

RESOLUTION NO. 17

SERIES 1997

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE BRECKENRIDGE SANITATION DISTRICT CONCERNING THE 1997 SKI HILL ROAD IMPROVEMENT PROJECT

WHEREAS, the Town is presently engaged in the 1997 Ski Hill Road Improvement Project; and

WHEREAS, the Breckenridge Sanitation District ("District") has determined that there is a need to replace and enlarge its sewer facilities located within the Town's Ski Hill Road right-of-way; and

WHEREAS, the District and the Town have determined that it would be efficient and fiscally prudent for the Town and the District to coordinate their efforts with respect to the work to be done in the Ski Hill Road right-of-way, and that such coordination could best be achieved through the use of a single contractor; and

WHEREAS, the Town has negotiated a contract for the work to be done in the Ski Hill Road right-of-way, including both the work to be done for the Town and the work to be done for the District; and

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

WHEREAS, a proposed Intergovernmental Agreement between the Town and the District related to the work to be done in connection with the 1997 Ski Hill Road Improvement Project has been prepared; and

WHEREAS, the Town Council has reviewed the proposed Intergovernmental Agreement and finds and determines that it would be in the best interest of the Town to enter into such Agreement.

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

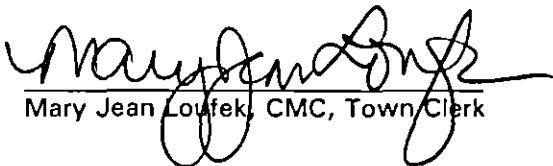
Section 1. The Town shall enter into an Intergovernmental Agreement with Breckenridge Sanitation District concerning the 1997 Ski Hill Road Improvement Project substantially in the form marked "Exhibit "A", attached hereto and incorporated herein by reference, and the Town Manager is hereby authorized, empowered and directed to execute such Agreement for and on behalf of the Town of Breckenridge.


Section 2. This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 10TH DAY OF JUNE, 1997.

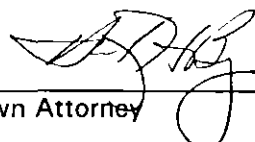
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM:


Town Attorney

6/10/97
Date

EXHIBIT A
INTERGOVERNMENTAL AGREEMENT

EXHIBIT "A"
RESOLUTION 17, SERIES 1997

Ski Hill Road Expansion

This Intergovernmental Agreement ("Agreement") is made and entered as of this 5th day of March, 1997, by and between the Town of Breckenridge, a Colorado home rule municipal corporation, whose address is P.O. Box 165, Breckenridge, Colorado 80424 ("Town"); and the Breckenridge Sanitation District, a Colorado quasi-municipal corporation whose address is P.O. Box 1216, Breckenridge, Colorado 80424 ("District") (collectively the "Parties").

WHEREAS, C.R.S. §§ 29-1-201, et seq., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties, and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Article XIV, § 16(2) of the Colorado Constitution; and

WHEREAS, the Parties desire to enter into this Agreement in order to coordinate the resurfacing and expansion of Ski Hill Road, and the reconstruction of the District's sewer line in the Ski Hill Road right-of-way (hereinafter the "Project"); and

WHEREAS, the Town has prepared plans and specifications for the Project which include, *inter alia*, the reconstruction of the District's sewer line in accordance with the District's Specifications; and

WHEREAS, the Parties have determined that general efficiency in the construction of the Project would best be served through the coordination of their efforts and through the use of a single contractor; and

WHEREAS, the Town has negotiated a contract for the Project based upon the plans and specifications described above; and

WHEREAS, the purpose of this Agreement is to set forth the respective rights, obligations and responsibilities of the Town and the District concerning the Project; and

WHEREAS, the functions described in this Agreement are lawfully authorized to each of the Parties performing such functions hereunder at C.R.S. §§ 31-16-701 et seq. and C.R.S. §§ 32-1-1001 et seq.; and

WHEREAS, the Parties have each held hearings, after proper public notice, for the consideration of entering into this Agreement for the Project.

NOW THEREFORE, in consideration of the above-recited premises and the mutual covenants and commitments made herein, the Parties agree as follows:

1. **CONTRACTING.** The Town, pursuant to its powers to contract for the construction of public improvements, shall execute the contract for the Project and hire the contractor to perform all of the work required to complete the Project, including without limitation, the reconstruction of the District's sewer line in the Ski Hill Road right-of-way.

2. SUBMITTAL OF APPLICATIONS AND AUTHORIZATION OF PAYMENT.

Pursuant to the contract negotiated by the Town, the contractor is required to present the Town with a Contractor's Application for Payment ("Application"), as well as any supporting documentation, including bills of sale, invoices or other documents indicating that materials for the Project are held free and clear by the contractor. Those Applications must be approved by the Town's Engineer. The Town must hereby submit copies of said Applications and supporting documentation and wait for the District's recommendation to pay for components of the Project relating to reconstruction of the District's sewer line in the Ski Hill Road right-of-way. Should the District and Town's Engineer disagree as to whether payment should be made under the contract, such a dispute shall be resolved according to the terms of paragraph four (4) of this Agreement. Upon presentation to the Town of the Application for Final Payment, and upon receipt of the Town Engineer's and the District's recommendations for final payment, the Town is required to advertise a Notice of Final Settlement in a local newspaper of general circulation. The Town shall also deliver a copy of said Notice to the District concurrent with its publication.

3. REIMBURSEMENT BY DISTRICT. Upon agreement by the Town and the District that payment should be made to the contractor, the Town shall make such payment. The District shall, within ten (10) days of receiving proof of payment from the Town, reimburse the Town for the percentage of costs allocable to the reconstruction of the District's sewer line in the Ski Hill Road right-of-way.

4. DISPUTE RESOLUTION. Should the Town and the District disagree as to whether to authorize payment to the contractor pursuant to paragraph two (2) of this Agreement, the Parties agree that efficiency would best be served by requiring the manager of the Town and the manager of the District to negotiate in good faith regarding the disputed issues. Neither the Town nor the District intends to waive any legal or equitable rights it may have by accepting this term.

5. AMENDMENTS. This Agreement contains the entire understanding between the Parties and supersedes any prior agreements, negotiations, or understandings relating to the Project. Any proposed amendment of the Agreement affecting the rights, powers or obligations of the Parties shall be made in writing only, and only upon the approval of both Parties as indicated by the signature of an official authorized to make such approval for the Town and the District.

6. SEVERABILITY. If any portion of this Agreement is held by a court of competent jurisdiction in a final, non-appealable decision to be invalid or unenforceable as to any Party, the Agreement shall still be valid to the extent the invalid portion of this Agreement is excludable from the remainder of the Agreement without preventing achievement of the purposes of the Agreement.

7. ENFORCEMENT. Any Party may enforce this Agreement by any legal or equitable means including specific performance, and declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement.

8. GOVERNING LAW AND VENUE. This Agreement shall be governed by the laws of the State of Colorado and venue shall lie in the County of Summit.

9. TERM. This Agreement shall remain in effect until the contract entered into by the Town pursuant to this Agreement has been fully performed and all authorized payments have been made.

10. **NOTICES.** Notices made under the terms of this Agreement shall be sent to the Parties as follows:

Town of Breckenridge	Town of Breckenridge, Town Manager P.O. Box 100 Breckenridge, Colorado 80424
Breckenridge Sanitation District	Breckenridge San. Dist., President P.O. Box 1118 Breckenridge, Colorado 80424

11. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be considered an original for all purposes and all of which together shall constitute but one in the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement as of the date first written above.

BRECKENRIDGE SANITATION DISTRICT

By: Alfred T. Whalley _____
Alfred T. Whalley, President Date

ATTEST:

Era E. Matzula
Era E. Matzula, Secretary

TOWN OF BRECKENRIDGE

By: _____
Gary Martinez, Town Manager Date

ATTEST:

Town Clerk