contain the following information:

- 10 1. Assembly or method type;
- 11 2. Assembly or method location;
- 12 3. Assembly make, model and serial number;
- 13 4. Assembly size;
- 14 5. Test date;
- 15 6. Test results including all results that would justify a pass or fail outcome;
- 16 7. Certified cross connection control technician certification agency;
- 17 8. Technician's certification number;
- 18 9. Technician's certification expiration date;
- 19 10. Test kit manufacturer, model and serial number;
- 20 11. Test kit calibration date; and
- 21 12. Such other information as the Water Division Manager shall require.

22 **Section 5.** That section 12-3-8 entitled “RIGHT OF ENTRY” is hereby repealed and
23 replaced in its entirety to read as follows:
24

25 Upon presentation of credentials, a representative of the town shall have the right to request
26 entry, at any reasonable time, to a property served by a connection to the water system for the

1 purpose of inspecting the property for cross connections. If such entry is refused, the
2 representative may procure the right to enter and inspect by application to and proper orders
3 from the municipal court. It shall be unlawful for any owner or occupant to refuse to allow the
4 representative access to a property when the representative is acting in compliance with a
5 warrant for inspection and order issued by the municipal court. Refusing entry to the town
6 representative shall be sufficient cause for the town to discontinue water service to the property.

7
8 **Section 6.** That section 12-3-9 entitled "COMPLIANCE" is hereby repealed and replaced
9 in its entirety to read as follows:

10 12-3-9: COMPLIANCE, NOTICE OF VIOLATION AND CIVIL PENALTIES:

11 A. Failure of the responsible party to comply with the requirements of this chapter shall be
12 subject to the following actions and penalties:

13 1. Upon failure to comply, a notice of reminder will be mailed to the responsible party.
14 The responsible party shall have thirty (30) calendar days from the annual due date to comply.

15 2. In the event that the responsible party does not comply within thirty (30) days of the
16 annual due date, a first violation notice and a \$1,000.00 charge will be added to the water bill for
17 the property as a civil penalty. If the responsible party provides proof of compliance to the town
18 within sixty (60) days of the annual due date, \$600.00 of this charge will be waived.

19 3. In the event that the responsible party does not comply within sixty (60) days of the
20 annual due date, a second violation notice and a \$2,000.00 charge will be added to the water
21 bill for the property as a civil penalty.

22 3. In the event that the responsible party does not comply within ninety (90) days of the
23 annual due date, notice of termination of service will be left at the property and mailed to the
24 party billed for water service and the property owner, if different from the billed party. Water
25 service may be terminated seven (7) days after notice and may remain terminated until such
26 time as the responsible party complies with the requirements of this chapter.

27 B. Any penalty imposed pursuant to this section may be appealed to the town manager or their
28 designee pursuant to the appeal procedure set forth in section 12-3-10.

29 C. Service of water to any premises may also be discontinued by the public works director or
30 their designee if uncontrolled cross-connections exist on the premises, if any defect is found in
31 an installed backflow prevention assembly, if a backflow prevention assembly has been
32 removed or bypassed or does not adequately protect the public health.

1 D. Service will be discontinued within one hundred and twenty (120) days of notification of a
2 failed test or notification of an inadequate backflow prevention method and shall not be restored
3 until such conditions or defects are corrected to the satisfaction of the director.

4
5 **Section 7.** That section 12-3-10 entitled "CONFLICT WITH OTHER CODES" be
6 repealed and replaced with the language underlined below to read as follows:

7 12-3-10: APPEAL PROCESS

8 A person may request an appeal of any civil penalty imposed under this chapter by submitting a
9 complaint in writing within twenty (20) days after the date of the notice of violation. The town
10 manager or their designated hearing officer set the matter for a hearing within thirty (30) days
11 after receipt of the complaint, or shall schedule a hearing on a date agreeable to both parties.
12 A complainant shall be given reasonable notice of any hearing before a hearing officer by U.S.
13 mail. When a complainant is represented by an attorney, notice of any action, finding,
14 determination, decision or order affecting the complainant shall also be served upon the
15 attorney by U.S. mail.

16 **Section 8.** That a new section 12-3-11 be added to read as follows:

17
18 12-3-11: CONDUCT AND PROCEDURES AT HEARINGS:

19 A. The complainant shall be allowed to be represented by counsel, the parties shall have
20 the right to present evidence, and cross examine witnesses. The burden of proof shall be on
21 the town to prove a violation by a preponderance of the evidence.

22 B. The hearing officer shall make findings of fact for review by the town manager.

23 C. Upon receipt of the findings of fact, the town manager shall make a final determination
24 as to the penalty imposed.

25 D. Stipulation in Lieu of Public Hearing. A complainant who has filed an appeal in
26 accordance with this section may contact the town attorney to discuss allegations in the
27 complaint and in attempt to resolve the matter without a hearing; provided however, the
28 complainant shall contact the town attorney no later than seven (14) days prior to the scheduled
29 hearing date.

30 E. The Town's manager's decision shall be delivered in writing to the complainant and shall
31 be final, subject to the right of complainant to contest the matter in an appropriate court action
32 commenced under rule 106(a)(4) of the Colorado rules of civil procedure.

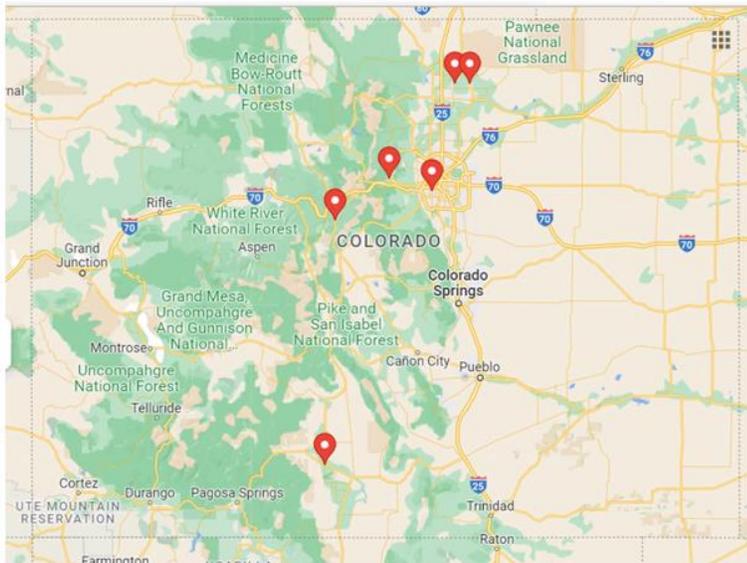
Memo

To: Breckenridge Town Council
From: Teddy Wilkinson, Sustainability Administrator
Date: 2/6/2023
Subject: Easements for EV Supply Infrastructure (1st Reading)

This Bill authorizes the Town Manager to enter into a service agreement with Xcel, as well as provide the accompanying easement, to install and maintain EV supply infrastructure and Xcel-owned charging equipment at the Breckenridge Grand Vacations Community Center (103 South Harris St).

Through this site host agreement, Xcel will install, own, and operate two DC Fast Chargers at this location, which would be open and available for use by the public. Current design locates the chargers in the North parking lot. Breckenridge was one of just 6 communities selected in the first round of this program, out of 21 applications received.

Colorado Xcel Energy Owned DC Fast Charging (2023)



| Location | Type | # chargers | # ports |
|--------------|-----------|------------|---------|
| Monte Vista | Connector | 4 | 4 |
| Central City | Connector | 2 | 2 |
| Severance | Connector | 2 | 4 |
| Eaton | Connector | 2 | 4 |
| Breckenridge | Market | 2 | 2 |
| Lakewood | Market | 2 | 4 |

This project would bring a much-needed EV fast charging opportunity to the community, at little to no cost to the Town. If approved, installation work would likely begin this summer. Staff recommends that Council approve this bill on first reading.

AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT.

WHEREAS, Public Service Company of Colorado has requested the granting of certain easements over, across, and through certain real property owned by the Town; and

WHEREAS, the Town Council of the Town of Breckenridge has determined that it should grant the requested easements; and

WHEREAS, Section 15.3 of the Breckenridge Town Charter requires that granting of an easement be authorized by ordinance.

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

Section 1. The Town Manager is authorized, empowered, and directed to execute, acknowledge, and deliver to Public Service Company of Colorado easements for the installation of electric vehicle charging equipment as more fully described in the Xcel Energy DCFC Site Host agreement, Exhibit A, attached hereto and incorporated by reference.

Section 2. The Xcel Energy DCFC Site Host agreement contemplates that the Town shall grant to Public Service Company of Colorado an easement area at the Breckenridge Grand Vacations Community Center, 103 South Harris St.

Section 3. The areas in the approved easements for each location shall be further described and defined on the basis of an as-built drawing and description to be provided by Public Service Company of Colorado at its cost following the installation of Public Service Company of Colorado's charging stations. Upon the approval by Grantor and Grantee of the as-built drawing and description of the easement areas the Town Manager is further authorized to execute, acknowledge, and deliver an amended grant of easement based on an as-built legal description.

Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity,

1 and improve the order, comfort and convenience of the Town of Breckenridge and the
2 inhabitants thereof.

3 **Section 5.** This ordinance shall be published and become effective as provided by
4 Section 5.9 of the Breckenridge Town Charter.

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this ___ day of ____, 2023. A Public Hearing shall be held at the regular
7 meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____,
8 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

9

10 TOWN OF BRECKENRIDGE, a Colorado
11 municipal corporation

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By: _____

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Eric S. Mamula, Mayor

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18 ATTEST:

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23 Helen Cospolich, CMC,

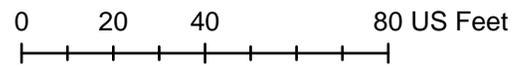
24 Town Clerk

25



Town of Breckenridge
 South Brach Library- 103 S Harris
 Proposed EV Charging Stations
 and Parking Spaces

- Xcel-owned single-port DCFC EV Charger
- EV Parking Spaces- 9' x 19'



XCEL ENERGY DC FAST CHARGING SITE HOST AGREEMENT

THIS XCEL ENERGY DC FAST CHARGING SITE HOST AGREEMENT (the “Agreement”), is made on the date last executed (“Effective Date”) by and between PUBLIC SERVICE COMPANY OF COLORADO, a Colorado corporation, doing business as Xcel Energy (“Xcel Energy”), 1800 Larimer Street, Denver, Colorado 80202, and _____ (“Site Host”) having an address of _____ . Customer and Xcel Energy may be referred to herein individually as a “Party” or collectively as the “Parties.”

The Parties hereto, each in consideration of the promises of the other in this Agreement, agree as follows:

1. Definitions

- “Applicable Laws” means all applicable federal and state laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, and orders of any governmental entity having jurisdiction over the electric vehicle (“Electric Vehicle” or “EV”) the Program, the services set forth in this Agreement, the practices involved in the services set forth in this Agreement, or any work Xcel Energy or Customer performs relating to this Agreement.
- “Infrastructure Buyout Amount” means an amount equal to the EV Supply Infrastructure Costs reduced by ten percent (10%) for each full calendar year between the In-Service Date and the date of termination of the Agreement. By way of example only, if the Agreement is terminated eighteen (18) months after the In-Service Date, and Customer is required to pay the Infrastructure Buyout Amount in accordance with Section 5 of this Agreement, the Infrastructure Buyout Amount payable by Customer would be equal to ninety percent (90%) of the EV Supply Infrastructure Costs. In the event the Agreement is terminated by Customer under Section 5.1 or terminated by Xcel Energy for Customer’s breach under Section 5.2.3 prior to the In-Service Date, the Infrastructure Buyout Amount shall equal the EV Supply Infrastructure Costs.
- “Site Host Location” means _____

_____.
- “Dispute” means a disagreement between Xcel Energy and Site Host that arises under, or that relates to, the Agreement.
- “EV Driver” means an individual who uses the Charging Equipment at the Site Host Location to charge an Electric Vehicle.
- “EV Supply Infrastructure” means service panels, conduit, and wiring from the service connection to the charger stub. EV Supply Infrastructure also includes the line extension necessary to connect Xcel Energy’s distribution system to the service connection and does not include the Charging Equipment.

- "EV Supply Infrastructure Costs" means the total costs and expenditures incurred by Xcel Energy to procure, design, construct, and install the EV Supply Infrastructure at the Site Host Location, including but not limited to costs of labor, labor loading, materials, transportation, overhead, indirect allocated costs, any allowance for funds used during construction ("AFUDC"), and any other capital related expenditures.
- "Facilities" means any privately, publicly, or cooperatively owned line, system, and/or other utility item that produces, transmits, or distributes communications, power, cable, television, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, signal systems, and other products or services that serve the public, and/or a privately-owned irrigation system. Any necessary appurtenances to each Facility are considered a part of the Facility.
- "In-Service Date" means the date that EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location has been installed, connected, tested, and is ready to use by EV Drivers. Following the installation and testing of the EV Supply Infrastructure, and Xcel Energy Owned Charging Equipment at the Site Host Location, the Parties will mutually agree upon and document the In-Service Date applicable to the Site Host Location.
- "Program" means the Xcel Energy DC Fast Charging Program under which Xcel Energy will procure, install, maintain, own and operate EV Supply Infrastructure and Xcel Energy Owned Charging Equipment to support EV charging by EV Drivers at the Site Host Location.
- "Xcel Energy Owned Charging Equipment" means the Charging Equipment which is supplied, installed, owned and operated by Xcel Energy at the Site Host Location.

2. Eligibility and Availability

- 2.1 To be eligible to participate in the Program and prior to Xcel Energy undertaking any Xcel Energy responsibility set forth in Section 4, Site Host must meet, and continue to meet during the Term, and will provide documentation acceptable to Xcel Energy evidencing that Site Host meets all the following requirements (the "Site Host Requirements"):
- 2.1.1 Qualify as a non-residential electric customer of Xcel Energy in Colorado;
 - 2.1.2 Be located in a pre-approved geographic location as determined by Xcel Energy
 - 2.1.3 Own or lease the Site Host Location
 - 2.1.4 Provide express written consent, in a form acceptable to Xcel Energy in its sole discretion, from the owner of the Site Host Location to grant Xcel Energy the appropriate real property rights and continuous access to EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, installed, owned, maintained and operated by Xcel Energy, including an easement signed by the owner of the Site Host Location, in the form attached hereto as Exhibit A;
 - 2.1.5 All Charging Equipment electric load will be separately metered from any other load served at the Site Host Location;

- 2.2 To be eligible to receive EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Site Host must also provide documentation acceptable to Xcel Energy evidencing that the Site Host Location meets the following requirements (the “Site Host Location Requirements”):
 - 2.2.1 Be located in Xcel Energy’s electric service territory;
 - 2.2.2 Be located in a pre-approved geographic location as defined by Xcel Energy
 - 2.2.3 Meet Xcel Energy’s minimum safety, accessibility, convenience, and reliability requirements;
 - 2.2.4 Be able to provide a location acceptable to Xcel Energy, in Xcel Energy’s sole determination, to deploy Xcel Energy Owned Charging Equipment in a cost-effective manner, based on factors such as proximity to transformers, length of trenching, available transmission and distribution capacity, and ease of access for EV Drivers, as determined by Xcel Energy in its sole discretion; and

3. Site Host Responsibilities

- 3.1 Site Host will comply with Xcel Energy’s safety and technical specifications.
- 3.2 Site Host will assist in coordinating installation and maintenance of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location with Xcel Energy and its contractor(s), including any applicable Charging Equipment manufacturers, vendors, or subcontractors, who provide services in connection with installing and maintaining the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. This will include issuing or obtaining any necessary license and right to allow Xcel Energy and its contractor(s) access to the Site Host Location for the installation and maintenance of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. Site Host will also meet regularly with Xcel Energy to review and coordinate time schedules and track EV Supply Infrastructure and Xcel Energy Owned Charging Equipment installation status.
- 3.3 Site Host will provide Xcel Energy with accurate and complete information in order to permit Xcel Energy to successfully install and complete the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment for the Program.
- 3.4 After installation of both the Xcel Energy Owned Charging Equipment and EV Supply Infrastructure is completed, Site Host will make the Site Host Location where the Xcel Energy Owned Charging Equipment is situated available to EV Drivers for EV charging twenty-four (24) hours each day, seven (7) days each week and continue to operate business at the Site Host Location as described in Customer’s Program application submitted to and approved by Xcel Energy. This includes ensuring that the parking spaces

designated for the use of the Xcel Energy Owned Charging Equipment are not used for general parking and are available at all times for EV Drivers to charge their EVs.

- 3.5 Site Host will promptly notify Xcel Energy or its charging network provider in the event Site Host becomes aware that the Xcel Energy Owned Charging Equipment or EV Supply Infrastructure fails to operate or otherwise requires repair.
- 3.6 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, that is caused by the Site Host or its employees, agents, or contractors, and not covered by a manufacturer's warranty, Site Host may either request that Xcel Energy replace the necessary equipment at Site Host's expense or terminate this Agreement pursuant to Section 5.1 and pay Xcel Energy the Infrastructure Buyout Amount as set forth in Section 5.3.
- 3.7 Site Host will maintain the area surrounding the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, including but not limited to, pavement maintenance, pruning of vegetation, snow removal, and the repair of security lighting.

4. Xcel Energy Responsibilities

- 4.1 Xcel Energy and/or qualified and competent contractors hired by Xcel Energy will prepare construction drawings ("Construction Drawings") for the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at location(s) within the Site Host Location determined by Site Host in coordination with Xcel Energy. The Construction Drawings will show the proposed EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, and its location(s) within the Site Host Location. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure, Customer will receive Construction Drawings.
- 4.2 Xcel Energy will prepare and coordinate the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, installation schedule ("Installation Schedule") with designated Site Host staff as to minimize disruption to Site Host's operations. Xcel Energy will also meet regularly with Site Host staff to review and coordinate time schedules and track EV Supply Infrastructure and Charging Equipment installation status. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Site Host must approve the Installation Schedule. Once approved, the Installation Schedule may be modified only with the mutual consent of both Parties.
- 4.3 Xcel Energy will install the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, pursuant to the Installation Schedule and consistent with the Construction Drawings in a good and workmanlike manner, with qualified and competent contractors, in compliance with all applicable codes and engineering standards, and in compliance with all Applicable Laws.
- 4.4 Except as otherwise provided in this Agreement, Xcel Energy will retain title and ownership of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, once installation and commissioning are completed. Site Host shall acquire no right, title, or interest in any portion of the work performed by Xcel Energy or Xcel Energy's

equipment, EV Supply Infrastructure, Xcel Energy Owned Charging Equipment, or Facilities unless transferred to Site Host under the provisions in Section 5. The work constructed and installed by Xcel Energy shall be and remain the personal property of Xcel Energy, shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Site Host or any third party for the Term of this Agreement, and Site Host shall not allow lien claims, third-party interest, or any encumbrances to be placed on the work, EV Supply Infrastructure, and/or Xcel Energy Owned Charging Equipment. Xcel Energy shall not permit any mechanics' or other liens to be placed on Site Host Location during the Term of this Agreement caused by or resulting from any work performed, materials, or supplies furnished by or at the request of Xcel Energy or its contractors.

- 4.5 Xcel Energy shall own, operate, and maintain, at its own expense, the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location for the Term of this Agreement, unless terminated earlier as provided herein. Xcel Energy may engage one or more third-party contractors to complete its obligations under this Agreement. Xcel Energy shall not knowingly award contracts to contractors who have been or are suspended or debarred by the State of Colorado or the United States. Xcel Energy shall be responsible for supervising any third-party contractor it chooses to retain.
- 4.6 After installation of, and while Xcel Energy owns, the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Xcel Energy shall conduct emergency repairs on the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment on an as needed basis in accordance with the following:
 - 4.6.1 Requests for emergency repairs can be made by Site Host or Xcel Energy staff.
 - 4.6.2 Site Host's requests for repair shall be made via telephone, email, or text message to an agreed-upon third party or representative at Xcel Energy.
 - 4.6.3 All emergency repairs shall be completed by qualified technicians selected by Xcel Energy.
 - 4.6.4 Emergency repair service calls shall begin with inspection of malfunctioning EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, as applicable, a diagnosis of the potential issue, and an expected time required for repair.
 - 4.6.5 Xcel Energy shall use commercially reasonable efforts to repair the EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, as applicable, in a timely manner.
- 4.7 After installation of, and while Xcel Energy owns the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Xcel Energy may inspect the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location for general wear or malfunction on a periodic basis as determined by Xcel Energy.

- 4.8 Xcel Energy shall be responsible for the cost of purchasing and installing the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. Xcel Energy shall also be responsible for all costs that Xcel Energy, in its sole discretion, deems reasonably required for operating and maintaining the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. All payments for this EV Supply Infrastructure and Xcel Energy Owned Charging Equipment will be made directly by Xcel Energy to the third-party contractor retained to complete the work, and Xcel Energy will have no financial obligation for any payments to Site Host.
- 4.9 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment that is caused by Xcel Energy, or its employees, agents, or contractors, and not covered by a manufacturer's warranty, Xcel Energy may either replace the necessary equipment at Xcel Energy's expense or terminate this Agreement pursuant to Section 5.1.
- 4.10 Xcel Energy may charge EV Drivers for the use of the Xcel Energy Owned Charging Equipment and will determine, in its sole discretion, the rates charged to EV Drivers per Colorado Public Utility Commission (the "Commission") Docket 21AL-0494E. Xcel Energy will process all payments and collect all revenues from charging that occurs at Xcel Energy Owned Charging Equipment. Site Host shall not be entitled to any payment or revenues generated from the use of the Xcel Energy Owned Charging Equipment.
- 4.11 Xcel Energy will pay for the power consumed by the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment.

5. Term and Termination

- 5.1 This Agreement shall be effective upon the Effective Date. The term of this Agreement (the "Term") shall be from the Effective Date until ten (10) years following the In-Service Date. Subject to Section 5.3, either Party may terminate this Agreement for any reason or no reason, without cause, at any time by providing the other Party sixty (60) Calendar Days prior written notice. If Xcel Energy terminates this Agreement pursuant to this Section 5.1 for a reason other than Site Host's material breach of Site Host's obligations under this Agreement, Xcel Energy shall transfer title of the EV Supply Infrastructure to Site Host without any payment from Site Host, including the Infrastructure Buyout Amount, and the EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy. Upon termination, Xcel Energy Owned Charging Equipment will be removed by Xcel Energy at its own expense.
- 5.2 Either Party may terminate this Agreement if the other Party materially breaches any of its obligations under the Agreement, in accordance with the following:
- 5.2.1. Prior to termination pursuant to this Section 5.2, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) days of the notice (or if the breach is not one that can be reasonably cured within thirty (30) days and if the breaching Party is not working diligently to cure such breach), then the Party giving the notice may

terminate the Agreement without reference to Section 5.1 at any time thereafter by giving a written notice of termination.

- 5.2.2. If Site Host terminates pursuant to this Section 5.2 for Xcel Energy's material breach of the Agreement, as Site Host's sole and exclusive remedy, Xcel Energy shall transfer title of the EV Supply Infrastructure to Site Host, without any payment from Site Host, including the Infrastructure Buyout Amount set forth in Section 5.3, and the EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy.
- 5.2.3. If Xcel Energy terminates pursuant to this Section 5.2 for Site Host's material breach of the Agreement, Site Host shall pay the Infrastructure Buyout Amount, and when such fee is paid, Xcel Energy shall transfer title of all EV Supply Infrastructure to Site Host on an "AS IS" basis, without any warranty (express or implied).
- 5.2.4. A Party terminating this Agreement pursuant to this Section 5.2 does not waive its rights to any remedy at law or in equity for a material breach of the Agreement.

5.3 Should (a) Site Host terminate this Agreement for any reason other than pursuant to the provisions of Section 5.2.2 for Xcel Energy's material breach of its obligations hereunder, or (b) Xcel Energy terminate this Agreement pursuant to the provisions of Section 5.2.3 for Site Host's material breach of its obligations hereunder, Site Host will be charged and Site Host will pay to Xcel Energy the Infrastructure Buyout Amount. The Infrastructure Buyout Amount, if applicable, will be due and payable by Site Host thirty (30) days following the termination of the Agreement. Upon payment of the Infrastructure Buyout Amount, Xcel Energy will transfer title of the EV Supply Infrastructure to Site Host on an "AS IS" basis, without any warranty (express or implied).

5.4 At least one hundred and eighty (180) Calendar Days prior to the end of the Term of this Agreement, the Parties shall endeavor to negotiate a mutually agreeable plan for the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment that will commence at the end of the Term of this Agreement, including but not limited to the following:

- 5.4.1 Extension of the Term of this Agreement for a mutually agreed period of time with the default extension option being 5 years;
- 5.4.2 Upon expiration of the Term, Xcel Energy transfers the title to the EV Supply Infrastructure to Site Host in "AS IS" condition, without any warranties (express or implied) by Xcel Energy; or
- 5.4.3 Upon expiration of the Term, Xcel Energy removes, at Site Host's expense, the portion of the EV Supply Infrastructure that is above ground, restoring the Site Host Location to original conditions or any other conditions agreed upon by the Parties, and Xcel Energy shall transfer title of the remaining portion of the EV Supply Infrastructure that is not above ground to Site Host, without any

payment from Site Host, and the Remaining EV Supply Infrastructure will be deemed abandoned in place in “AS IS” condition, without any warranty (express or implied) by Xcel Energy.

- 5.5 If, at the end of the Term of the Agreement, the Parties have not come to a mutual agreement pursuant to Section 5.4 above, the Term of the Agreement shall continue until the Parties are able to come to a mutual agreement or until either Party unilaterally terminates the Agreement pursuant to Section 5.1.
- 5.6 Upon termination or expiration of the Agreement, Xcel Energy will remove any Xcel Energy Owned Charging Equipment from the Site Host Location at no cost to Site Host.
- 5.7 Upon termination or expiration of the Agreement, to the extent Site Host takes ownership of the EV Supply Infrastructure, Site Host assumes the responsibility of maintaining the EV Supply Infrastructure, and in order to continue receiving electric service, Site Host must take electric service pursuant to a tariff for which the Site Host is then eligible.

6. Warranties, Indemnification, and Limitation of Liability

- 6.1 Site Host represents and warrants that: (i) the execution, delivery, and performance of the Agreement has been duly authorized by all requisite action on the part of Site Host, and Site Host has full power and authority to grant the rights and licenses granted by the Agreement to Xcel Energy; (ii) this Agreement constitutes the legal, valid, and binding obligation of Site Host; (iii) Site Host is and will remain duly licensed, authorized or qualified to do business, and in good standing; and (iv) Site Host is and will remain in compliance with all Applicable Laws applicable to Site Host in connection with performance under this Agreement.
- 6.2 Xcel Energy, itself or through its contractor(s), shall perform the installation of the EV Supply Infrastructure and the Xcel Energy Owned Charging Equipment, as applicable, in a safe and professional manner in accordance with all Applicable Laws. **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 6.2, XCEL ENERGY MAKES OR PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INFRINGEMENT, WITH RESPECT TO THE WORK TO BE PERFORMED, SERVICES TO BE PROVIDED, OR EV SUPPLY INFRASTRUCTURE OR XCEL ENERGY OWNED CHARGING EQUIPMENT TO BE DELIVERED UNDER THIS AGREEMENT. IN THE EVENT TITLE TO EV SUPPLY INFRASTRUCTURE OR XCEL ENERGY OWNED CHARGING EQUIPMENT IS TRANSFERRED TO SITE HOST IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, THE EV SUPPLY INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT IS PROVIDED “AS IS” AND WITH NO WARRANTY OF ANY KIND. XCEL ENERGY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 6.3 **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL XCEL ENERGY BE LIABLE TO SITE HOST AND ITS AGENTS CONTRACTORS AND EMPLOYEES, FOR SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE.**

- 6.4 Subject to the limitations contained in this Agreement, each Party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by Applicable Laws and shall not be responsible for the acts of the other Party and the results thereof. Notwithstanding the foregoing, to the fullest extent allowed by Applicable Laws, Site Host shall, at its own expense, defend, indemnify, and hold Xcel Energy harmless from and against any claims, lawsuits, liability, losses, damages, or expenses (including attorney's fees) arising out of, resulting from, or in any way connected with the: (i) breach of any warranty set forth in Section 6.1; or (ii) the breach of Sections 2.1.4 and 3.2.
- 6.5 In no event will Xcel Energy be liable to Site Host for any claims, expenses, losses, damages, or lawsuits arising out of any interruptions or disturbances in electric service. Except as described in this section, Xcel Energy's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement, or from performance or breach thereof, shall in no case exceed the total dollar amount for the specific work giving rise to the claim.

7. General Terms

- 7.1 *No Third-Party Beneficiary.* This Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
- 7.2 *Assignment Prohibited.* Site Host shall not assign the Agreement, or any part thereof, nor delegate in whole or in part, its responsibilities hereunder, without the prior written consent of Xcel Energy. Unless otherwise agreed to in writing by Xcel Energy, no assignment will release or discharge Site Host from any obligations under the Agreement. Any prohibited assignment or delegation shall be null and void.
- 7.3 *Legal Compliance.* The Parties shall comply with all Applicable Laws. Each Party shall monitor its agents, contractors, and employees for the purposes of ensuring compliance with all Applicable Laws. If any change in circumstances or law will affect a Party's performance under this Agreement, that Party shall notify the other Party of the change in circumstances or law at the earliest reasonable opportunity, and the Parties will negotiate in good faith to modify the Agreement to take into account the changed circumstance or law.
- 7.4 *Dispute Resolution.* In the event of any Dispute arising out of or relating to this Agreement, the complaining Party shall provide written notice of the Dispute to the other Party. The Dispute notice shall describe the facts surrounding the Dispute in sufficient detail to apprise the other Party of the nature of the Dispute.

Xcel Energy and Site Host shall attempt in good faith to settle all Disputes through the negotiation process set forth in this Section. To this effect, unless otherwise agreed, Xcel Energy and Site Host shall conduct at least one face-to-face meeting between the designated representatives from both Parties in an attempt to reach a solution that is satisfactory to both Xcel Energy and Site Host. Such a meeting shall take place within seven (7) Calendar Days following delivery of a Dispute notice. If that meeting does not

resolve the Dispute, Xcel Energy and Site Host shall have executive level leadership from both Parties meet and attempt to resolve the Dispute.

If Xcel Energy and Site Host fail to resolve a Dispute in accordance with this Section, either Party may, subject to Section 7.5, proceed to a court of competent jurisdiction and may, subject to any limitation set forth herein, pursue any remedies available to it at law or in equity.

- 7.5 *Applicable Law and Venue.* This Agreement shall be interpreted in accordance with the laws of the State of Colorado. Venue for all legal proceedings arising out of or relating to this Agreement or breach thereof shall be in the state or federal court with competent jurisdiction in Denver County, Colorado.
- 7.6 *Non-Waiver.* The failure of either Party at any time to insist upon the strict performance of any or all of the terms, conditions, and covenants in this Agreement shall not be deemed a waiver by that Party of any subsequent breach or default in the said terms, conditions, or covenants by the other Party.
- 7.7 *Complete Agreement.* This Agreement constitutes the complete and exclusive understanding of the Parties concerning its subject matter. This Agreement supersedes all prior agreements, representations, understandings, and communications, written or oral, between the Parties as to the subject matter of this Agreement.
- 7.8 *Amendments.* The terms of this Agreement may be changed, amended or modified only by mutual signed agreement of the Parties.
- 7.9 *Consent to Disclose.* Site Host consents to Xcel Energy's disclosure of the existence, terms, and status of this Agreement consistent with Commission data privacy requirements. Site Host further acknowledges that pursuant to Section 3.7 of this Agreement, Xcel Energy may disclose any information and documents Site Host provides to Xcel Energy pursuant to this Agreement. Site Host also consents to Xcel Energy's disclosure of any information concerning the EV Supply Infrastructure and related services provided to Site Host that Xcel Energy has in its possession, including "Site Host data" as defined by Commission rules, to address Xcel Energy's reporting requirements in Commission proceedings, including without limitation those established in Proceeding No. 20A-0204E. To the extent the Commission requires any additional written consent from Site Host for disclosure of such information, Site Host agrees to cooperate with any such request by Xcel Energy. Without limiting the foregoing, by signing this Agreement and participating in the Program, the Site Host consents and authorizes Xcel Energy to provide the Site Host's information related to the Agreement or the Program to third parties, including but not limited to the Colorado Energy Office and the Regional Air Quality Council, for the purpose of administering the Program, coordinating with other third parties offering EV programs and ensuring that the Program participants are not receiving funding multiple times for the same equipment and/or costs.
- 7.10 *Property of Xcel Energy.* All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models, and memoranda, if any, assembled or prepared by Xcel Energy or Xcel Energy's affiliates, independent professional associates, agents, consultants, contractors, or subcontractors pursuant to this Agreement are instruments

of service in respect of the Agreement, and Xcel Energy shall retain all ownership and property interest therein. Site Host may make and retain copies for information and reference in connection with the Program, provided, however, that it is understood and agreed that such documents are not intended to be re-used by Site Host or others on extensions of the Program or on any other project or for any other purpose other than as expressly set forth in this Agreement, and Site Host shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Xcel Energy, which consent shall not be unreasonably withheld.

- 7.11 The Parties are independent contractors. Nothing in this Agreement or in the activities contemplated by the Parties hereunder shall be deemed to create an agency, partnership, employment, or joint venture relationship between the Parties or any of their representatives. Neither Party is an agent of the other nor has the authority to represent the other as to any matters. Site Host is responsible for the safety of its respective agents, employees, and other representatives. Xcel Energy in no way assumes any of the duties, obligations, or liabilities attributed to Site Host under the Agreement.
- 7.12 Those provisions of this Agreement which would require that they survive termination of the Agreement in whole or part in order to give them full force and effect will survive the termination of the Agreement, regardless of the date, cause, or manner of the termination. Xcel Energy's right to retain any Data collected in connection with the Program shall survive termination. In addition, all rights of action arising from or related to the Agreement that accrue during the Term of the Agreement, and any remedies for such claims, both legal and equitable, will survive such termination.
- 7.13 *Branding and Consumer Education.* The Parties agree to discuss opportunities for Xcel Energy branding, Consumer outreach and education efforts related to the benefits of electric vehicles, and implementation of renewable energy in connection with the Program.
- 7.14 *Taxes on Sale of EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment.* If Xcel Energy sells the EV Supply Infrastructure to Site Host for an amount equal to the Infrastructure Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment and Site Host purchases the same, then Xcel Energy will deliver to Site Host a Bill of Sale with a purchase price equal to the Infrastructure Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment. Site Host further agrees that, in accordance with federal and state laws in effect at the time of the sale of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment from Xcel Energy to Site Host: (i) Site Host shall be responsible for and shall pay transfer taxes, either directly to a taxing authority or to Xcel Energy, as required by law, related to the Infrastructure Buyout Amount as stated on the Bill of Sale; and (ii) Xcel Energy agrees to complete a Form W-9 "Request for Taxpayer Identification Number and Certification" in the event of such sale.
- 7.15 *Notice.* Any notice required or permitted by this Agreement shall be deemed given (i) when delivered by hand, (ii) on the next Working Day after being sent by a reputable overnight courier service for next Working Day delivery, or (iii) on the third Working Day

after being sent by prepaid United States mail, return receipt requested, in each case to the Party at the address specified as follows:

Site Host: _____

Xcel Energy: _____

evapplications@xcelenergy.com

Either Party may change its address for notice purposes by giving the other Party prior written notice of the new address and the date upon which the change will be effective.

7.16 *Electronic Signature and Electronic Records.* Both Parties consent to the use of electronic signatures. The Agreement and any other documents requiring signature hereunder may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

7.17 *Taxes on Sale of EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment.* If Xcel Energy sells the EV Supply Infrastructure and/or the Xcel Energy Owned Charging Equipment to Customer for an amount equal to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment and Customer purchases the same, then Xcel Energy will deliver to Customer a Bill of Sale with a purchase price equal to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment. Customer further agrees that, in accordance with federal and state laws in effect at the time of the sale of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment from Xcel Energy to Customer: (i) Customer shall be responsible for and shall pay transfer taxes, either directly to a taxing authority or to Xcel Energy, as required by law, related to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount as stated on the Bill of Sale; and (ii) Xcel Energy agrees to complete a Form W-9 "Request for Taxpayer Identification Number and Certification" in the event of such sale. Notwithstanding any other term or condition of this Agreement, Customer is not

liable for the payment of interest, taxes, late charges, or penalties of any nature, except for any additional amounts that the Customer may be required to pay under Applicable Laws. Xcel Energy agrees to accept a properly completed and valid exemption certificate(s) for any taxes that may otherwise be due upon the sale. Customer remains liable for taxes on the sale unless and until such properly completed and valid documentation has been provided to Xcel Energy and remains liable for interest, penalties and late charges relating to any taxes when such additional charges are caused by Customer's failure to provide exemption documentation or prompt payment of any taxes actually due.

8. Appropriation.

8.1 *Subject to Annual Appropriation.* Consistent with Article X, Section 20 of the Colorado Constitution, any financial obligation of the Customer not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the Customer hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge requirement, debt or liability beyond the current fiscal year. Notwithstanding anything to the contrary, it is the intent of the Parties that if the Customer is obligated to pay the Infrastructure Buyout Amount, that such obligation is not a charge requirement, debt or liability beyond the current fiscal year.

8.2 *Appropriation Requirement Amount.* Prior to Xcel Energy beginning construction on the EV Supply Infrastructure, Customer shall provide Xcel Energy documentation acceptable to Xcel Energy evidencing the Customer has fully appropriated adequate present cash reserves in an amount equal to the EV Supply Infrastructure Costs up to a maximum of \$_____ ("Appropriation Requirement Amount") through the end of the then-current fiscal year. The officer of Customer at any time charged with the responsibility of formulating budget proposals impacting this Agreement shall include in the annual budget proposal submitted to the applicable budget approval authority, in any year during which this Agreement is in effect, the Appropriation Requirement Amount. In the event that Customer fails to appropriate in full the Appropriation Requirement Amount in its final budget for the next fiscal year before the end of the current fiscal year for which the Appropriation Requirement Amount was fully appropriated during the Term, this Agreement will immediately and automatically terminate on the last day of Customer's fiscal year in which the Appropriation Requirement Amount was fully appropriated, Customer shall notify Xcel Energy within ten business days of such failure to appropriate, and the Infrastructure Buyout Amount will become due and payable immediately upon such termination. However, a failure to notify will not excuse Customer's obligation to pay the Infrastructure Buyout Amount. Upon Xcel Energy's receipt of payment of the Infrastructure Buyout Amount, Xcel Energy shall transfer title of all EV Supply Infrastructure to Customer on an "AS-IS" basis, without any warranty of any kind, express or implied.

IN WITNESS WHEREOF, each of the undersigned is duly authorized and directed to sign this Agreement.

[Insert Site Host Name]

By _____ Date: _____

Name _____

Title _____

Public Service Company of Colorado, d/b/a Xcel Energy

By _____ Date: _____

Name _____

Title _____

remain on, under, or over the Easement Area, which will or may interfere with the Facilities installed on the Easement Area or interfere with the exercise of any of the rights herein granted. Grantor shall not, without the prior written approval of Company, alter the existing ground elevations or change the compaction of the soil on the Easement Area. No failure by Company to remove or otherwise raise an objection to any objects or improvements located or installed on the Easement Area by Grantor, shall be deemed to constitute consent on the part of Company to such improvements or objects, nor a waiver of Company's rights regarding removal of any such improvements or objects.

Grantor agrees to contact the Utility Notification Center of Colorado (1-800-922-1987), or any similar one-call utility line locator system which may replace or supplement it, at least four (4) business days (or such longer time if required by applicable law) prior to the commencement of construction or execution of the Easement Area to arrange for field locating of Facilities.

Grantor shall disclose to Company any waste materials that Grantor knows or reasonably suspects to be present in soils, water (surface or groundwater), vapors or air, whether on, in, above, migrating to, or under the Easement Area and any other information that would help Company assess the risks of working in the area. Grantor shall be responsible for any costs to manage, transport, or dispose of any waste materials that Company encounters during installation, relocation, or maintenance of the Facilities in the Easement Area. Company shall not assume, and Grantor shall retain its obligation to comply with all applicable environmental laws and regulations, including federal or state reporting requirements related to such waste materials.

In case of the permanent abandonment of the easement, all right, privilege, and interest granted shall terminate.

The work of installing and maintaining said lines and fixtures shall be done with care; the surface along the easement shall be restored substantially to its original level and condition.

The provisions of this Easement shall run with, be binding on and burden the Easement Area and shall bind and benefit the heirs, executors, administrators, personal representatives, successors, and assigns of Grantor and Company. The term "Grantor" includes the singular, plural, feminine, masculine and neuter.

Grantor warrants and represents that Grantor is the owner of the easement and has the right to sell, transfer, convey, confirm and grant this easement and the rights contained herein. This Easement is binding on Grantor, is not conditioned upon obtaining the consent of any third party, and is not subject to any mortgages or liens, except those for which Grantor has provided Grantee with a consent and subordination agreement, executed by such mortgagee or lienholder and attached hereto.

This Easement incorporates all agreements between the parties as to the subject matter of this Easement, and no prior representations or statements, verbal or written, shall modify, supplement or change the terms of this Easement. This Easement consists of the document entitled "Electric Easement", and Exhibit(s) containing a legal description and a sketch depicting the legal description, if referenced above or attached hereto, and if attached hereto, a Consent and Subordination. No other exhibit, addendum, schedule or other attachment (collectively "Addendum") is authorized by Company, and no Addendum shall be effective and binding upon Company unless executed by an authorized representative of Company.

Signed this [redacted] day of [redacted], 20[redacted].

(Type or print name below each signature line with official title if corporation, partnership, etc.):

GRANTOR:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 20__ by _____.

Witness my hand and official seal.

 Notary Public
 My Commission expires:



Memo

To: Mayor Mamula and Town Council Members
From: Kirsten J. Crawford
Date: 1/30/2023
Subject: Deputy municipal judge appointment

Per the Town Charter (Article 8, Section 2), Council may appoint deputy judges and establish their compensation. Presiding Judge, Buck Allen, has some need for a judge to fill in from time to time as a back up judge. Staff recommends that Council appoint Ron Carlson (resume attached) to serve as a deputy judge in the event Judge Allen needs back up assistance. Staff proposes that Judge Carlson will be compensated hourly at a rate of \$141.61 per hour which is in line with the rate of the municipal prosecutor.

RESOLUTION NO. 4

SERIES 2023

A RESOLUTION APPOINTING A RELIEF JUDGE AND FIXING THEIR COMPENSATION

WHEREAS, the Town charter, article VIII, entitled legal and judiciary, section 8.2, provides, among other things, that the Town Council may appoint deputy judges who shall serve at the pleasure of the Town Council;

WHEREAS, the charter further states that Town Council shall establish the compensation of the deputy judges and designate a presiding judge;

WHEREAS, the Town Council hereby appoints Ron Carlson as a deputy judge to serve as back up to Presiding Judge Buck Allen, as necessary from time to time;

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

Section 1. The Town Council hereby appoints Ron Carlson as a deputy municipal judge as a need arises determined by the presiding judge in consultation with the town attorney.

Section 2. Town Council hereby establishes the hourly compensation of the deputy judge at \$141.61 per hour.

RESOLUTION ADOPTED AND APPROVED this 14th day of February, 2023.

ATTEST:

TOWN OF BRECKENRIDGE

Helen J. Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor

APPROVED IN FORM

Town Attorney

Date

RONALD W. CARLSON

Carlson & Edwards, Attorneys-at-Law, P.C.

975 N. Ten Mile Dr., Suite E15

PO Box 1829

Frisco, Colorado 80443

970-668-1678

970-668-5121 (fax)

ron@ceoattorneys.com

Summary of Professional Credentials

Summary of Professional Credentials

Mr. Carlson is a tested and experienced jurist, trial lawyer and transactional attorney with more than 4 decades years in practice. He has been a resident of Summit County since 1990. Mr. Carlson currently sits as a part-time Municipal Court Judge in 7 jurisdictions and is currently a partner in the firm of Carlson & Edwards with a principal office in Frisco, Colorado and satellite office in Edwards, Colorado.

Mr. Carlson's judicial experience dates from his Clerkship for two Justices of the Michigan Supreme starting trial court experience more than 20 years ago in Municipal Court which has grown to include the City of Blackhawk, Towns of Silverthorne and Dillon, Towns of Winter Park and Fraser, Town of Kremmling, Town of Granby and Town of Hot Sulphur Springs. As an attorney his current practice focuses on Real Estate transactions, Condominium and Subdivision projects, Construction Litigation, Wrongful Death and Criminal Defense.

He has extensive experience in Planning & Zoning matters, having accomplished dozens of subdivision and condominium development projects.

He has been both a prosecutor and public defender, and is currently the Town Prosecutor for the City of Leadville and Georgetown. He is a former Assistant Attorney General and former Prosecutor for the Town of Frisco. He is experienced in Municipal Law, Special District Law and Water Law serving as counsel for the Alpengee Water District and the Parkville Water District.

Mr. Carlson is the author of several published articles and book chapters on trial practice. He has more than a dozen reported cases. He has served on various community boards including the Frisco Planning Commission and the Victims Assistance Law Enforcement (VALE) Board, Continental Divide Land Trust and Lake Dillon Theatre Company. He is a former adjunct professor of business law at Regis University and Colorado Mountain College.

EXPERIENCE

JUDICIAL:

- Municipal Court Judge-
 - Town of Frisco 1996 to Present

- City of Black Hawk 2010 to Present
- Towns of Silverthorne/Dillon 2014-Present
- Towns of Winter Park/Fraser, January 2019 to Present
- Town of Granby, March 2019 to Present
- Town of Kremmling, March 2019 to Present
- Town of Hot Sulfur Springs, May 2019 to Present.
- Michigan Supreme Court
 - Law Clerk to Honorable John B. Swainson 1974-75
 - Law Clerk to Honorable James. L. Ryan 1975-76

PRIVATE PRACTICE

- Trial lawyer and Transactional attorney with more than 40 years in practice.
- Partner- Carlson & Edwards, Attorneys-at-Law, P.C. with a principal office in Frisco, Colorado; Satellite Offices in Edwards, Colorado
- Current practice- Municipal Law, Special Districts; Business: Corporations, Limited Liability Entities, Liquor License-Alcohol Beverage-Vineyard law, Medical/Health Care Reimbursement; Labor Law, Malpractice and Wrongful Death; Contracts;
- Criminal- Felony/Misdemeanor/Juvenile/Ordinance Violations, White Collar, Drug Court
- Real Estate: Condominium and Subdivision projects, Construction Litigation, Contracts, Mechanics Liens
- Wrongful Death and Personal Injury
- Extensive experience in Real Estate-Transactions, Purchases, Development, Planning & Zoning Business, Corporate Restructuring & Finance, Land Use, Environmental & Water Law matters.
- Family Law- High Asset Property Division & Custody

GOVERNMENTAL EXPERIENCE

- Counsel for the Parkville Water District (Colorado)
- Counsel for the Alpengee Water District (Colorado)
- Prosecutor for the City of Leadville (Colorado)
- Prosecutor for Georgetown Colorado, October 2017 to Present
- Prosecutor for Minturn Colorado, July 2017 to Present
- Former Prosecutor for the Town of Frisco (Colorado)
- Former Planning Commissioner Town of Frisco (Colorado)
- Former Assistant Attorney General (Michigan)
- Former Deputy Public Defender (Michigan)

PROFESSIONAL CERTIFICATIONS

| | | |
|---------------------------|----------|------|
| Licensed to Practice Law: | Colorado | 1989 |
| | Arizona | 1999 |
| | Michigan | 1975 |

Admitted United States Circuit Court of Appeals Tenth Circuit, United States Circuit Court

of Appeals Sixth Circuit, United States District Court for Colorado, United States District Court for the Eastern District of Michigan, United States District Court Western District of Michigan.

EDUCATION:

Wayne State University Law School, Detroit, Michigan.
Juris Doctorate. Honors: Student Board of Governors.

Oakland University, Rochester, Michigan. Bachelor of Arts.
Cum Laude . Departmental Honors: Political Science.

WORK HISTORY:

Private Practice Summit County, Colorado
Carlson & Edwards, Formerly Carlson, Edwards & O'Connor, Attorneys-at-Law
Formerly Carlson, Carlson & Dunkelman Formerly Carlson & Carlson, Attorneys-
at-Law, P.C.

Richmond- Carlson

Private Practice Denver Metro
Kripke, Epstein & Lawrence, P.C.

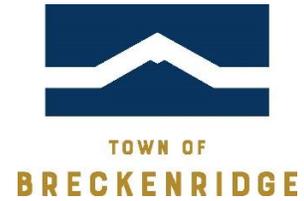
Private Practice Michigan

Bishop & Shelton, P.C.
Ann Arbor, Michigan
Frimet, Bellamy & Gilchrist, P.C.
Detroit, Michigan

Public Employment Michigan
Department of the Attorney General, State of Michigan
Lansing, Michigan

Office of the Public Defender, Washtenaw County
Ann Arbor, Michigan

Supreme Court, State of Michigan, Lansing, Michigan
Law Clerk to Justice James L. Ryan;
Law Clerk to Justice John B. Swainson



Memo

To: Breckenridge Town Council Members
From: Aubrey Ciol, Grants Administrator
Date: 2/8/2023 (For February 14—TC Work Session)
Subject: Department of Local Affairs Innovative Housing Incentives Grant Program

The Town of Breckenridge Grants Administrator has submitted an application with the Colorado Department of Local Affairs, Community Development and Planning Division, for the Innovative Housing Incentives Grant Program (IHOI) to fund infrastructure for the Stables Housing Project.

As part of the application process, the attached resolution authorizes the submittal of the IHOI application to the Department of Local Affairs requesting a grant in the amount of \$3,000,000. Approval also supports the financial capability of the Town to provide matching funds in the amount of \$7,200,000, previously appropriated by Town Council on or about November 22, 2022.

Staff will be available at the February 14 work session to answer questions.

1 RESOLUTION NO. _____

2
3 Series 2023

4
5 **A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT**
6 **A GRANT REQUEST TO THE COLORADO DEPARTMENT OF LOCAL**
7 **AFFAIRS (DOLA) INNOVATIVE AFFORDABLE HOUSING INCENTIVES**
8 **GRANT.**
9

10
11 WHEREAS, the Innovative Housing Incentives Grant Program (IHOI) provides grants to
12 local governments to promote the development of affordable housing that is driven by
13 community benefits and that focuses on critical housing needs as identified by the local
14 government;

15 WHEREAS, qualifying communities that have adopted qualifying housing strategies
16 such as the Town of Breckenridge, are eligible to apply for funds to support an affordable
17 housing development project directly;

18 WHEREAS, the Town will use these IHOI grant funds to cover a portion of the costs
19 associated with the Stables Workforce Housing Project which will include five single-family
20 homes, 38 duplex homes, and 18 townhomes, ranging from two-to-four-bedroom options.

21 WHEREAS, Specifically, the IHOI grant funds will be used for infrastructure, including
22 but not limited to over lot grading, installation of deep utilities, upgrades to the current roadways,
23 installation of communication networks, sewer, water etc. The Town of Breckenridge plans to
24 cover the remainder of the costs in addition to waiving permit fees, paying water tap fees and
25 entitling the land, currently owned by the Town, to the developer.

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

28
29 **Section 1.** The Town Council of the Town of Breckenridge does hereby approve the
30 submission of an application to the Department of Local Affairs for the Innovative Affordable
31 Housing Grant requesting a grant in the amount of \$3,000,000.

32 **Section 2.** The Town Council of the Town of Breckenridge does hereby encumber
33 \$7,200,000, the amount previously appropriated by Town Council on or about November 22,
34 2022, in order to meet the requirement of the grant that Town shall a "Local Match" in a
35 minimum of 20% of the total project cost.

36 **Section 3.** This resolution is effective upon adoption.

37 **Section 4.** Minor changes to or amendments of the approved agreement may be made
38 by the Town Manager if the Town Attorney certifies in writing that the proposed changes or

1 amendments do not substantially affect the consideration to be received or paid by the Town
2 pursuant to the approved agreement, or the essential elements of the approved agreement.

3
4 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2023.

5
6 TOWN OF BRECKENRIDGE

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10 By: _____
11 Eric S. Mamula, Mayor

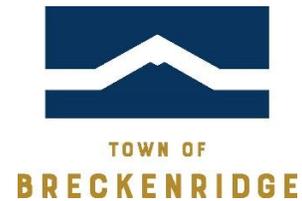
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13 ATTEST:

14
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17 _____
18 Helen Cospolich, CMC,
19 Town Clerk

20
21 APPROVED IN FORM

22
23
24
25 _____
26 Town Attorney Date

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31



Memo

To: Breckenridge Town Council Members
From: Aubrey Ciol, Grants Administrator
Date: 2/7/2023 (For February 14—TC Work Session)
Subject: Department of Local Affairs Community Development Block Grant

The Town was approached by the Family & Intercultural Resource Center (FIRC) to submit a grant application on their behalf for the Department of Local Affairs (DOLA) Community Development Block Grant (CDBG) grant program. DOLA requires that a governmental entity submits this application on behalf of non-profits.

FIRC is requesting funds in the amount of \$600,000 to aid in the construction of the 18,000 square foot Sol Center within the Alta Verde workforce neighborhood in the Town of Breckenridge.

As the applicant for this grant opportunity, the Town of Breckenridge will act as the fiscal agent for FIRC. FIRC will be responsible for carrying out all grant requirements, and the Town is not liable for any requirements not met by FIRC.

As part of the application process, the attached resolution authorizes the submittal of the CDBG application to the Department of Local Affairs requesting a grant in the amount of \$600,000.

Staff will be available at the February 14 work session to answer questions.

1 RESOLUTION NO. ____

2
3 Series 2023

4
5 **RESOLUTION APPROVING COMMUNITY DEVELOPMENT BLOCK GRANT**
6 **APPLICATION ON BEHALF OF THE FAMILY AND INTERCULTURAL**
7 **RESOURCE CENTER.**

8
9 WHEREAS, the Colorado Department of Local Affairs administers the federal
10 Community Development Block Grant (CDBG) program to carry out community development
11 activities;

12 WHEREAS, Family & Intercultural Resource Center (FIRC) and Building Hope have
13 partnered to construct the 18,000 square foot Sol Center within the Alta Verde workforce
14 neighborhood in the Town of Breckenridge;

15 WHEREAS, the funds must be used for activities that benefit low- and moderate-income
16 persons;

17 WHEREAS, local governments may apply for these CDBG grant funds on behalf of
18 nonprofits; and,

19 WHEREAS, the Town of Breckenridge is applying on behalf the FIRC for a CDBG grant
20 to be used for construction of the Sol Center to provide a welcoming, inclusive space for our
21 workforce to access resources and programming in a convenient location along the free bus
22 line.

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

25
26 **Section 1.** The Town Council of the Town of Breckenridge conducted a public hearing
27 on February 14, 2023.

28 **Section 2.** After taking testimony at the hearing, the Town Council of the Town of
29 Breckenridge does hereby authorize the grants administrator to submit an application to the
30 Department of Local Affairs for the Community Development Block Grant for the Sol Center in
31 the amount of \$600,000.

32 **Section 3.** All resolutions, or parts thereof, inconsistent herewith are hereby repealed to
33 the extent only of such inconsistency. This repealer shall not be construed to revive any such
34 resolution, or part thereof, heretofore repealed.

35 **Section 4.** This resolution is effective upon adoption.
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RESOLUTION APPROVED AND ADOPTED this ____ day of ____, 2023.

TOWN OF BRECKENRIDGE

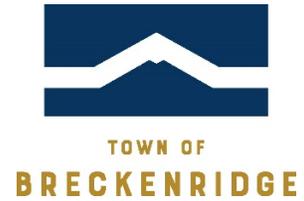
By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney Date



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: February 8, 2023
Subject: Planning Commission Decisions of the February 7, 2023 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, February 7, 2023:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS: None.

TOWN PROJECT HEARINGS: None.

OTHER: None.

PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 pm by Chair Frechter.

ROLL CALL

Mike Giller Mark Leas Allen Frechter Susan Propper-**absent**
Ethan Guerra Steve Gerard

APPROVAL OF MINUTES

With the below change, the January 17, 2023 Planning Commission Minutes were approved.

Mr. Gerard: Commissioner comments should read, “rode this lift with my kids,” not “will my kids.”

APPROVAL OF AGENDA

With no changes, the February 7, 2023 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None

PRELIMINARY HEARINGS:

1. Evans McClean House Garage Addition and Landmarking (CK), 102 S. French Street, PL-2022-0532
Mr. Kulick presented a proposal to locally landmark and rehabilitate an existing historic primary residence, add 693 sq. ft. of free basement density and add a single car garage on the rear of the non-historic portion of the structure. An interior renovation of the property will reduce the number of bedrooms from 8 to 7. The following specific questions were asked of the Commission:

1. **Historic Preservation** - Staff believes the proposal warrants positive three (+3) points for on-site historic preservation/restoration efforts of average public benefit for a primary structure. Does the Commission agree?
2. **Roof Design** - Does the Commission agree the proposed roof design complies with Priority Design Standard 121?
3. **Connector** – Does the Commission agree that the proposed French Doors do not comply with the requirement under Priority Design Standard 80/A that connectors should feature a single-door?
4. **Removal of Historic Fabric** - Should the window enlargement on the eastern façade of the historic primary structure receive negative three (-3) points under Design Standard 23 for the removal of historic fabric?
5. **Local Landmarking** – Does the Commission support Local Landmarking of the historic structure?
6. Does the Commission have any additional comments on the proposed project design?

Commissioner Questions / Comments:

Mr. Guerra: No questions.

Mr. Gerard: Could you address the comments on page 14, priority design standard 45, where one positive point was given but not added to the point analysis? (Mr. Kulick: The one point is quoted from the design standard text. This project would not be eligible for that positive point.) Please add something to the report to indicate this project is not eligible for that point. Can you address this project from the standpoint of the historic shed? (Mr. Kulick: There are no proposed changes to the historic shed. The cultural resource survey indicates that the shed has undergone significant changes over time. Much of the historic material has been removed and new openings have been added. At this time nothing is proposed to change with the shed. The applicant can expand further.)

- Mr. Leas: Can you expand on the free underground density in exchange for becoming a local landmark? (Mr. Kulick: As a way to encourage local landmarking, when a property is not eligible for National Register landmarking, this was enacted as an incentive to allow for more underground density in exchange for an added layer of protection. In cases where there is a historic portion, the free basement density is only allowed under the historic portion. Areas beneath non-historic portions would count against the total density.) On page 13 you reference the “poor house,” is that a family name or literal term? (Mr. Kulick: That home once served as a hospital and provided other public services; I believe the term “poor house” is historic slang that has been carried forward.) Regarding the metal siding proposed, can you elaborate on this precedent? (Mr. Kulick: There are various examples of metal siding being applied to outbuildings throughout the historic district. It was used as a repair material historically.)
- Mr. Giller: The French doors on the connector, if one door is fixed in place, is it still considered a double door? (Mr. Kulick: Yes, it would meet the definition of a double door because of the character when considering the solid to void ratio.) Does it matter that it is 2/3 light door? (Mr. Kulick: In past projects we have allowed 2/3 light French doors in non-connectors. The connector standard does say only one door is allowed.) The porch existed, was demolished, and reconstructed? (Mr. Kulick: This residence has undergone significant rehabilitation over time. A remodel in 1997 brought back much of the historic character.) Is this project already landmarked, I notice a placard? (Mr. Kulick: That placard is from a past program that identified historic properties but did not go through the process of actually landmarking. This process would officially designate the property as a landmark).
- Mr. Frechter: Priority design standard 37.5 states, “any addition should be aligned with one sidewall of this historic structure”. With the way the home exists now, how do we reconcile that? (Mr. Kulick: We would deem this a non-applicable policy since this addition is attaching to an existing non-historic structure.) This may be a building department issue and not for us but the historic shed is currently being used as a hot tub room.

Applicant, Janet Sutterley, Architect:

There were two different types of placards in the past. There are seven major benefits of this project. We are lowering the intensity of use by changing the use from lodging to residence. We are eliminating a non-deed restricted accessory dwelling unit. We are reducing from eight bedrooms to seven bedrooms. Parking is reduced and parking intensity is reduced by going to a single-family residential use. The parking surface area is decreased and we are decreasing above ground density. This project will greatly improve the east-side elevation of this property which is visible from the Community Center. (The applicant passed out printed photographs.) Having this side read as an outbuilding will help this east elevation. The connector, which is not really a connector, I could only find one other example of a connector with quite a lot of glass in it. We have basic reasons for requesting the French doors, this will allow more lighting into the area. One door would be fixed because it is a slider. It is not visible from the street. We are only proposing to remove a small amount of historic fabric while we are proposing to reopen several historic openings. The historic shed is currently used for a hot tub and storage area. The siding on the stable of the Brown Hotel has been restored with a thin-ribbed metal and is a good example of an historic placement of metal. Everything that was previously removed and put back, the side porch, south porch, and bay window were removed and put back. The 40 sq ft asked about previously might be the mechanical area.

Questions for the Applicant:

- Mr. Guerra: Addressing the connector, why is it not a connector? (Ms. Sutterley: It was completed prior to the connector policy, it does not meet the connector policy size requirements or setbacks.) Reading the floorplans, the buildings read as two separate buildings. It might

not meet the connector design criteria but it reads that way. (Mr. Kulick: The overall width is wider than what is allowed today.) Looking at your floorplans it doesn't look like a connector.

Mr. Gerard: Looking at the upper-level floorplan, the bonus room or bedroom next to the great room is not labeled. (Ms. Sutterley: That has been corrected and labeled.) I know there are no plans to restore the shed but it would be a nice future project. I assume you are stripping away the window well covers. (Ms. Sutterley: Yes, those will be removed. We will add snow jacks.) Can you speak to the two front doors. (Ms. Sutterley: The door to the kitchen would have been a secondary door. The primary front door will be the nicer of the two doors to distinguish between their functions.)

Mr. Leas: No questions.

Mr. Giller: No questions.

Mr. Frechter: No questions.

The hearing was opened to the public for comment. There were no comments and the comment period was closed.

Mr. Guerra: This is a great presentation and I like the updates to the building. One question 1. Agree on the three positive points. 2. On the roof design, I agree the project complies. 3. The connector I still struggle with. I agree you can't see the connector. I agree with the applicant's points. I am struggling with if it is a connector or not. If it is a connector, it doesn't meet the requirement. I would like to hear other's opinions on that. 4. I agree with the three negative points for the removal of historic fabric. 5. I agree with local landmarking.

Mr. Gerard: I like this project and commend the owners for moving this residence in the right direction. 1. I agree with the points. 2. No problems with the roof design. 3. I do believe this is a connector. I believe that a slider is not appropriate here. I think a $\frac{3}{4}$ light door would work fine. 4. I agree with negative points for the removal of historic fabric. 5. I agree with local landmarking. 6. I am assuming the lighting will be made to be dark sky compliant. I think this project is ready for a final hearing.

Mr. Leas: 1. I agree with the three points. I concur with the panel that this is a good project. 2. I agree with the roof design. 3. I struggle with the connector. I struggle with what the design standard says. We should be flexible. There should be, for the practical use of the house, a larger door opening here. I think the design you have with the sliders is in keeping with the design of the house. The fact that they cannot be seen from the street makes a difference. 4. I agree with negative three points although it is a lot of points for the limited amount of historic fabric that will be removed but if that is what the design standard says I agree. 5. I do support the local landmarking.

Mr. Giller: This is a beautiful project. 1. Yes. 2. Roof design does comply. 3. This is a connector per the Secretary of the Interior Standards. I feel bound by the existing code that says a connector only has a single door but this could be something we revisit in the future although it would not help this project. 4. I agree with the three negative points the code says. 5. I agree and good work.

Mr. Frechter: 1. I agree. 2. It complies. 3. I agree this is a connector. 4. I agree. 5. I support the local landmarking. 6. I think this is a great project and support the decreased intensity of use.

Commissioners agree by nod that this project is ready for a final hearing.

OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 7:10pm.

Allen Frechter, Chair



Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

February 2023

| | | | |
|---------------------------------|-------------------------|------------------------------------|--------------------------|
| Friday, Feb. 10th, 2023 | Gold Run Nordic Center | Coffee Talk w/ Fat Bike Ride | 8:30am - 9:30am |
| Tuesday, Feb. 14th, 2023 | Council Chambers | First Meeting of the Month | 3:00 pm / 7:00 pm |
| Tuesday, Feb. 28th, 2023 | Council Chambers | Second Meeting of the Month | 3:00 pm / 7:00 pm |

March 2023

| | | | |
|----------------------------------|-------------------------|------------------------------------|--------------------------|
| Tuesday, March 14th, 2023 | Council Chambers | First Meeting of the Month | 3:00 pm / 7:00 pm |
| Tuesday, March 28th, 2023 | Council Chambers | Second Meeting of the Month | 3:00 pm / 7:00 pm |

Other Meetings

| | | |
|---------------------|---|--------------------------------------|
| February 14th, 2023 | Board of County Commissioners Meeting Workforce Housing Committee | 9:00am / 1:30pm 10:30am |
| February 16th, 2023 | Breckenridge Creative Arts | Noon |
| February 20th, 2023 | Social Equity Advisory Commission | 7:30am |
| February 21st, 2023 | Board of County Commissioners Meeting Liquor & Marijuana Licensing Authority Planning Commission Meeting | 9:00am 9:00am 5:30pm |
| February 23rd, 2023 | Summit Stage Transit Board Meeting Breckenridge Tourism Office Board Meeting Breckenridge Creative Arts RW&B Board Meeting | 8:15am 8:30am 2:00pm 3:00pm |
| February 27th, 2023 | Open Space & Trails Meeting | 5:30pm |
| February 28th, 2023 | Board of County Commissioners Meeting | 9:00am / 1:30pm |
| March 1st, 2023 | Police Advisory Committee Breckenridge Events Committee Childcare Advisory Committee | 7:30am 9:00am 10:00am |
| March 7th, 2023 | Board of County Commissioners Meeting Planning Commission Meeting | 9:00am 5:30pm |
| March 8th, 2023 | Breckenridge Heritage Alliance | Noon |
| March 9th, 2023 | QQ - Quality and Quantity - Water District I-70 Coalition Upper Blue Sanitation District | 10:00am 11:30am 5:30pm |
| March 14th, 2023 | Board of County Commissioners Meeting Workforce Housing Committee | 9:00am / 1:30pm 10:30am |
| March 15th, 2023 | Summit Combined Housing Authority | 9:00am |
| March 20th, 2023 | Social Equity Advisory Commission | 7:30am |



Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

| | | |
|------------------|---|-----------------|
| March 21st, 2023 | Board of County Commissioners Meeting | 9:00am |
| | Liquor & Marijuana Licensing Authority | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| March 23rd, 2023 | Transit Advisory Council Meeting | 8:10am |
| | Summit Stage Transit Board Meeting | 8:15am |
| | Breckenridge Tourism Office Board Meeting | 8:30am |
| | Northwest CO Council of Governments | 10:00am |
| | RW&B Board Meeting | 3:00pm |
| March 27th, 2023 | Open Space & Trails Meeting | 5:30pm |
| March 28th, 2023 | Board of County Commissioners Meeting | 9:00am / 1:30pm |
| April 4th, 2023 | Board of County Commissioners Meeting | 9:00am |
| | Planning Commission Meeting | 5:30pm |
| April 5th, 2023 | Breckenridge Events Committee | 9:00am |
| | Childcare Advisory Committee | 3:00pm |
| April 12th, 2023 | Breckenridge Heritage Alliance | Noon |
| April 13th, 2023 | I-70 Coalition | 3:30pm |
| | Upper Blue Sanitation District | 5:30pm |
| TBD | Tourism Overlay District Advisory Committee Meeting | 10:30am |
| | Transit Advisory Council Meeting | 8:00am |
| | Water Task Force Meeting | 9:30am |