

RESOLUTION NO. 40

SERIES 1997

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY CONCERNING THE GOLDEN GATE PLACER

WHEREAS, the Board of County Commissioners of Summit County ("County") and the Town desire to obtain lands within Summit County to preserve as open space and to use for recreational purposes consistent with the open space character of the real property; and

WHEREAS, the County and Town entered into an Option Agreement dated August 20, 1997, for the purchase of the Golden Gate Placer Mining Claim (U.S. Mineral Survey No. 17166) ("Property"), and the County and Town agreed to exercise the option contained in such Agreement; and

WHEREAS, the County and Town each paid One Hundred Fifty Thousand Dollars (\$150,000.00) for their respective interests in the Property and, in turn, each of the parties own an undivided one-half (1/2) interest in the Property (as a tenant in common with the other party), as evidenced by the General Warranty Deed recorded October 17, 1997 at Reception No. 549866 of the records of the Summit County Clerk and Recorder; and

WHEREAS, the County and Town desire to enter into an agreement providing for the joint use and occupancy of the Property, as well as the apportionment of the management costs and expenses related thereto, all as more fully set forth in the proposed Intergovernmental Agreement, a copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference; 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, 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:

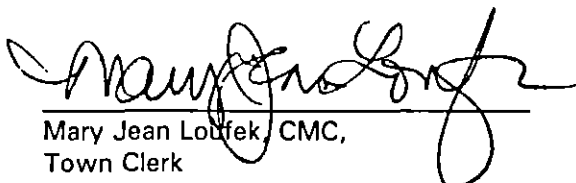
Section 1. The proposed Intergovernmental Agreement with the Board of County Commissioners of Summit County concerning the Golden Gate Placer ("Exhibit "A" hereto) is approved, and the Mayor is hereby authorized, empowered and directed to execute such Agreement for and on behalf of the Town of Breckenridge.

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

RESOLUTION APPROVED AND ADOPTED THIS 9TH DAY OF DECEMBER, 1997.

TOWN OF BRECKENRIDGE

ATTEST:


Mary Jean Loufek, CMC,
Town Clerk


By _____
Stephen C. West, Mayor

APPROVED IN FORM



Town Attorney
12/9/97
Date

EXHIBIT "A" TO
RESOLUTION NO. 40, SERIES 1997

INTERGOVERNMENTAL AGREEMENT
GOLDEN GATE PLACER OPEN SPACE PROPERTY

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this 9TH day of DECEMBER, 1997, by and between the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO ("County") and the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("Town").

WHEREAS, the County and the Town desire to obtain lands within Summit County to preserve as open space and to use for recreational purposes consistent with the open space character of the real property; and

WHEREAS, the County and Town entered into an Option Agreement dated August 20, 1997, for the purchase of the Golden Gate Placer Mining Claim (U.S. Mineral Survey No. 17166) ("Property"), and the County and Town agreed to exercise the option contained in such Agreement; and

WHEREAS, the County and Town each paid One Hundred Fifty Thousand Dollars (\$150,000.00) for their respective interests in the Property and, in turn, each of the parties own an undivided one-half (½) interest in the Property (as a tenant in common with the other party), as evidenced by the General Warranty Deed recorded October 17, 1997 at Reception No. 549866 of the records of the Summit County Clerk and Recorder; and

WHEREAS, the County and Town desire to enter into an agreement providing for the joint use and occupancy of the Property, as well as the apportionment of the management costs and expenses related thereto.

NOW, THEREFORE, in consideration of the above premises and the terms and conditions contained herein, the parties agree as follows:

1. Authority. This Agreement is entered into pursuant to the authority granted by Article XIV, Section 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29, C.R.S.

2. Maintenance and Liabilities -- Generally. Except as otherwise expressly provided in this Agreement, the County and Town agree to share and pay equally all costs and liabilities associated with the ownership and maintenance of the Property. The County agrees to assume the responsibility for the general maintenance of the Property, and the Town shall, upon receipt from County of such documentation of expenses as it may reasonably require, reimburse the County for one-half (½) of the general maintenance expenses associated with the maintenance of the Property. Notwithstanding the foregoing, the County and Town shall be individually responsible for all services and expenses associated with or resulting from the specific activities, events, or uses on the

Property which it sponsors.

3. Joint Use -- Generally. The County and Town shall have equal rights to the use and enjoyment of the Property consistent with the restrictions contained in this Agreement and the Joint Management Plan described in Paragraph 4. Pending the final adoption of the Joint Management Plan, the County and Town agree that the Property may be used only for the following public purposes: (i) public open space, (ii) hiking, (iii) cross-county skiing, (iv) snowshoeing, (iv) bicycling on existing trails, and (v) motorized uses on those trails or routes depicted on the Exhibit "A", which is incorporated herein by reference. The County shall have the responsibility for the issuance of all permits required for the use of the Property; which permitting process shall be governed by the County's outdoor property land use policies, as amended from time to time; provided, however, that no permit for the use of the Property shall be issued by the County without the prior consent of the Town.

4. Joint Management Plan. Within one (1) year of the execution of this Agreement, the County open space staff and Town planning staff shall jointly prepare a Joint Management Plan ("Plan") for the Property, which Plan shall identify the location and type of suitable uses for the Property. The management planning process will (i) explore compatible uses and improvements which will increase the public benefits to be derived from the Property, (ii) propose policies and practices to facilitate the use of the Property, and (iii) consider what action, if any, should be taken by the Town and the County to permanently limit the use of the Property to open space and related uses. The Plan shall be reviewed at at least one joint meeting of the Summit County Open Space Advisory Council and Breckenridge Open Space Advisory Commission, which meeting shall include an opportunity for comments from the public on the proposed plan. Any comments or recommendations resulting from the joint review process shall be forwarded to the governing bodies of the County and Town. The Plan shall thereafter be reviewed and considered for approval by the governing bodies of the County and Town. Final approval of the Plan shall not be unreasonably withheld by either the County or the Town. The County and Town agree that final approval of the Plan shall occur within eighteen (18) months following the execution of this Agreement. Upon approval, the Plan, as it may be amended from time to time, shall control the use and development of the Property. In the event of any conflict between the Plan and this Agreement, the Plan shall control.

5. Zoning and Land Use Laws. The use and development of the Property shall be governed by the Summit County Land Use and Development Code and state law applicable thereto, as such may be amended from time to time. Any use of the Property listed in Paragraph 3, above, or contained in the Plan, which requires the disturbance of the surface of the Property or the construction of

any improvement on the Property shall be reviewed in accordance with the Summit County Land Use and Development Code. No improvement shall be made to the Property without the prior consent of both the County and the Town. The cost of any such improvement shall be paid equally by the County and Town.

6. Insurance. Each party shall maintain, at its sole cost and expense, general liability insurance insuring its ownership of the Property with limits of liability not less than the limits of liability established from time to time by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any successor statute. A certificate of insurance shall be completed by each party's insurance agent and provided to the other party as evidence that a policy providing the required coverages, conditions, and minimum limits is in full force and effect. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the other party.

7. Indemnification. Each party agrees to indemnify and hold harmless the other party, its officers, employees, insurers and self-insurance pool, if any, from and against any liability, claim and demand, on account of injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss whatever, including attorney's fees and costs incurred by the recipient of such indemnification, which arise out of, or are in any manner connected with this Agreement, or such party's use or occupancy of the Property, to the extent such injury, loss or damage is caused by the negligence of the indemnifying party, its officers, employees, representatives, agents or contractors.

8. Right of First Refusal -- Town. If County receives and accepts an offer to sell its interest in the Property to a third party, County shall give Town written notice of the offer, together with a copy thereof, and Town shall have thirty (30) days after the date said notice is given to exercise its right of first refusal as to that offer. If Town elects to exercise its right of first refusal it shall notify County of such election in writing within the thirty (30) day period; shall at the same time make any deposit or down payment provided for in the offer; and shall thereafter be bound by and subject to all of the terms and conditions contained in the third party's offer, with the exception that any terms and conditions relating to times for performance by either party shall be extended by thirty (30) days. Town's failure to exercise its right of first refusal as to any one offer for the County's interest in the Property shall not affect its right of first refusal as to any subsequent offer received and accepted by County.

9. Right of First Refusal -- County. If Town receives and accepts an offer to sell its interest in the Property to a third

party, Town shall give County written notice of the offer, together with a copy thereof, and County shall have thirty (30) days after the date said notice is given to exercise its right of first refusal, as to that offer. If County elects to exercise its right of first refusal it shall notify Town of such election in writing within the thirty (30) day period; shall at the same time make any deposit or down payment provided for in the offer; and shall thereafter be bound by and subject to all of the terms and conditions contained in the third party's offer, with the exception that any terms and conditions relating to times for performance by either party shall be extended by thirty (30) days. County's failure to exercise its right of first refusal as to any one offer for the Town's interest shall not affect its right of first refusal as to any subsequent offer received and accepted by Town.

10. Recording. A fully executed copy of this Agreement shall be recorded in the real property records of the Clerk and Recorder of Summit County, Colorado.

11. No Right to Encumber. Neither party shall have the right to mortgage, pledge, hypothecate, assign or otherwise encumber its interest in the Property without the prior written consent of the other party.

12. No Partition. The Property shall remain undivided, and neither party, nor any other person, shall bring any action for partition or division of the Property. Each party expressly waives any and all such rights of partition as such party may have by virtue of such party's ownership of an undivided one-half interest in the Property.

13. Termination. In the event either party materially defaults in the performance of any of the material covenants or agreements to be kept, done or performed by it under the terms of this Agreement, the non-defaulting party shall notify the defaulting party in writing of the nature of such default. The defaulting party shall commence correcting the default within thirty (30) days of receipt of notification thereof and thereafter correct the default with due diligence. If the defaulting party fails to correct the default as provided above, the non-defaulting party, without further notice, shall have the right to declare that this Agreement is terminated effective upon such date as the non-defaulting party shall designate.

14. Amendment. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

15. Annual Appropriation. Notwithstanding anything herein contained to the contrary, the obligations of each party under this Agreement are expressly subject to an annual appropriation being made by the governing body in an amount sufficient to allow such

party to perform its obligations hereunder. In the event sufficient funds shall not be appropriated for the payment of sums due to the other party hereunder, this Agreement may be terminated by either party without penalty. Neither the Town nor the County's obligations hereunder shall not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

16. Governmental Immunity. The parties hereto understand and agree that each is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity or protection otherwise available to such party, its officers, or its employees.

17. Binding Effect. This Agreement shall be binding on upon and shall inure to the benefit of the County and Town, their successors and assigns.

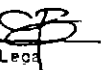
18. Approval By Governing Boards or Other Authority. In accordance with Section 29-1-203(1), C.R.S., this Agreement shall not become effective unless and until it has been approved by the governing bodies of both the County and the Town, or such person as shall have the power to approve this Agreement on behalf thereof.

IN WITNESS WHEREFORE, this Agreement is entered into on the day and year first above written.

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By 
Gary M. Lindstrom, Chairman

Approved as
to form


Legal

ATTEST:



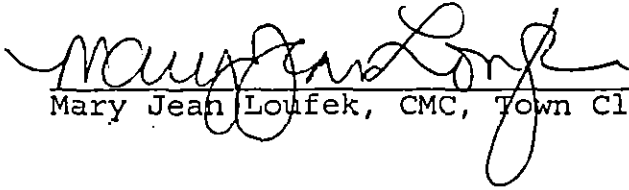
Clerk and Recorder, Summit County,
Colorado; ex officio Clerk of
said Board

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation



By _____
Stephen C. West, Mayor

ATTEST:

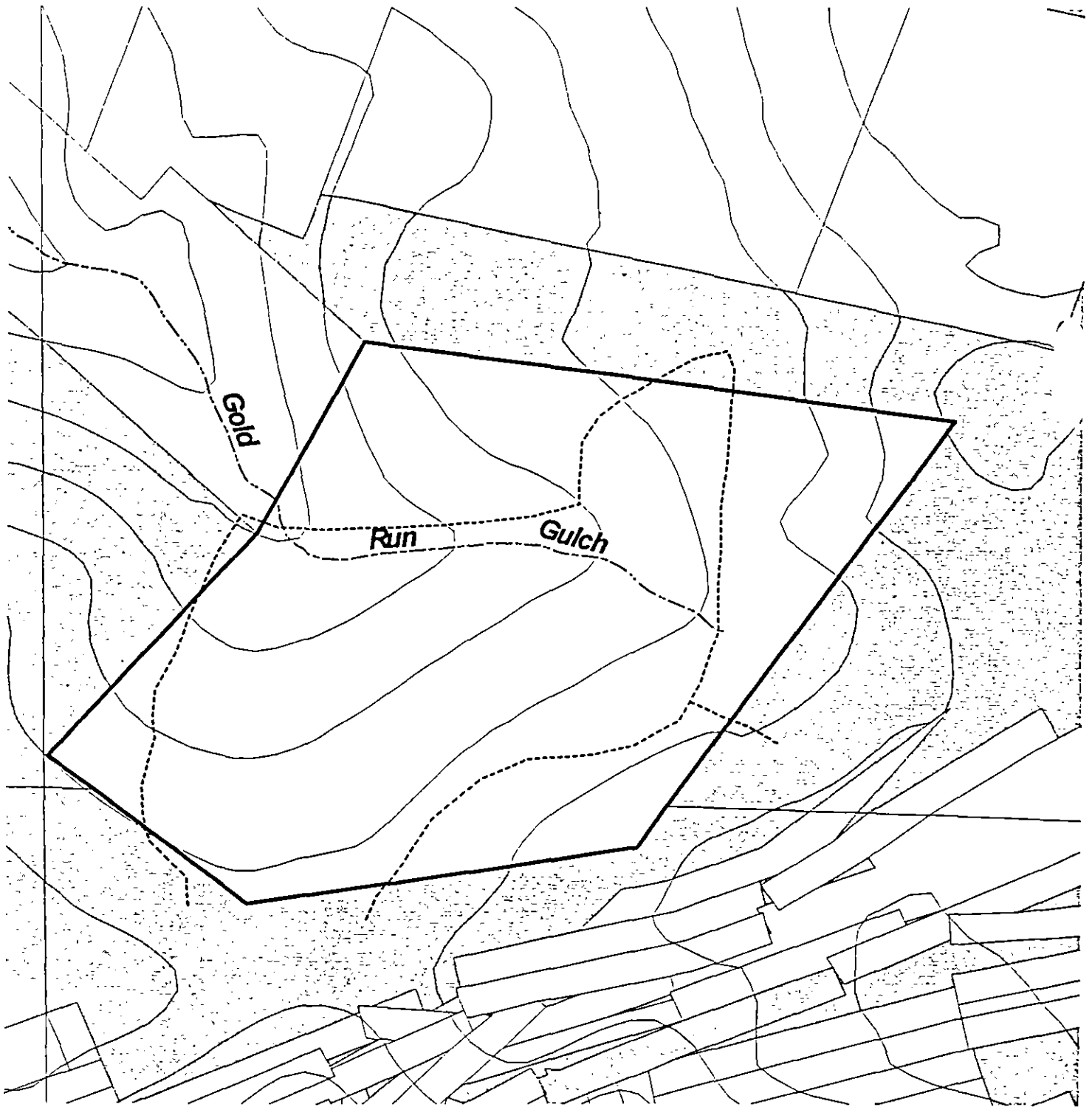


Mary Jean Loufek, CMC, Town Clerk

Exhibit "A"

Map Depicting Trails Authorized For Motorized Use

EXHIBIT A INTERGOVERNMENTAL AGREEMENT GOLDEN GATE PLACER OPEN SPACE PROPERTY



LEGEND

- | | |
|--|--|
| <ul style="list-style-type: none"> Golden Gate Placer Private Land National Forest | <ul style="list-style-type: none"> Designated Trails/Routes, Golden Gate Placer 100-foot Contour Lines Streams |
|--|--|

200 0 200 400 600 800 Feet



This map is for display purposes only.
Do not use for legal conveyance.
Not necessarily accurate by surveying
standards, and does not comply with
National Mapping Accuracy Standards.