

RESOLUTION NO. 1

Series 1998

A RESOLUTION APPROVING AN ANNEXATION AGREEMENT WITH THE SOUTHLAND CORPORATION
(Lots 6, 7, and 8, French Creek Center -- .835 acres, more or less)

Whereas, The Southland Corporation is or will soon be the owner of certain real property currently located within unincorporated Summit County, Colorado; and

Whereas, The Southland Corporation proposes the annexation of such property to the Town of Breckenridge; and

Whereas, the Town and The Southland Corporation have come to an agreement with respect to the terms and conditions of the annexation, all as more fully set forth in the proposed Annexation Agreement; and

Whereas, the Town Council of the Town of Breckenridge has reviewed the proposed Annexation Agreement and finds and determines that the approval of the proposed Annexation Agreement would be in the best interest of the Town and its citizens.

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

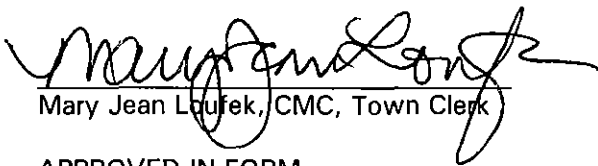
Section 1. The proposed Annexation Agreement between the Town and The Southland Corporation, a copy of which is marked exhibit "A", attached hereto and incorporated herein by reference, is approved, and the Town Manager is authorized, empowered and directed to execute such Agreement for and on behalf of the Town of Breckenridge.

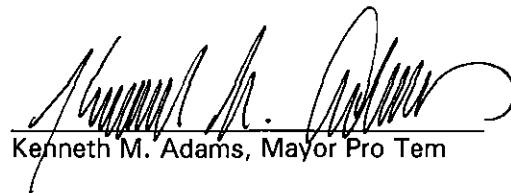
Section 2. This Resolution shall become effective upon its adoption.

RESOLUTION ADOPTED AND APPROVED THIS 13TH DAY OF JANUARY, 1998.

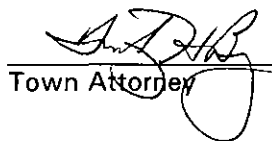
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Kenneth M. Adams, Mayor Pro Tem

APPROVED IN FORM


Town Attorney

1/13/98
Date

**EXHIBIT "A" TO
RESOLUTION NO. 1, SERIES 1998**

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 19____, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("Town") and THE SOUTHLAND CORPORATION ("Owner").

WHEREAS, Owner is the owner of the real property described in Exhibit "A" ("Property"); and

WHEREAS, Owner proposes the annexation of the Property to the Town; and

WHEREAS, the Town has determined that it would be in the best interest of the public health, safety, and welfare of its citizens to impose certain terms and conditions on the Owner in connection with the annexation of the Property to the Town; and

Whereas, Owner and Town have come to an Agreement with respect to the terms and conditions of the annexation of the Property to the Town, all as more fully set forth hereafter.

NOW, THEREFORE, in consideration of the recitals, promises, and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS. As used in this Agreement, unless the context clearly requires otherwise:

"Annexation Ordinance" shall mean the ordinance adopted by the Town Council of the Town of Breckenridge pursuant to the Municipal Annexation Act of 1965 (Section 31-12-101, et seq., C.R.S.) officially annexing the Property to the Town of Breckenridge.

"Annexation/Water Surcharge" or "Surcharge" shall mean the fee due and payable to the Town pursuant to Paragraph 7 of this Agreement. Such fee shall be paid to the Town as a general annexation fee and in lieu of the transfer of raw water to the Town by the Owner.

"Applicable Town Ordinances" shall mean all ordinances of the Town which regulate the development, subdivision and use of the Property, as in effect from time to time. Such ordinances shall include, but shall not be limited to, the Town's (i) Development Code, (ii) Street Standards, (iii) Drainage Ordinance, (iv) Flood Prevention Ordinance, (v) Water Quality Ordinance, (vi) Subdivision Ordinance, (vii) Building, Technical and Construction Codes, (viii) Ordinances concerning annexation/water surcharges, (ix) Ordinances concerning payment of fees, (x) Ordinances concerning public dedications; and (xi) all other applicable Town Ordinances, Resolutions, regulations and policies.

"Owner" shall mean The Southland Corporation, its successors and assigns, and all other subsequent owners of the Property.

"PIF" shall mean the current Town Plant Investment Fee as provided for by the Ordinances or regulations of the Town at the time such charges are due and payable to the Town as provided in Paragraph 6 of this Agreement.

"Property" shall mean that certain real property described on the attached Exhibit "A".

"SFE" means a single family equivalent of density as defined by the Applicable Town Ordinances.

2. DEVELOPMENT. Upon the annexation to the Town, development of the Property shall conform in all respects with the Applicable Town Ordinances.

3. PROPOSED USE OF THE PROPERTY.

3.1 Land Use District Designation. Upon annexation the Property shall be placed in Land Use District 5.

3.2 The Town of Breckenridge Land Use District Guidelines provide that a commercial density of 1:5 FAR for units per acre is acceptable for Land Use District 5.

3.3 Plan of Development. Town and Owner agree that the Property will be developed in accordance with the development plan approved by the Town in connection with the issuance of Development Permit No. 97-12-1.

3.4 Extinguishment of Unused Density. Prior to the effective date of the Annexation Ordinance Owner shall execute, acknowledge and record with the Summit County Clerk and Recorder a restrictive covenant providing that, notwithstanding the placement of the Property in Land Use

District 5, upon annexation the total amount of allowed density on the Property shall be a total of 3,940 square feet of density, 2,940 of which is to be used to construct the improvements to the Property described in Development Permit No. 97-12-1, and the remaining 1000 square feet of which shall remain in reserve for future use on the Property only pursuant to a Development Permit issued in accordance with then-applicable Town Ordinances. The Restrictive Covenant shall be in a form and substance acceptable to the Town Attorney, and shall not be subordinate to any prior lien or encumbrance, except the lien of the general property taxes for 1998 and subsequent years.

4. UTILITY SERVICE AND PUBLIC IMPROVEMENTS.

4.1 Extensions of Utility Services and Public Improvements. Owner shall pay all costs for the design and construction of all public improvements and utility services necessary to serve the Property, including, but not limited to, roads, curbs, gutters, sanitary and drainage sewers, water, street lights, electricity, telephone, gas, and cable television service, all in accordance with applicable Town or public utility company standards and specifications. Owner specifically agrees to construct or cause to be constructed those extensions and improvements described in Exhibit "B". Owner shall dedicate to the Town and applicable public utility companies without charge, free and clear of all liens and encumbrances, those easements and rights-of-way necessary for installation and maintenance of said utility lines and other public improvements, including public streets and trails, and in addition shall convey the public improvements to the appropriate entity upon completion and acceptance of the improvements.

4.2 Reimbursement For Improvements. Pursuant to Section 9-2-3-7 of the Breckenridge Town Code, Owner may be eligible for reimbursement from future connector(s) to the public improvements and utility services described in Paragraph 4.1 which are extended by Owner to the Property. Any claim for reimbursement shall be subject to the provisions and requirements of said Section 9-2-3-7 of the Breckenridge Town Code.

4.3 Partial Payment for Improvements to Intersection. Owner shall pay to Town a sum equal to twenty percent (20%) of the total costs incurred by the Town in the construction of improvements to the intersection of Colorado Highway 9 and County Road 450 adjacent to the Property ("Intersection Costs") consisting of (i) the installation of a traffic signal at the intersection, (ii) the construction of a right turn lane on County Road 450 at the intersection and, (iii) the widening/relocation of County Road 450 at the intersection. Owner's obligation to the Town under this Paragraph 4.3 shall in no event exceed Twenty Six Thousand Dollars (\$26,000.00). The Intersection Costs shall be paid by Owner upon the first to occur of a written demand for payment by the Town or the transfer of legal title to the Property by Owner. If not paid within sixty (60) days of receipt by Owner of such demand, the Intersection Costs shall begin to accrue interest at the rate of eighteen percent (18%) per annum until paid. Town may require payment of the Intersection Costs once the final cost of the abovedescribed improvements have been determined by Town and, once paid by Owner, the Intersection Costs shall be used by the Town only to pay for a portion of such road and intersection improvements. The Town's right to demand payment of the Intersection Costs shall terminate five (5) years from the effective date of annexation and shall be contingent upon the Town commencing construction of the abovedescribed improvements not later than five (5) years from the effective date of annexation, to be diligently pursued until completion of such improvements.

Owner shall be notified by Town prior to the finalization of the plans for the intersection improvements in order to give Owner an opportunity to participate in the formulation of such plans. The sum paid by Owner pursuant to this Paragraph shall be not deemed to be a "land development charge" within the meaning of Part 8 of Article 1 of Title 29, C.R.S.

5. PUBLIC DEDICATIONS. In addition to those dedications required in Paragraphs 3 and 4 of this Agreement, pursuant to Development Permit No. 97-12-1 Owner has agreed to dedicate 188.02 square feet of the Property for use in connection with Town's proposed improvements to the intersection of Colorado Highway 9 and County Road 450. Subject to Owner's obligation as set forth in Paragraph 4.3, Town shall pay all costs associated with the construction of such improvements. No additional dedications are required of Owner in connection with this annexation.

6. WATER CHARGES

6.1 Payment Of PIFs. Prior to making connection to the Town's water utility system, Owner shall pay to the Town the required PIFs for the Property.

6.2 Water Rates. Water users on the Property shall pay the then-current rates for water service paid by in-Town water users, subject to all decreases or increases in fees adopted in accordance with Town ordinances and regulations. Water users on the Property are subject to all rules, regulations and ordinances pertaining to the Town's water utility system, including all future amendments.

7. ANNEXATION/WATER SURCHARGE.

7.1 Surcharge Fee. In addition to the fees and charges set forth in Paragraph 6, Owner shall pay to the Town the Annexation/Water Surcharge in accordance with this Paragraph 7. Subject

With A Copy (Which Shall
Not Constitute Notice) To:

Timothy H. Berry, Esq.
Timothy H. Berry, P.C.
P. O. Box 2
Leadville, CO 80461

If To Owner:

The Southland Corporation
Attn: Real Estate Department
P.O. Box 711
Dallas, Texas 75221-0711

With A Copy (Which Shall
Not Constitute Notice) To:

Felice F. Huntley, Esq.
French, West, Brown & Huntley, P.C.
P. O. Box 588
Breckenridge, CO 80424

Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given on the 2nd day following mailing. Notices personally delivered shall be deemed to have been given upon delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process

9.14 Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by either party waiving such rights.

9.15 Applicable Law. This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado.

9.16 Counterparts. This Agreement may be executed in several counterparts and/or signature pages and all counterparts and signature pages so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart or signature page.

9.17 Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

9.18 Terminology. Wherever applicable, the pronouns in this Agreement designating the masculine or neuter shall equally apply to the feminine, neuter and masculine genders. Furthermore, wherever applicable within this Agreement, the singular shall include the plural, and the plural shall include the singular.

9.19 Signage. Owner shall be permitted to erect signs of materials allowed under the Town's Sign Code in close proximity to its gasoline pumps in order to advertise the per gallon cost of gasoline. Such signs shall be not larger than 20 square feet as measured in accordance with the Town's Sign Code. Such signs shall be included within and added to the sign permit issued by the Town for Owner's other signage at the Property, regardless of the fact that the other signage equals the total allowable sign area established by the Sign Code. Town agrees to take such legislative action as may be necessary in order to lawfully permit the erection of such gasoline signs.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above.

ATTEST:

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

Mary Jean Loufek CMC,
Town Clerk

By _____
Town Manager

THE SOUTHLAND CORPORATION

By _____

Title: _____

EXHIBIT "A"

Legal Description

Lots 6, 7 and 8, French Creek Center according to the Plat thereof filed April 17, 1980 at Reception No. 205667, County of Summit, State of Colorado

EXHIBIT "B"

Public Improvements

No public improvements are required in connection with this annexation.

EXHIBIT "C"

Public Dedications

Owner shall dedicate to Town, without cost, and by appropriate documentation, 188.02 square feet of Owner's property, as shown on the attached C-1, for use in connection with Town's improvement of the Highway 9/County 450 intersection.