

RESOLUTION NO. 13

Series 2020

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SUMMIT
COUNTY, COLORADO
(Recreation Road and Trail Management)

WHEREAS, the Town of Breckenridge is a home rule municipal corporation organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, Summit County Government ("**County**") is a quasi-municipal corporation organized and existing under the laws of the State of Colorado; and

WHEREAS, the County holds a Special Use Authorization approved by the U.S. Department of Agriculture Forest Service ("**Forest Service**") on July 17, 2019, a copy of which is marked "**Exhibit "A"**", attached hereto, and incorporated herein by reference ("**SUA**"); and

WHEREAS, the SUA applies to certain Forest Service lands located in Summit County, Colorado as described and depicted in the SUA; and

WHEREAS, the SUA was issued to the County for the stated purpose of:

construction, operation, and maintenance responsibilities associated with recreation road and trail resources in and around the Golden Horseshoe Area east of Breckenridge, CO on National Forest System lands (including trailheads, existing summer and winter roads, motorized trails (limited), and non-motorized trails); and

WHEREAS, the SUA imposes certain duties and obligations on the County; and

WHEREAS, the County has determined that it is in its best interest to authorize the Town to assist the County in the performance of certain of the County's duties and obligations under the SUA; and

WHEREAS, the County and the Town have cooperatively funded the acquisition of over 5,000 acres of property to be held as public open space; and

WHEREAS, the County and the Town are continuing to purchase open space properties together; and

WHEREAS, the County and the Town have agreed to jointly manage properties that both have cooperated in purchasing as set forth in their previous Intergovernmental Agreement dated March 2, 2011, as amended ("**Joint Properties**"); and

WHEREAS, the Town is qualified and capable of assisting the County in the performance of certain of the County's duties and obligations under the SUA; and

WHEREAS, the County and the Town anticipate having the staff and financial resource sufficient to allow them to assume the responsibilities to perform their respective obligations, all as more fully set forth in the Intergovernmental Agreement hereafter described; and

WHEREAS, the County and the Town have agreed between themselves as to the way in which each of them will share in the performance of certain of the County's duties and obligations under the SUA, all as more fully set forth in the Intergovernmental Agreement hereafter described; and

WHEREAS, the County and the Town have further agreed between themselves as to the way in which each of them will share in the performance of certain duties and obligations regarding roads and trails on Joint Properties, all as more fully set forth in the Intergovernmental Agreement hereafter described; and

WHEREAS, a proposed Intergovernmental Agreement between the Town and Summit County Government has been prepared, a copy of which is marked "**Exhibit "A"**", attached hereto, and incorporated herein by reference; 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:

Section 1. The Intergovernmental Agreement with Summit County Government (Exhibit "A" hereto) is approved, and the Mayor is authorized, empowered, and directed to execute such agreement for and on behalf of the Town of Breckenridge.

Section 2. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such resolution, or part thereof, heretofore repealed.

Section 3. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED this 28th day of April, 2020.


TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: 
Eric S. Mamula, Mayor

ATTEST:


Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

 4/28/20
Town Attorney Date

1 INTERGOVERNMENTAL AGREEMENT
2 (Recreation Road and Trail Management)
3

4 This Intergovernmental Agreement (“**Agreement**”) is dated April 30,
5 2020 (“**Effective Date**”) and is between the TOWN OF BRECKENRIDGE, a Colorado
6 municipal corporation (“**Town**”) and SUMMIT COUNTY, COLORADO, acting by and through
7 the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO
8 (“**County**”). The Town and the County are sometimes referred to individually as a “**Party**”, or
9 together as the “**Parties**.”
10

11 WHEREAS, the Town is a home rule municipal corporation organized and existing under
12 Article XX of the Colorado Constitution; and
13

14 WHEREAS, the County is a quasi-municipal corporation organized and existing under the laws
15 of the State of Colorado; and
16

17 WHEREAS, the County holds a Special Use Authorization approved by the U.S.
18 Department of Agriculture Forest Service (“**Forest Service**”) on July 17, 2019, a copy of which
19 is marked “Exhibit “A””, attached hereto, and incorporated herein by reference (“**SUA**”); and
20

21 WHEREAS, the SUA applies to certain Forest Service lands located in Summit County,
22 Colorado as described and depicted in the SUA; and
23

24 WHEREAS, the SUA was issued to the County for the stated purpose of:
25

26 construction, operation, and maintenance responsibilities associated with
27 recreation road and trail resources in and around the Golden Horseshoe Area east
28 of Breckenridge, CO on National Forest System lands (including trailheads,
29 existing summer and winter roads, motorized trails (limited), and non-motorized
30 trails); and
31

32 WHEREAS, the SUA imposes certain duties and obligations on the County; and
33

34 WHEREAS, the County has determined that it is in its best interest to authorize the Town
35 to assist the County in the performance of certain of the County’s duties and obligations under
36 the SUA; and
37

38 WHEREAS, the County and Town have cooperatively funded the acquisition of over
39 5,000 acres of property to be held as public open space; and
40

41 WHEREAS, the County and Town are continuing to purchase open space properties
42 together; and
43

44 WHEREAS, the County and Town have agreed to jointly manage properties that both
45 have cooperated in purchasing according to their previous Intergovernmental Agreement dated
46 March 2, 2011, as amended (“**Joint Properties**”); and

INTERGOVERNMENTAL AGREEMENT

1
2 WHEREAS, the Town is qualified and capable of assisting the County in the
3 performance of certain of the County's duties and obligations under the SUA; and
4

5
6 WHEREAS, the Parties anticipate having the staff and financial resource sufficient to
7 allow them to assume the responsibilities set forth in this Agreement; and
8

9 WHEREAS, the Parties have agreed between themselves as to the way in which each of
10 the Parties will share in the performance of certain of the County's duties and obligations under
11 the SUA, all as more fully set forth in this Agreement; and
12

13 WHEREAS, the Parties have agreed between themselves as to the way in which each of
14 the Parties will share in the performance of certain duties and obligations regarding roads and
15 trails on Joint Properties, all as more fully set forth in this Agreement.
16

17 NOW, THEREFORE, for and in consideration of the mutual promises and covenants
18 contained herein, and intending to be legally bound, the Parties agree as follows:
19

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

22 2. Intent. It is the intent and purpose of this Agreement to establish a framework for the
23 Town and County to assist in the performance of the County's contractual obligation to the
24 Forest Service under the SUA to provide management, maintenance, and construction of
25 summer and winterized non-motorized trails and recreational roads within the Permit Area. The
26 Parties believe that their cooperative management and maintenance of the summer and winter
27 recreational resources located within the Permit Area will provide seamless management, and
28 therefore be to the mutual benefit of the Parties, their respective residents, and the many visitors
29 who use the Permit Area for recreational purposes each year. Because many Joint Properties are
30 within the Permit Area, and the Parties also desire to provide seamless management of all Joint
31 Properties, it is the further intent of this Agreement to define the management of recreational
32 roads and trails on Joint Properties. In the performance of their obligations under this
33 Agreement, the Parties will seek to implement the established Golden Horseshoe Management
34 Plan and the White River National Forest Travel Management Plan, as the same may be
35 amended from time to time throughout the Term of this Agreement.

36 3. Definitions.

37 A. In addition to the terms that are defined parenthetically in this Agreement, the
38 following terms have the following meanings, unless the context clearly requires otherwise:

| | |
|------|---|
| Act: | The Colorado Governmental Immunity Act, Part 1 of Article 10 of Title 24, C.R.S., as amended from time to time throughout the Term of this Agreement. |
|------|---|

INTERGOVERNMENTAL AGREEMENT

Authorized Representative: A person designated by a Party as having the authority to settle a controversy on behalf of such Party pursuant to Section 13 of this Agreement.

Day: A calendar day, unless otherwise indicated.

Defaulting Party: A Party alleged to be in default under this Agreement.

NEPA: The National Environmental Policy Act, as amended from time to time throughout the Term of this Agreement, and all applicable administrative rules and regulations.

Non-Defaulting Party: The Party asserting that the other Party is in default under this Agreement.

Operations and Management (Operating) Plan: The plan required to be prepared and revised annually by the County under Section IIIC of the SUA.

Permit Area: The real property located in Summit County, Colorado that is the subject of the SUA. As described in the SUA, the Permit Area “covers approximately 75 miles in Sections 15, 16, and 24 through 36, T.6 S., R.77 W., and Sections 2, 3, 4, 5, 8, 9, 10, and 16, T.7 S., R.77 W., 6th P.M., . . . as shown on the maps attached as Exhibit A and Exhibit B” to the SUA.

Term: Both the initial term and all renewal terms of this Agreement as described in Section 4.

TMP: The White River National Forest Travel Management Plan, as amended from time to time throughout the Term of this Agreement.

Will or Will Not: Terms indicating a mandatory obligation to act or to refrain from acting, respectively, as described in this Agreement.

1
2 B. All of the defined terms in the SUA are incorporated by reference into this Agreement.

3
4 4. Term.

5
6 4.1 The initial term of this Agreement commences as of the Effective Date of this
7 Agreement and ends, subject to earlier termination as hereafter provided, on December 31, 2019.

8 4.2 On January 1, 2020, and on each subsequent January 1st, this Agreement will
9 automatically renew for successive terms of one year each until such time as either the Town or

INTERGOVERNMENTAL AGREEMENT

1 the County give written notice of termination in accordance with the next sentence of this
2 Section 4.2. Beginning October 1, 2020, either Party may terminate this Agreement, without
3 cause and without liability for breach, by giving the other Party written notice of termination
4 prior to October 1st any calendar year. Such notice must be given in the manner provided for in
5 Section 14. Upon the giving of timely notice of termination, this Agreement will terminate (and
6 will not be renewed) on the next December 31st following the giving of the notice of termination.

7 5. Agreement Not An Assignment of the SUA. In recognition of the fact that the SUA is
8 not assignable or transferable, nothing in this Agreement shall be interpreted as an assignment
9 of the SUA. Notwithstanding anything contained in this Agreement, the County will remain
10 contractually obligated to the Forest Service as provided in the SUA.

11 6. Agreement To Cooperate Regarding Certain County Obligations Under the SUA. The
12 Parties agree to cooperate regarding the County's contractual obligations to the Forest Service
13 under the SUA with respect to the construction, operation, and maintenance of the Permit Area,
14 all as more fully set forth in this Agreement. All obligations of the SUA that are not agreed to be
15 jointly shared by the Parties in this Agreement shall remain the sole obligation of the County.
16 When assisting in the performance of the County's contractual obligations to the Forest Service
17 as described in the SUA with respect to the construction, operation, and maintenance of the
18 Permit Area the Town shall be authorized to act on behalf of the County as provided herein.

19 7. Description of Work to be Shared by the Parties. Unless otherwise agreed by the
20 Parties and the Forest Service, the work to be shared by the Parties under this Agreement may
21 be generally described as follows:

22 A. The maintenance and management of all current and future non-motorized
23 recreational trails and roads on Joint Properties, and assisting with the maintenance and
24 management of all current and future nonmotorized recreational trails and roads in the Golden
25 Horseshoe and adjacent Intermix prescription as set forth in the SUA and amended over time,
26 including trailheads and portals.

27 B. Assisting with signage and removal of dead, fallen, or hazardous trees on motorized
28 single-track trails.

29 C. Identifying any proposed changes to the boundary of the Permit Area.

30 D. Pending NEPA, reviewing, envisioning, planning, and implementing new sustainable
31 trails as generally depicted on the maps attached as exhibits to the SUA.

32 E. Pending NEPA, reviewing, establishing winter non-motorized use of trails within the
33 Permit Area for a variety of user groups, including fat bikes, as generally depicted on the maps
34 attached as exhibits to the SUA.

35 F. Town will conduct winter grooming of trails with administrative use of snowmobile
36 with grooming attachment on trails and snowcat on roads as approved in Exhibit B of the SUA
37 and amended by mutual agreement over time.

INTERGOVERNMENTAL AGREEMENT

1 G. Maintaining the recreational road network within the Permit Area and on Joint
2 Properties.

3 H. Implementing closures of non-system, user-created routes in accordance with the
4 TMP.

5 I. Funding and staffing to construct various community trail projects within the Permit
6 Area and on Joint Properties.

7 J. Additional land acquisitions to assist with the seamless management approach within
8 the Permit Area and on Joint Properties.

9 K. Long term management of the recreational road network and non-motorized trail
10 facilities in the Permit Area and on Joint Properties.

11 L. Enhancing recreational experience via trail etiquette education efforts and wayfinding
12 signage.

13 M. Providing consistent updates on project progress within the Permit Area and on Joint
14 Properties.

15 N. Completing vegetation and forest health management on an "as needed" basis to
16 maintain a safe, sustainable recreational travel network.

17 8. Operations and Management Plan.

18 8.1 By the date established in the SUA the Parties will jointly develop the Operating
19 Plan ("Ops Plan") required in Section IIIC of the SUA. However, the County (as the SUA
20 holder) will submit the Ops Plan as required by the SUA. After the submission and approval of
21 the initial Ops Plan, the Parties will jointly prepare any required revisions to the Ops Plan. As
22 provided in this Section 8, from time to time throughout the Term of this Agreement the Parties
23 will agree between themselves as to how to implement the Ops Plan.

24 8.2 The Ops Plan will lay out a mutually agreed plan for the work required to be
25 performed by the Parties in the Permit Area, and such other work within the Permit Area as the
26 Parties may desire (even though not required under the terms of the SUA). The Parties anticipate
27 that the Ops Plan (both as originally approved and as revised and updated throughout the Term
28 of this Agreement), will cover the anticipated work for approximately a 5-year period.

29 8.3 The Ops Plan will be signed by the County, and will include, without limitation,
30 mutually acceptable plans for the construction, operation, and maintenance of the summer and
31 winterized non-motorized trails and recreational roads within the Permit Area.

32 8.4 The Ops Plan may be revised and updated at any time, subject to the approval of
33 both of the Parties and the Forest Service.

1 8.5 At least annually the Parties will meet and confer to discuss the Ops Plan and any
2 work anticipated on Joint Properties, and define the allocation of the required work and funding
3 between the Parties.

4 8.6 Unless otherwise agreed by the Parties, plans for work by either Town or County
5 under this Agreement will always include the following provisions:

6 A. Proposals for new trail construction or realignments must be presented to each Party
7 in writing with sufficient time for review and approval. Written approval and all necessary
8 permits shall be obtained prior to construction.

9 B. Proposals for mechanical grading, excavation or any other “heavy maintenance”
10 which may alter the character or function of trails or roads must be presented to each Party in
11 writing with sufficient time for review and approval. Written approval and all necessary permits
12 shall be obtained prior to construction.

13 C. Because there are trails on Joint Properties and within the Permit Area that are
14 suitable for use by bicycles, and bicycles may also be operated as a part of the Town’s trail
15 network, the Town’s indemnity obligation under Section 12.1 will apply to liability, claims, and
16 demands, on account of injury, loss, or damage, including, without limitation, claims arising
17 from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any
18 other loss of any kind whatsoever, arising out of the construction, maintenance, operation, or use
19 of all features constructed by the Town on the trails within the Permit Area that are designed for
20 use by riders of bicycles.

21 D. The Party responsible for providing construction and maintenance activities for a
22 particular project that is covered by the Ops Plan will provide: (i) appropriate training of
23 employees and others who will be responsible for the performance of such construction and
24 maintenance activities; (ii) regular on-site monitoring and observance of the performance of the
25 work for the project; and (iii) posting information and warning signs (as deemed necessary by
26 such Party) at appropriate locations in or near the site of the work.

27 E. It is anticipated that in the absence of an emergency requiring action by the Parties at
28 other times of the year, maintenance and construction activities will occur primarily during the
29 summer field season from May – November each year.

30 F. When working within the area that is subject to this Agreement, each of the Parties
31 will take appropriate steps to minimize the chance of the occurrence of an event relating to
32 hazardous materials.

33 8.7 Neither Party is required to track staff time and costs required in connection with
34 the work required under this Agreement.

35 8.8 In recognition of the fact that throughout the Term of this Agreement the Parties
36 anticipate that each of them will have different staffing and financial resources available to
37 implement projects, it is agreed that this Agreement does not require the Parties to share equally
38 in project implementation. Subject to Section 9, each Party retains the right from time to time to

INTERGOVERNMENTAL AGREEMENT

1 determine the extent to which it will participate in the implementation of work proposed under
2 this Agreement.

3 9. Financial Obligations Required To Implement Agreement.

4 9.1 The Parties will agree from time to time which Party will be responsible to
5 perform and pay for the work required to implement the Ops Plan or proposed on Joint
6 Properties. Subject to the Parties' obligations to jointly share certain expenses as described in
7 Section 8.8, such Party will then be solely responsible for the performance of and the payment
8 for such work.

9 9.2 The Parties acknowledge that there will be times when one of the Parties may
10 provide more than 50% of the costs of the work under this Agreement. The Parties agree that the
11 allocation of the cost of the work will be determined on a project-by-project basis. Once a final
12 determination has been made as to the allocation of the costs and management responsibilities of
13 a particular project, the agreement with respect to the payment of the costs associated with such
14 particular project shall be confirmed in writing by both of the Parties.

15 9.3 The financial obligation of each of the Parties required to pay for its share of the
16 work to be performed is subject to annual appropriation by the governing body of such Party as
17 provided in Section 15 of this Agreement.

18 10. Amendments to the SUA. The County agrees that throughout the Term of this
19 Agreement it will not seek to amend the SUA without the prior approval of the Town.

20 11. Governmental Immunity. The Parties are each relying on, and do not waive or
21 intend to waive by any provision of this Agreement, the monetary limitations (presently
22 \$387,000 per person and \$1,093,000 per occurrence) or any other limitation, right, immunity,
23 defense or protection otherwise available to Town and the County, and their respective officers,
24 representatives, agents, and employees.

25 12. Mutual Indemnification.

26 12.1 Indemnification By Town. The Town will indemnify and defend the County, its
27 officers, employees, insurers, and self-insurance pool against all liability, claims, and demands,
28 on account of injury, loss, or damage, including, without limitation, claims arising from bodily
29 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any
30 kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent
31 that such injury, loss, or damage is caused by:

32 A. the negligence or intentional wrongful act or omission of the Town, or any officer,
33 employee, representative or agent of the Town; or

34 B. the Town's breach of this Agreement,

35 except to the extent such liability, claim or demand arises through the negligence or intentional
36 wrongful act of the County, its officers, employees, or agents, or the County's breach of this
37 Agreement. To the extent indemnification is required under this Agreement, the Town agrees to

INTERGOVERNMENTAL AGREEMENT

1 investigate, handle, respond to, and to provide defense for and defend against, any such liability,
2 claims, or demands at its expense, and to bear all other costs and expenses related thereto,
3 including court costs and attorney fees.

4
5 12.2 Indemnification By County. The County will indemnify and defend the Town, its
6 officers, employees, insurers, and self-insurance pool against all liability, claims, and demands,
7 on account of injury, loss, or damage, including, without limitation, claims arising from bodily
8 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any
9 kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent
10 that such injury, loss, or damage is caused by:

11 A. the negligence or intentional wrongful act or omission of the County, or any officer,
12 employee, representative or agent of the County; or

13 B. the County's breach of this Agreement,

14 except to the extent such liability, claim or demand arises through the negligence or intentional
15 wrongful act of the Town, its officers, employees, or agents, or the Town's breach of this
16 Agreement. To the extent indemnification is required under this Agreement, the County agrees to
17 investigate, handle, respond to, and to provide defense for and defend against, any such liability,
18 claims, or demands at its expense, and to bear all other costs and expenses related thereto,
19 including court costs and attorney fees.

20
21 12.3 Indemnity Subject To Act. The obligation of a Party to indemnify and defend the
22 other Party pursuant to this Section 12 is expressly subject to any applicable limitation or
23 provision of the Act or any other law providing similar limitations or protections.

24 12.4 Indemnity For Worker's Compensation Claims.

25 A. The Town will indemnify and defend the County with respect to any claim,
26 damage, or loss arising out of any worker's compensation claim of any employee of the Town.

27 B. The County will indemnify and defend the Town with respect to any claim,
28 damage, or loss arising out of any worker's compensation claim of any employee of the County.

29 12.5 Survival. The obligation of a Party to indemnify and defend the other Party
30 pursuant to this Section 12 will survive the termination of this Agreement, and will continue to
31 be enforceable thereafter until such obligations are fully performed, subject to any applicable
32 statute of limitation or statute of repose.

33 13. Default; Resolution Of Disputes.

34 13.1 Default. A default will exist under this Agreement if any Party violates any
35 covenant, condition, or obligation required to be performed hereunder. If any Party fails to cure
36 such default within 20 business days after another Party gives written notice of the default to the
37 Defaulting Party, then, at the Non-Defaulting Party's option, the Non-Defaulting Party may
38 terminate this Agreement. In the event of a default not capable of being cured within 20 business

INTERGOVERNMENTAL AGREEMENT

1 days, a Defaulting Party will not be in default hereunder if it commences curing the default
2 within 20 business days after receipt of written notice of default from the Non-Defaulting Party,
3 and thereafter cures such default with due diligence and in good faith. Notwithstanding any
4 Party's right to terminate this Agreement for an uncured default, this Agreement is subject to the
5 rights of any Party to invoke the remaining provisions of this Section 13.

6 13.2 Negotiation. Either Party may give the other Party written notice of any dispute
7 arising out of or related to this Agreement that is not resolved in the normal course of business.
8 The Parties will attempt in good faith to resolve any such dispute promptly by negotiations
9 between the Parties' Authorized Representatives. Within 15 business days after receipt of said
10 notice, Authorized Representatives will meet at a mutually acceptable time and place, and
11 thereafter as often as they reasonably deem necessary, to exchange relevant information and to
12 attempt to resolve the dispute. If the matter has not been resolved within 60 business days of the
13 notice of dispute, or if the Parties fail to initially meet within 15 business days, either Party to the
14 dispute may initiate mediation of the controversy as provided below.

15 13.3 Mediation. If the dispute has not been resolved by negotiation as provided above,
16 the Parties will endeavor to settle the dispute by mediation with a neutral third party. If the
17 Parties encounter difficulty in agreeing on a neutral third party, they may each appoint a neutral
18 third party and such third parties will appoint a neutral third party to mediate.

19 13.4 Arbitration. Any dispute arising out of or relating to this Agreement or the
20 breach, termination, or validity hereof, which has not been resolved by the methods set forth
21 above within 60 business days of the initiation of mediation, will be finally settled by binding
22 arbitration conducted expeditiously in accordance with the commercial arbitration rules of the
23 American Arbitration Association (or other rules as may be agreed to by the Parties) by a sole
24 arbitrator. The place of arbitration will be Breckenridge, Colorado. The arbitrator is not
25 empowered to award damages in excess of compensatory damages.

26 13.5 Provisional Remedies. The procedures specified in this Section 13 are the sole
27 and exclusive procedures for the resolution of disputes among the Parties arising out of or
28 relating to this Agreement; provided, however, that a Party may seek a preliminary injunction or
29 other provisional judicial relief if, in its judgment, such action is necessary to avoid irreparable
30 damage or to preserve the status quo. Despite such action, the Parties will continue to participate
31 in good faith in the procedures specified in this Section 13.

32 13.6 Performance To Continue. Each Party is required to continue to perform its
33 obligations under this Agreement pending final resolution of any dispute arising out of or
34 relating to this Agreement.

35 13.7 Extension Of Deadlines. All deadlines specified in this Section may be extended
36 by mutual agreement.

37 13.8 Costs. Each Party will pay its own costs with respect to negotiation and
38 mediation. The prevailing Party in any arbitration or provisional judicial relief is entitled to
39 reimbursement from the other Party for all reasonable costs and expenses, including attorney fees
40 in connection with such arbitration or provisional judicial relief.

INTERGOVERNMENTAL AGREEMENT

1 14. Notices. All notices required or permitted under this Agreement must be given by
2 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial
3 carrier delivery, or by telecopies directed as follows:

4 If intended for Town to:
5 Open Space and Trails Manager
6 Town of Breckenridge
7 P.O. Box 168
8 Breckenridge, CO 80424
9 (970)547-3155

10
11 and
12 Town of Breckenridge
13 P.O. Box 168
14 150 Ski Hill Road
15 Breckenridge, Colorado 80424
16 Attn: Rick G. Holman, Town Manager
17 Telecopier number: (970)547-3104
18 Telephone number: (970)453-2251

19
20 with a copy in each case (which will not constitute notice) to:

21
22 Timothy H. Berry, Esq.
23 Town Attorney
24 Timothy H. Berry, P.C.
25 131 West 5th Street
26 P.O. Box 2
27 Leadville, Colorado 80461
28 Telephone number: (719)486-1889
29 Telecopier number: (719)486-3039

30
31 If intended for County, to:
32 Open Space and Trails Director
33 P.O. Box 5660
34 Frisco, CO 80443
35 Telephone number: (970)668-4067

36
37 and
38 Board of County Commissioners
39 P.O. Box 68
40 Breckenridge, Colorado 80424
41 Attn: Scott Vargo, County Manager
42 Telephone number: (970)453-3401
43 Telecopier number: (970)453-3535

44
45 with a copy in each case (which will not constitute notice) to:

INTERGOVERNMENTAL AGREEMENT

1
2 Jeff Huntley, Esq.
3 Summit County Attorney
4 P.O. Box 68
5 Breckenridge, Colorado 80424
6 Telephone number: (970)453-3407
7 Telecopier number: (970)454-3535
8

9 Any notice delivered by mail in accordance with this Section 14 is deemed to have been duly
10 given and received on the third business day after the same is deposited in any post office or
11 postal box regularly maintained by the United States postal service. Any notice delivered by
12 telecopier in accordance with this Section 14 is deemed to have been duly given and received
13 upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone
14 and a copy of said notice is sent by certified mail, return receipt requested, on the same day to
15 that intended recipient. Any notice delivered by hand or commercial carrier is deemed to have
16 been duly given and received upon actual receipt. Either Party, by notice given as above, may
17 change the address to which future notices may be sent. E-mail is not a valid method for the
18 giving of notice under this Agreement.
19

20 15. Annual Appropriation.
21

22 15.1 Town Appropriation. Notwithstanding anything herein contained to the contrary,
23 the Town's obligations under this Agreement are expressly subject to an annual appropriation
24 being made by the Town Council of the Town of Breckenridge in an amount sufficient to allow
25 Town to perform its obligations under this Agreement. If sufficient funds are not so appropriated,
26 this Agreement may be terminated by either Party without penalty upon notice given in the
27 manner described in Section 14. The Town's obligations under this Agreement do not constitute
28 a general obligation indebtedness or multiple year direct or indirect debt or other financial
29 obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

30 15.2 County Appropriation. Notwithstanding anything herein contained to the contrary,
31 the County's obligations under this Agreement are expressly subject to an annual appropriation
32 being made by the Board of County Commissioners of Summit County, Colorado in an amount
33 sufficient to allow the County to perform its obligations under this Agreement. If sufficient funds
34 are not so appropriated, this Agreement may be terminated by either Party without penalty upon
35 notice given in the manner described in Section 14. The County's obligations under this
36 Agreement do not constitute a general obligation indebtedness or multiple year direct or indirect
37 debt or other financial obligation whatsoever within the meaning of the Constitution or laws of
38 the State of Colorado.

39 16. Third Parties. This Agreement does not confer upon or grant to any third party
40 any right to claim damages or to bring suit, action, or other proceeding against either the Town
41 or the County because of any breach of this Agreement, or because of any of the terms,
42 covenants, agreements and conditions contained in this Agreement.

INTERGOVERNMENTAL AGREEMENT

1 17. Waiver. The failure of either Party to exercise any of its rights under this
2 Agreement is not a waiver of those rights. A Party waives only those rights specified in writing
3 and signed by either Party waiving its rights.

4 18. Independent Contractor. In connection with this Agreement each of the Parties
5 acts as an independent contractor (and not an agent or employee of the other Party), without the
6 right or authority to impose tort or contractual liability upon the other Party.

7 19. Applicable Law. This Agreement is to be interpreted in all respects in accordance
8 with the laws of the State of Colorado.

9 20. Entire Agreement. This Agreement constitutes the entire agreement and
10 understanding between the Parties as to the subject matter of this Agreement, and supersedes
11 any prior agreement or understanding relating thereto.

12 21. Amendment. This Agreement may be modified or amended only by a duly
13 authorized written instrument executed by the Parties. No oral amendment or modification of
14 this Agreement is allowed.

15 22. Severability. If any of the provisions of this Agreement are declared by a final
16 non-appealable judgment court of competent jurisdiction to be invalid, illegal or unenforceable
17 in any respect, the validity, legality and enforceability of the remaining provisions of this
18 Agreement will not in any way be affected or impaired thereby.

19 23. Section Headings. Section and subsection headings are inserted for convenience
20 only and in no way limit or define the interpretation to be placed upon this Agreement.

21 24. Authority. The individuals executing this Agreement on behalf of each of the
22 Parties represent to the other Party that they have all requisite powers and authority to cause the
23 Party for whom they have signed to enter into this Agreement, and to bind such Party to fully
24 perform its obligations as set forth in this Agreement.

25 25. No Adverse Construction. Both Parties acknowledge having had the opportunity
26 to participate in the drafting of this Agreement. This Agreement is not to be construed against
27 either Party based upon authorship.

28 26. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the
29 Parties and their respective successor governing boards.

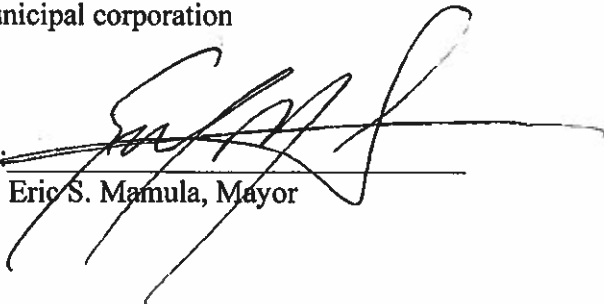
30 27. Approval By Governing Boards or Other Authority. In accordance with Section
31 29-1-203(1), C.R.S., this Agreement will not become effective unless and until it has been
32 approved by the governing bodies of both the Town and the County, or by such persons as has
33 the power to approve this Agreement on behalf of the Town and the County.

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INTERGOVERNMENTAL AGREEMENT

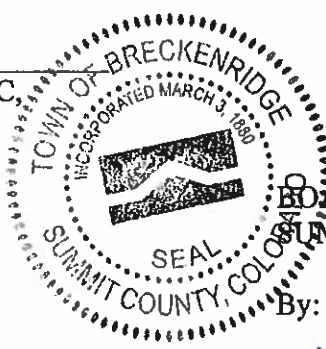
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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: 
Eric S. Mamula, Mayor

ATTEST:


Helen Cospolich, CMC,
Town Clerk




BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By:


Chair

ATTEST:


Kathleen Neel, Clerk and Recorder, and ex-officio
clerk to the Board of County Commissioners



800128/Recreation Road and Trail Management IGA (01-07-20)

INTERGOVERNMENTAL AGREEMENT

EXHIBIT "A"
TO
INTERGOVERNMENTAL AGREEMENT

County's Special Use Authorization

[TO BE ATTACHED]

Exhibit "A"

Authorization ID: DIL1412
Contact Name: SUMMIT COUNTY BOARD
OF COUNTY COMMISSIONERS
Expiration Date: 12/31/2038
Use Code: 753

FS-2700-4 (VER. 03/17)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

SPECIAL USE PERMIT

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

**SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS of PO BOX 68
BRECKENRIDGE, CO 80424** (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the WHITE RIVER NATIONAL FOREST or unit of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers approximately 75 miles in Sections 15, 16, and 24 through 36, T.6 S., R.77 W.. and Sections 2, 3, 4, 5, 8, 9, 10, and 16, T.7 S., R.77 W., 6th P.M., ("the permit area"), as shown on the maps attached as **Exhibit A and Exhibit B**. This and any other appendices to this permit are hereby incorporated into this permit.

This permit issued for the purpose of:

construction, operation, and maintenance responsibilities associated with the recreation road and trail resources in the Golden Horseshoe Area east of Breckenridge, CO on National Forest System lands (including trailheads, existing summer and winter roads, motorized trails (limited), and non-motorized trails).

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the Federal Land Policy And Mgmt Act, As Amended, October 21, 1976, and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on **12/31/2038**, 20 years from the date of issuance.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized

by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.

In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

C. CONSTRUCTION. Any construction authorized by this permit shall commence by N/A and shall be completed by N/A.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least **180 days** each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. OPERATING PLAN. The holder shall prepare and annually revise by **October 1, 2019** an operating plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

D. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 214 and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID EXISTING RIGHTS. This permit is subject to all valid existing rights. Valid existing rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs and damage to government-owned improvements covered by this permit.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources resulting from the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.J.

2. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH AND SAFETY. The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

H. ENVIRONMENTAL PROTECTION.

1. For purposes of clause IV.H and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant,

contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

2. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. Environmental damage includes but is not limited to all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

3. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

I. Subject only to the limits on the Lessee's liability under Title 24, Article 10, of the Colorado Governmental Immunity Act (CGIA), Colorado Revised Statutes (C.R.S.) §§ 24-10-101 through 24-10-119 (as amended), the holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause IV.F of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous substance, pollutant, contaminant, oil in any form, or petroleum product into the environment. This clause shall survive termination or revocation of this permit, regardless of cause.

J. Subject only to the limits on the holder's liability under Title 24, Article 10, of the CGIA, C.R.S. §§ 24-10-101 through 24-10-119 (as amended), the holder shall indemnify the United States for any damages arising out of the holder's use and occupancy authorized by this permit. The holder shall be liable for all injury, loss, or damage, including fire suppression, or other costs associated with rehabilitation or restoration of natural resources, associated with the holder's use and/or occupancy. Compensation shall include but is not limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other associated costs.

K. Clauses IV.I and IV.J shall not be interpreted to limit any of the holder's liability for, or prevent the United States from taking any action to address, injury, loss, damages, or costs associated with environmental contamination, injury to natural resources, or other cause of action that arises under other law, including the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the

Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601 et seq., and the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., in connection with the holder's use and occupancy of Federal lands, or to diminish any independent obligation of the permittee to indemnify the United States with respect to the same.

L. The authorized officer has determined through a risk assessment that the potential liability of the United States for property damage and personal injury or death arising from the holder's use and occupancy authorized by this permit is \$350,000 or less for an injury to one person in a single occurrence (per incident) or \$990,000 or less for an injury to two or more persons in a single occurrence (in the aggregate). Pursuant to the CGIA, the holder shall provide self-insurance covering claims for personal injury or death up to \$350,000 for an injury to one person in a single occurrence (per incident) or \$990,000 for an injury to two or more persons in a single occurrence (in the aggregate). The self-insurance documentation shall name the United States as a certificate holder. The coverage under the holder's self-insurance shall extend to property damage and personal injury or death arising from the holder's activities under the permit, including use and occupancy of National Forest System lands and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by the permit.

1. If there is a conflict between this permit the certificate of insurance provided by the Colorado Risk Management Division ("the certificate"), and/or the Colorado Risk Management Division's insurance policy manuals ("insurance policy manuals"), the order of precedence among those documents shall be (1) this permit; (2) the certificate; and (3) the insurance policy manuals.

2. If a claim is submitted to the United States for property damage and personal injury or death arising from the holder's use or occupancy authorized by this permit, the Forest Service shall tender the defense of the claim to the respective representatives of the self-insurance. The holder understands that tort claims against the United States are governed by the Federal Tort Claims Act, which may result in the administrative denial of a claim. The holder further understands that in litigation the United States is represented by the United States Department of Justice (USDOJ) and agrees that representatives of the self-insurance will coordinate the defense with USDOJ, if a claim is litigated.

M. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE.

1. **Authorized Officer Concurrence.** Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. **Pesticide-Use Proposal.** Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. **Labeling, Laws, and Regulations.** Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA). In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a

binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT.

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

G. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

H. CLEANUP AND REMEDIATION.

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

VI. LAND USE FEE AND DEBT COLLECTION

A. LAND USE FEES. The use or occupancy authorized by this permit is exempt from a land use fee or the land use fee has been waived in full pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited

to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT. Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated: N/A

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. NOXIOUS WEED AND EXOTIC PLANT PREVENTION AND CONTROL (D-10). The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by the White River National Forest. The holder shall follow prevention and control measures required by the Forest. When determined to be necessary by the Authorized Officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the Authorized Officer and, upon approval, shall be attached to this permit as an appendix.

F. DISPUTES (X-96). Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 214, as amended or revisions thereto.

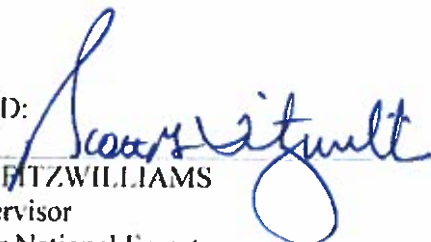
THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:



SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS 7-11-19
NAME: Scott Vargo DATE
Title: County Manager

APPROVED: 

SCOTT G. FITZWILLIAMS 7/17/19
Forest Supervisor DATE
White River National Forest

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

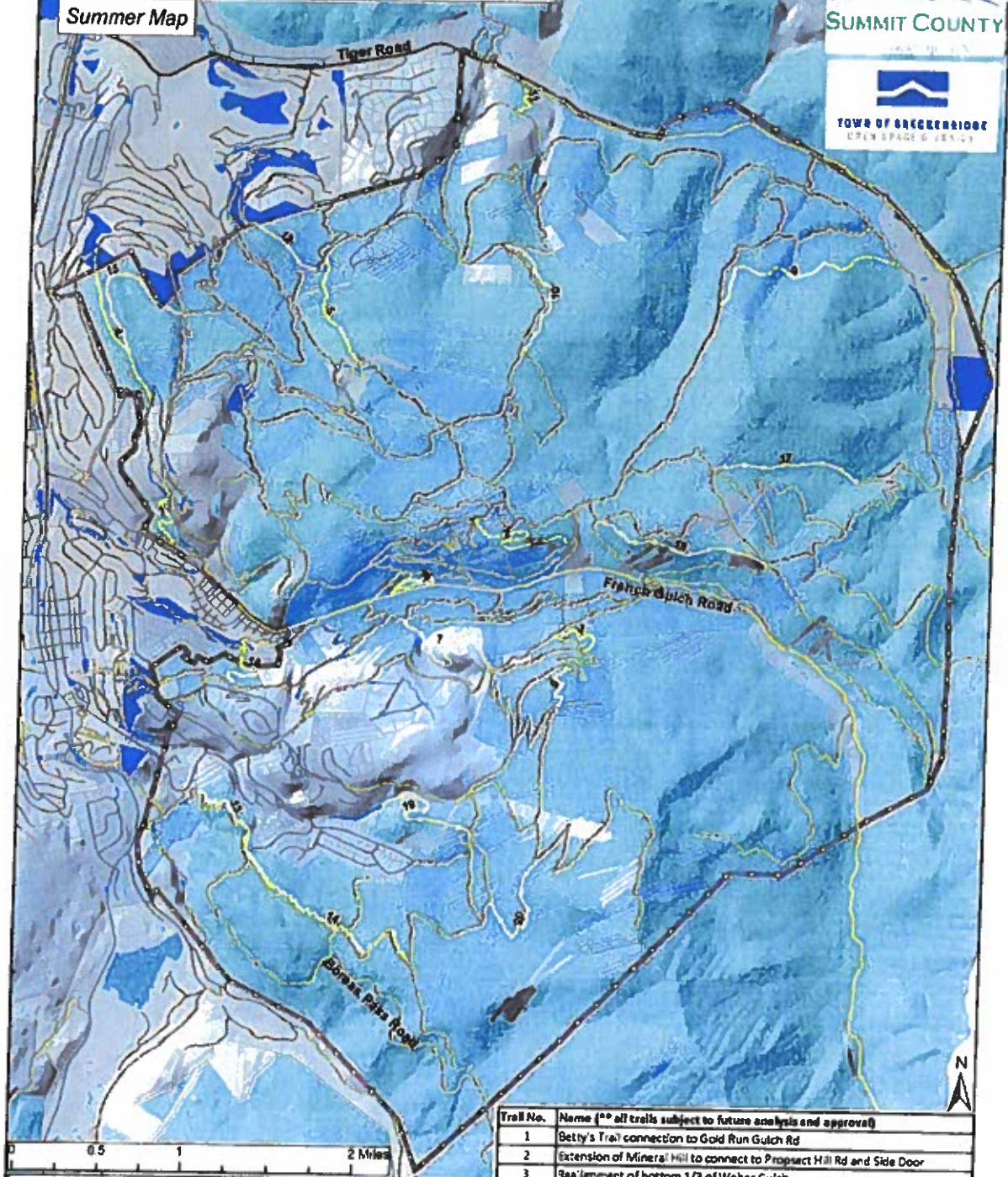
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The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Exhibit A. Golden Horseshoe Special Use Authorization

Summer Map



Legend

- Conceptual Routes (subject to future analysis and approval)
- Proposed Routes (subject to future analysis and approval)
- GH Trails/Recreational Roads
- Golden Horseshoe SUA Boundary
- Summit County/TOB Open Space
- Trail Easement
- TOB Open Space
- Private Parcels
- White River National Forest
- Towns

| Trail No. | Name (** all trails subject to future analysis and approval) |
|-----------|--|
| 1 | Betty's Trail connection to Gold Run Gulch Rd |
| 2 | Extension of Mineral Hill to connect to Prospect Hill Rd and Side Door |
| 3 | Re-alignment of bottom 1/3 of Weber Gulch |
| 4 | Upper Flume connection to Chantilly Trail |
| 5 | Dry Gulch connection to Traylor Way |
| 6 | True Romance extension to create loop with new Upper Nightmare |
| 7 | Australia Gulch connection from B&B to Selma Barber |
| 8 | Cloverleaf-style beginner loop next to French Gulch Rd |
| 9 | Connection from Galena Ditch to top out of Rock Island Road |
| 10 | Lincoln Park Rd connection ZL/Summit Gulch Rd bypass |
| 11 | Tiger Rd connection Galena Ditch/Summit Gulch Rd bypass |
| 12 | Traylor Way connection to ZL to create loop |
| 13 | Aspen Alley climbing route |
| 14 | Baker's Tank climbing route |
| 15 | Western Bench Loop to Slalom |
| 16 | Wellington Trail to Barney Ford connection through High Point |
| 17 | American Gulch to Lincoln Park Rd connection |
| 18 | Five Points to Lincoln Park connection |
| 19 | Baldy Road bypass to Pinball Alley |
| 20 | Mountain Pride to Baldy Rd connection |

Exhibit B. Golden Horseshoe Special Use Authorization

Winter Grooming Map

