



TOWN OF AVON MEETINGS FOR WEDNESDAY, SEPTEMBER 21, 2016

SPECIAL MEETING BEGINS AT 5:30 PM

AVON TOWN HALL, ONE LAKE STREET

SPECIAL MEETING BEGINS AT 5:30 PM

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA**
- 4. PRESENTATION – NATIONAL NIGHT OUT COMMUNITY RECOGNITION (POLICE CHIEF GREG DALY)**

- 5. ACTION ITEM**
 - 5.1. **PUBLIC HEARING** SECOND READING OF ORDINANCE 16-18, TO APPROVE DEED AND EASEMENTS FOR TRACT O AND LOT 39, BLOCK 4, WILDRIDGE (PLANNING DIRECTOR MATT PIELSTICKER)

- 6. WORK SESSION**
 - 6.1. DIRECTION CONCERNING TERMINATION OF THE BENCHMARK PROTECTIVE COVENANTS (TOWN ATTORNEY ERIC HEIL)

- 7. CONSENT AGENDA**
 - 7.1. APPROVAL OF THE SEPTEMBER 13, 2016 MINUTES (TOWN CLERK DEBBIE HOPPE)
 - 7.2. APPROVAL TO CONSTRUCT THE BUCK CREEK TRAIL CONNECTOR WITH FUNDS FROM THE 2016 SOFT AND HARD TRAIL IMPROVEMENTS BUDGET IN THE CAPITAL PROJECTS FUND (ENGINEER JUSTIN HILDRETH)

- 8. WORK SESSION**
 - 8.1. DISCUSSION OF THE REVIEW OF THE TOWN OF AVON SPECIAL EVENT VENUE AND FUNDING INVESTMENTS FOR THE PERIOD JANUARY 2013 – AUGUST 2016 AND DIRECTION FOR FUTURE PROGRAMMING AND FUNDING (FESTIVALS & SPECIAL EVENTS DIRECTOR DANITA DEMPSEY)

- 9. WRITTEN REPORTS**
 - 9.1. GIFT REPORTING –LAKE STREET UNION FESTIVAL DAY PASSES (EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

- 10. ADJOURNMENT**

MEETING AGENDAS & PACKETS ARE FOUND AT: [HTTP://WWW.AVON.ORG](http://www.avon.org)

AGENDAS ARE POSTED AT AVON TOWN HALL, RECREATION CENTER, & AVON PUBLIC LIBRARY

IF YOU HAVE ANY SPECIAL ACCOMMODATION NEEDS, PLEASE, IN ADVANCE OF THE MEETING,

CALL TOWN CLERK DEBBIE HOPPE AT 970-748-4001 OR EMAIL DHOPPE@AVON.ORG WITH ANY SPECIAL REQUESTS.



TOWN COUNCIL REPORT

To: Honorable Jennie Fancher and Town Council
From: Greg Daly, Chief of Police
Date: September 21, 2016
Topic: Recognition of Community Members for Support of National Night Out

For the last 10 years, the Avon Police Department has participated annually in National Night Out with the community on the first Tuesday of every August. This year, the Department continued to host the evening in four neighborhoods that included The Aspen's Mobile Home Park, Avon Elementary School, Eaglebend Apartments and O'Neil Spur Park in Wildridge. This event is significant to strengthening relationships between the police department and community. It is also an opportunity to interact with neighbors, friends and area first responders and share what is happening in the neighborhood.

National Night Out was developed with an emphasis on the vital importance of police-community partnerships and citizen involvement to reduce crime and improve neighborhood safety.

The Avon Police Department has been successful in National Night Out because of the generous giving of local businesses and community members. This year, Chief Daly and his Team are honored to recognize several businesses and community members in front of Avon Town Council for their support and/or significant giving over the last 10 years. Many other members of the community have supported National Night Out and the Police Department wishes to thank them as well.

Respectfully Submitted,

Greg Daly
Chief of Police

National Night Out Sponsors

1st Bank of Avon

Agave

Alpine Bank

Always Mountain Time Radio

Aspens Mobile Home Village

Avon Chiropractic Wellness & Longevity Center

Avon Liquor

Bang'lz Salon

Battle Mountain Football Team

Beaver Liquors

Blue Moose Pizza

Blue Plate Bistro

Bob's Place

Calvary Chapel

City Market

Columbine Bakery

Community Banks of Colorado

Dean Johnson Management

DJ Omar

DJ Sergio

Dominos

Eagle County Paramedic Services

Eagle River Fire Protection District

Eagle River Youth Coalition

Fiesta Jalisco's

Gondola Pizza

Green Elephant Juicery

Home Depot

Joe's Liquor

Kiwi International Delights

Land Title

Loaded Joe's

Lone Star Security

Magic Fun Castles

Mia

Montana's

Mountain Man Nut & Fruit

Nest

P Furniture Design II

Pazzos

Peter Fontanese Productions

Pine Cones

Rootz Hair Salon

Ruggs Benedict

Sheraton Mountain Vista

Simply Massage

Slifer Smith & Frampton

Starbucks (in Westin)

Taqueria No Se Hagan Bolas

Target Glenwood Springs and Silverthorne

The Linen Kist

Ticino

US Bank

Vail Public Safety Communications Center

Vail Valley Dental Care

Vail Valley Medical Center

Venture Sports

VIN 48

Walmart

Wells Fargo

Wishes Toy Store

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ordinance No. 16-18, Lot 39 and Tract O Conveyances
DATE: September 15, 2016

Summary: The Applicant (5032-5040 Wildridge LLC) desires to construct duplexes on Lot 39 and has proposed to swap a portion of Lot 39 with the lower portion of Tract O to facilitate the design of the access driveway. A water storage tank is currently located on the upper portion of Tract O.

The Avon Planning Commission took action to recommend approval of the land swap as proposed by the owner of Lot 39. The Upper Eagle River Water Authority provided a letter and diagram requesting certain restrictions and acknowledgements about a future water storage tank as well as a request for additional area of Lot 39 to be added to Tract O to facilitate a future replacement water storage tank. The Authority has no immediate plans to construct a replacement water storage tank, but values the designation of suitable areas for future construction of a replacement water storage tank.

Conveyance of a portion of Tract O to Applicant by fee simple rather than an easement is preferred because (1) the Town will not require indemnification and insurance as is typical for private development by easements on Town property and (2) Lot 39 can be amended so that the driveway access is on the Lot. The lower portion of Tract O has not been in use for public purpose, therefore, no election is required to convey this portion of the property in accordance with Section 18.3 of the Avon Home Rule Charter.

Council took action to approve first reading on September 13, 2016 and referred the ordinance to a public hearing and consideration of final action on September 21, 2016. Council must conduct a public hearing prior to taking final action on this ordinance.

Proposed Motion: "I move to approve second and final reading of Ordinance No. 16-18 Approving the Conveyance of a Portion of Tract O and the Acquisition of a portion of Lot 39, Wildridge Subdivision, Avon, Colorado."

ATTACHMENTS: Ordinance No. 16-18
Site Plan from UERWA depicting desired portion of Lot 39.

Thank you, Eric



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-18**

**APPROVING THE CONVEYANCE OF A PORTION OF TRACT O AND THE
ACQUISITION OF A PORTION OF LOT 39, WILDRIDGE, AVON,
COLORADO**

WHEREAS, the Town of Avon owns Tract O, Wildridge Subdivision, Avon, Colorado, (“**Tract O**”) of which the upper portion is used for a water storage tank for the drinking water systems system serving the community and the lower portion of which is not used for public purpose; and,

WHEREAS, 5032-5040 Wildridge LLC (“**Owner**”) is the owner of Lot 39, Block 4, Wildridge Subdivision, Avon, Colorado, (“**Lot 39**”), which is adjacent to Tract O, and Owner has proposed to convey a portion of Lot 39 to the Town of Avon and trade for acquiring a portion of the lower section of Tract O which is not used for public purposes and which will facilitate the construction of driveway access for the development of Lot 39; and,

WHEREAS, the Upper Eagle River Water Authority has reviewed the proposed acquisition of a portion of Lot 39 and has indicated that such acquisition will provide suitable adjacent land for the construction of a replacement water storage tank, and will therefore facilitate the future capital investment in the drinking water system that serves the Avon community; and,

WHEREAS, Section 2.1 of the Avon Home Rule Charter provides that the Town of Avon may receive and dispose of real property; and

WHEREAS, the Avon Town Council finds that approval of the exchange of land will promote the efficient and secure provision of drinking water to the Avon community and will thereby promote the health, safety and general welfare of the Avon community; and,

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding this Ordinance and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Conveyances Subject to Subdivision Plat. The conveyance of a portion of Lot 39 from the Owner to Town of Avon and the conveyance of a portion of Tract O from the Town to the Owner shall be conditioned upon and subject to the administrative review and approval of a subdivision plat to adjust such lot lines according, and which subdivision plat shall include such easements for drainage, utilities, adjacent sub-lateral support and other purposes as are determined appropriate by the Town.

Section 3. Acquisition of a Portion of Lot 39. The Town Council hereby authorizes the acceptance of real property as acquired by and through a Special Warranty Deed in substantially the same form as attached hereto as **Exhibit A: Special Warranty Deed Conveying a Portion of Lot 39.**

Section 4. Conveyance of a Portion of Tract O. The Town Council hereby authorizes the conveyance of a Portion of Tract O by and through a Special Warranty Deed in substantially the same form as attached hereto as **Exhibit B: Special Warranty Deed Conveying a Portion of Tract O** and further authorizes the Mayor and Town Clerk to execute the Special Warranty Deed.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on September 13, 2016 and setting such public hearing for September 21, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on September 21, 2016.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:



Eric J. Heil, Town Attorney

**RECORDING REQUESTED BY AND
WHEN RECORDED PLEASE RETURN TO:**

5032-5040 Wildridge LLC
P.O. Box 516
Avon, CO 81620

SPECIAL WARRANTY DEED

Town of Avon, a home rule municipality of the State of Colorado (“**Grantor**”), whose regular mail (United States Postal Service) whose street address is One Lake Street, P.O. Box 975, Avon, Colorado 81620, County of Eagle, State of Colorado, for the consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, hereby sells and conveys to 5032-5040 Wildridge LLC, a Colorado Limited Liability Copmany (“**Grantee**”), whose address is P.O. Box 516, Avon, CO 81620, the real property that is described as follows:

A portion of Tract O, Wildridge Subdivision, Avon, Colorado, described as follows:
[Insert Legal Description]

TO HAVE AND TO HOLD the said Property unto Grantee, and Grantee's heirs, successors and assigns forever. Grantor, for itself and its heirs, successors and assigns, does covenant and agree that Grantor shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of Grantee, and Grantee’s heirs, successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor, subject to (a) real property taxes and assessments for 2016 and subsequent years, a lien not yet due and payable, and (b) the matters set forth on Exhibit A attached hereto and made a part hereof.

Town of Avon

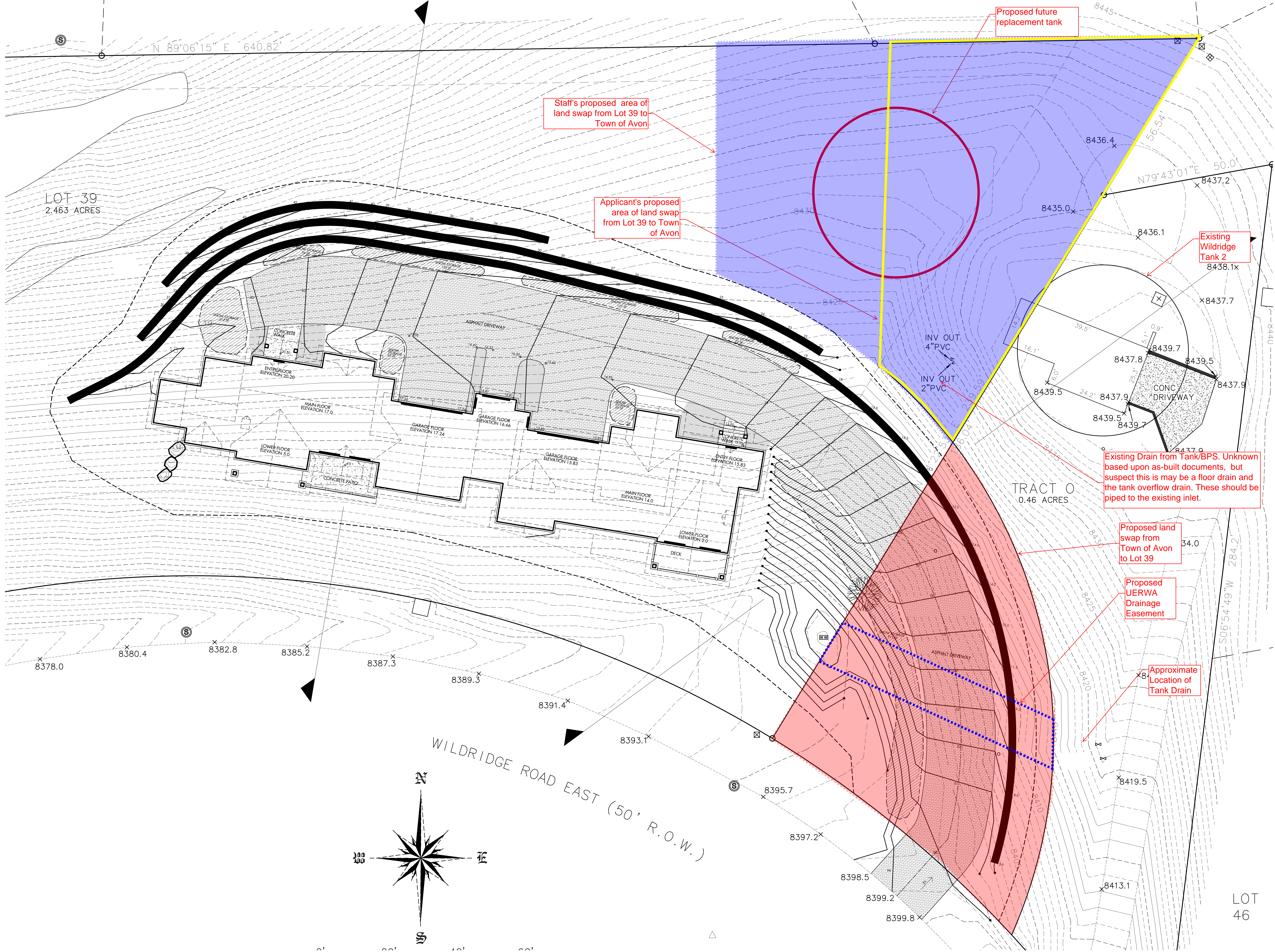
By: _____
Jennie Fancher, Mayor

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 2016, by Jennie Fancher as the Mayor of the Town of Avon, Colorado.

Witness my hand and official seal.

My commission expires: _____
_____ public notary

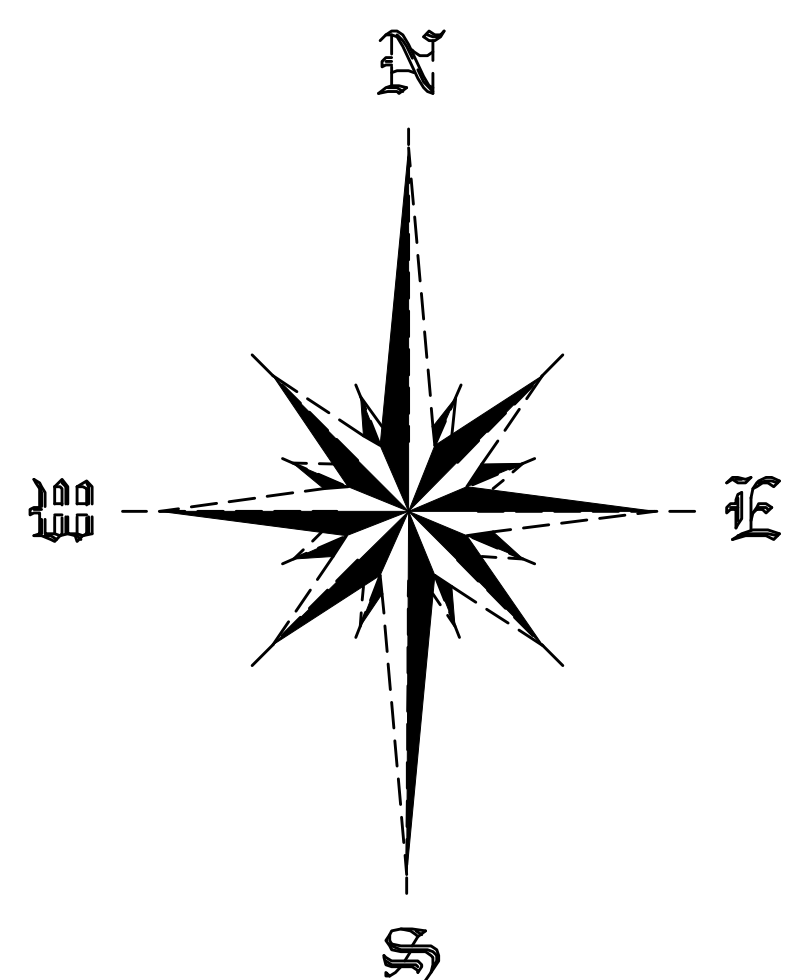


LOT 39
2.463 ACRES

TRACT 0
0.46 ACRES

LOT 46

WILDRIDGE ROAD EAST (50' R.O.W.)



ARCHITECT

RA Architects, Inc.
Architecture • Planning • Interior Design
P.O. Box 1805
Edward, Colorado 81632
Phone - 970.374.4227
email - lobby@raarch.com

STRUCTURAL

LANDSCAPE

NOTES

ISSUES

NO.	DESCRIPTION	DATE
A	PNZ Submitted	04.01.16

5040 Wildridge Road Duplex A
Lot 39
Block 4
Wildridge PUD
Avon, CO 81620

Architectural
Site Plan

PROJECT NO: 15-221A
DATE: April 1, 2016
DRAWN BY: JDL
SCALE: 1" = 10'
SHEET NO: 1 of 1
A 0.2

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Benchmark Covenants
DATE: September 15, 2016

SUMMARY: Representatives of Traer Creek LLC have requested that the Town of Avon consider, participate and support an effort to terminate the Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision, originally adopted in 1974 ("**Benchmark Covenants**"). The Benchmark Covenants predate the incorporation of the Town of Avon. The Benchmark Covenants addressed permitted uses, approval of construction plans, fences, signs, livestock, trees, building height and parking, and other matters. At the time, the Benchmark Covenants were typical of initial covenants created by a master developer to guide the development of a large multi-use planned development area. However, some 42 years later, the Benchmark Covenants are outdated, duplicitous with Town's Development Code regulations, and are largely unenforced. Traer Creek LLC has found that the Benchmark Covenants are now a cloud on property title as well as impediment to certain retail commercial deals, and has therefore requested the Town's support and participation in an effort to terminate the Benchmark Covenants.

Upon review of the Benchmark Covenants, I fully support and recommend an effort to terminate the Benchmark Covenants because they overlap the Town's municipal regulations, appear to no longer have any valid purpose, and create unnecessary exceptions on property title throughout the Town of Avon. The Benchmark Covenants also affect Town owned properties in the original Benchmark Subdivision.

The Benchmark Covenants apply to all of the original platted area of the Town of Avon, which is basically everything on the valley floor except Eagle Bend, Nottingham Station, River Front, Brookside and the Village (at Avon). The Benchmark Covenants allow for the amendment and termination through a 5 member landowner's committee appointed by a majority of the landowners in the Benchmark Subdivision. The Town of Avon appears to be the majority landowner and may therefore effectively control the appointment of the 5 member landowner's committee. The Town of Avon may only be 1 member of the landowner committee. A decision of the landowner committee requires the concurring vote of 4 members.

The law firm of Johnson and Repucci, hired by Traer Creek LLC, has offered to assist with the process. The process includes notification of all landowners in the Benchmark Subdivision with an explanation of the effort to terminate the covenants, conducting a ballot to appoint the 5 person land owner committee, and documenting the actions of the land owner committee once appointed. Other than overseeing this process, the Town's participation would also include using the Town Hall for landowners meetings to discuss this effort to terminate the Benchmark Covenants.

REQUESTED MOTION: "I move to direct the Town Manager and Town Attorney to assist and support the process to terminate the Benchmark Covenants."

Thank you, Eric

ATTACHMENTS: The Benchmark Covenants, with amendments.

Eagle County, Colorado

DECLARATION OF PROTECTIVE COVENANTS

FOR

BENCHMARK AT BEAVER CREEK SUBDIVISION

BENCHMARK AT BEAVER CREEK, a Colorado limited partnership, is the beneficial owner of all that real property within the subdivision named BENCHMARK AT BEAVER CREEK in Eagle County, Colorado, the plat of which has been filed under Reception No. 129460 and recorded in Map Case 2, Drawer "B" of Plats in the records of the Eagle County Clerk & Recorder.

BENCHMARK AT BEAVER CREEK, Grantor, hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

- Subdivision - Benchmark at Beaver Creek Subdivision
- Lot - A lot located within Benchmark at Beaver
- Commercial - Lots in the Commercial Zone are intended to provide for the broad range of commercial operations and services required for the proper and convenient functioning of Commercial Centers serving large areas of the County. Uses permitted are intended to include all retail and service operations, including but not limited to the following: Wholesale and retail establishments, including sale of food, beverages, drygoods, furniture, appliances, bakery, automobile and vehicular equipment, hardware, clothing, building materials, feed, garden supply, equipment rental and plant materials; personal service establishments, including banks, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals only, mortuary, photo studio, shoe repair, tailor shop, bowling alley, restaurant, cocktail lounge, private reading club, theater and indoor recreation; general service establishments, including service of automobile service stations, vehicular rental service and repair shops, motel-hotel-lodges up to 750 units, boarding and rooming house, offices for conduct of a business or profession, studio for conduct of arts and crafts, dental and medical clinics.

- Condominium - A lot which may be used for multiple family residential purposes, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants.
- Multiple Family - A lot which may be used for multiple family residential apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
- Community Facilities - A lot which may be used for Church, fire station, police or Sheriff's station, public nursery or day care center.

Common Open Space - That portion of the subdivision held in trust by Benchmark at Beaver Creek and Eagle County and used to provide common access to the public domain by residents and visitors to the subdivision and the public in general.

Committee - A group of three persons who shall be responsible for the administration and enforcement of these protective covenants. Two of such persons shall be appointed by Grantor and the third shall be selected by the two persons so appointed. A majority of the Committee shall govern its actions. Any vacancy on the Committee which shall continue for a continuous period of thirty days without replacement by the remaining members of the committee can be filled by appointment of the Board of County Commissioners of Eagle County, Colorado.

2. GENERAL PURPOSES: These covenants are for the mutual benefit and protection of the owners and lessees of the lots in the subdivision and are made for the purpose of creating and keeping the subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference or destruction of the natural beauty of the subdivision.

3. USES: All lots in the subdivision shall fall within the following land use definitions:

<u>Definition</u>	<u>Lot Description</u>
Commercial	Block 1, Lots 1, 2 and 3, Block 2, Lots 6, 7, 8, 9, 10, 11, 12, 20, 21, 22, 23, 24, 25, 26, 27

Condominium	Block 1, Lot 4, Block 2, Lots 3, 4, 5, 13, 14, 15, 17, 18, 19, Block 3, Lots 1, 2, 4
Multiple Family	Block 1, Lot 5, Block 2, Lot 2, Block 3, Lots 5, 6
Community Facilities	Block 2, Lot 16, Block 3, Lot 3
Common Open Space	Tracts A, B, C

4. APPROVAL OF CONSTRUCTION PLANS: All plans for construction and alteration shall be first submitted to the Committee as herein provided: (a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor, elevation showing four sides, plot and grading plans; provisions for offstreet parking and locations of driveway access; the specifications for exterior materials, color schemes; landscape drawings and plant specifications; the location, character and method of utilization of all utilities have been submitted to the Committee and approved by it in writing. Owners and lessees of lots within the subdivision are encouraged to consult with the Committee prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay.

(b) The Committee shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of final plans and specifications, which charge shall be paid in advance. The proceeds of such charges shall be used for the administration and enforcement of these protective covenants.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) In passing upon all such plans and specifications, the Committee shall take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built to the lot upon which it is to be erected, the harmony thereof with the surroundings and the effect of the building or other structure, as planned, on the outlook from adjacent or neighboring lots. The Committee shall use reasonable judgment in passing upon all such plans and specifications, but the Committee shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the Committee acted with malice or wrongful intent.

5. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the subdivision free and clear

and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the Committee.

6. EASEMENTS: Easements and rights-of-way are hereby reserved as shown or described on the recorded plat of the subdivision. There are also in addition the following easements and rights-of-way reserved:

(a) Easement reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Benchmark for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage and similar services. Provided, however, that the use and exercise of said easement shall not disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

7. FENCES: No fence, wall or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the Committee as an integral or decorative part of a building to be erected on a lot.

8. SIGNS: No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such commercial signs as have been approved by the Committee either for identification of residences or places of business or other commercial uses.

9. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by Grantor or any successive person or entity. No private wells or sanitation system shall be used within the subdivision.

10. TRASH: No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from the public view and protected from disturbance.

11. LIVESTOCK: The keeping of livestock and animals except dogs, cats and other household pets for personal enjoyment and not for commercial purposes shall not be allowed. The keeping of such dogs, cats and other household pets shall be strictly governed by the applicable rules and regulations adopted by the Board of County Commissioners of Eagle County, Colorado, any successor entity, the Committee aforementioned, or homeowners association.

12. TREES. Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the Committee.

13. BUILDING HEIGHT AND PARKING REQUIREMENTS. Building height and parking requirements shall be governed by the Committee.

14. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 4 hereof. In addition, for every 2,000 square feet of building area the builder shall plant one (1) 12 foot high or larger non-deciduous tree, either on the subject lot or another location within the subdivision approved by the Committee.

15. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the subdivision, except as may be determined to be necessary during construction and specifically authorized by the Committee in writing.

16. CONTINUITY OF CONSTRUCTION: All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless some exception is granted in writing by the Committee.

17. NUISANCE: No noxious or offensive activity shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

18. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the subdivision or herein may be granted in writing by the Committee.

19. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for five successive terms of ten years each.

20. AMENDMENT: The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be abandoned, terminated, or amended except by written consent of the owners of 51% of the land included within the boundaries of the subdivision. In determining the land included within the boundaries of the subdivision, those parcels designated on the final plat as "public tracts" shall be counted and shall be deemed to be owned by Benchmark at Beaver Creek.

21. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the Board of County Commissioners of Eagle County, Colorado, or any person or persons owning real property

in the subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorney's fees, for such violations.

22. **SEVERABILITY:** Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

Executed this 7th day of February, 1974.

BENCHMARK AT BEAVER CREEK
By Benchmark-Avon Properties,
General Partner

By Ronald D. Allred
Ronald D. Allred

By A. J. Wells
A. J. Wells

By Doyle G. Fulton
Doyle G. Fulton

STATE OF COLORADO)
) ss.
COUNTY OF EAGLE)

The above and foregoing instrument was acknowledged before me this 8th day of February, 1974, by RONALD D. ALLRED, A. J. WELLS and DOYLE G. FULTON, Attorneys-in-fact for Benchmark-Avon Properties, General Partner of Benchmark at Beaver Creek.

My commission expires: July 3, 1977

WITNESS my hand and official seal.



Bennice J. Milano
NOTARY PUBLIC

129459

STATE OF COLORADO, }
EAGLE COUNTY. } ss.

I hereby certify that this instrument
was filed for record in my office the
27 day of February, 1974, at
9:00 o'clock A.M., and is duly recorded
in Book 233 Page 565

Marshall R. Barry
County Clerk and Recorder

Jessie Baker
Deputy

Fee \$ 12.00 Pd.

Ron Allred
Box 5
Avon, Colo

135288 4/7/75 @ 9AM 239 / 249

AMENDED DECLARATION OF PROTECTIVE COVENANTS
FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION

BENCHMARK AT BEAVER CREEK, a Colorado limited partnership, is the beneficial owner of all that real property within the subdivision named BENCHMARK AT BEAVER CREEK in Eagle County, Colorado, the final plat of which has been filed under Reception No. 129460 and recorded in Map Case #2, Drawer "B" of Plats in Book 233 at Page 566 in the records of the Eagle County Clerk and Recorder and the Revised Final Plat of which has been filed under Reception No. 134061 and recorded in Map Case #2, Drawer "B" in Book 238 at Page 41 in the records of the Eagle County Clerk and Recorder; and

BENCHMARK AT BEAVER CREEK, Grantor, as the owner of at least 51% of the land included within the boundaries of said Subdivision, hereby amends in total the previously filed Declaration of Protective Covenants for said Subdivision as recorded in Book 233 at Page 565 in the records of the Eagle County Clerk and Recorder; and

BENCHMARK AT BEAVER CREEK, Grantor, hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

Subdivision - Benchmark at Beaver Creek Subdivision

Lot - A lot located within Benchmark at Beaver Creek Subdivision

Commercial - Lots in the Commercial Zone are intended to provide for the broad range of commercial operations and services required for the proper and convenient functioning of Commercial Centers serving large areas of the County. Uses permitted are intended to include all retail and service operations that may be appropriately located within a shopping district and that are normally required to sustain a community, including but not limited to the following: Wholesale and retail establishments, including sale of food, beverages, drygoods, furniture, appliances, bakery, automotive and vehicular equipment, hardware, clothing, building materials, feed, garden supply, equipment rental and plant materials, personal service establishments, including banks, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals only, mortuary, photo studio, shoe repair, tailor ship, bowling alley, restaurant, cocktail lounge, private

reading club, theater and indoor recreation; general service establishments, including automobile service stations, vehicular rental service and repair shops, motel-hotel-lodges up to 750 units, boarding and rooming houses, offices for conduct of a business or profession, studios for conduct of arts and crafts, dental and medical clinics. Also, any Use by Right of the C/L District and C/G District permitted under the Zoning Resolution of Eagle County, Colorado.

- Condominium** - A lot which may be used for multiple family residential purposes, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants.
- Multiple Family** - A lot which may be used for multiple family residential apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
- Mobile Home Park** - A lot which may be used for mobile home park purposes; which shall be subject to any rules and regulations for such purposes as are established by the State of Colorado and County of Eagle; and further shall be subject to any rules and regulations for mobile home parks which may be established by the Planning and Architectural Control Committee of the Benchmark at Beaver Creek Subdivision.
- Community Facilities** - A lot which may be used for religious purposes, fire station, police or sheriff's station, or similar governmental purposes, public nursery or day-care center.
- Common Open Space** - That portion of the Subdivision held in trust by Benchmark at Beaver Creek and Eagle County and used to provide common access to the public domain by residents and visitors to the Subdivision and the public in general.
- Committee** - A group of five persons who shall be responsible for the administration and enforcement of these protective covenants. All such persons shall be appointed by Grantor.

2. **GENERAL PURPOSES:** These covenants are for the mutual benefit and protection of the owners and lessees of the lots in the Subdivision and are made for the purposes of creating and keeping the Subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference or destruction of the natural beauty of the Subdivision.

3. **USES:** All lots in the Subdivision shall fall within the following land use definitions:

<u>Definition</u>	<u>Lot Description</u>
Commercial	Block 1, Lots 1, 2, 3, 4, 6, 7 and 8. Block 2, Lots 10, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and Tract Q Block 3, Lot 4
Condominium	Block 1, Lot 9 Block 2, Lots 3, 4, 5, 6, 7, 8, 9, 15 and 16 Block 3, Lots 1, 2, 4, 5 and 6
Multiple Family	Block 1, Lots 5 and 9 Block 2, Lots 2, 3, 4, 5, 6, 7, 8, 9, 15 and 16 Block 3, Lots 5 and 6
Community Facilities	Block 2, Lot 34 Block 3, Lot 3
Common Open Space	Tracts A, B, and C

4. PLANNING AND ARCHITECTURAL CONTROL COMMITTEE:

The Planning and Architectural Control Committee, hereinafter referred to as the Committee, shall consist of five members and shall be appointed by the Grantor, Benchmark at Beaver Creek, its successors or assigns, to review, study, and approve or reject proposed improvements of any nature whatsoever within the area described in the Final Plat and Revised Final Plat of Benchmark at Beaver Creek of which these protective covenants are made a part. A majority of the Committee shall govern its actions. Any vacancy on the Committee which shall continue for a continuous period of thirty days without replacement by the remaining members of the Committee may be filled by appointment of the Board of County Commissioners of Eagle County, Colorado.

(a) The Committee shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings.

(b) In passing upon any plans and specifications submitted for its approval the Committee shall consider:

(i) the suitability of the improvement, including materials of which it is to be constructed, to the site upon which it is to be located;

(ii) the nature of adjacent and neighboring improvements;

(iii) the quality of the materials to be utilized in any proposed improvement; and

(iv) the effect of any proposed improvement on the outlook of any adjacent or neighboring property.

(c) It shall be an objective of the Committee to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired.

(d) In the event the Committee fails to approve or disapprove plans and specifications submitted to it within thirty days of submission and no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and the related covenants shall be determined to have been fully complied with.

5. APPROVAL OF CONSTRUCTION PLANS: All plans for construction and alteration shall be first submitted to the Committee as herein provided:

(a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of final plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor plan, elevation showing all sides, plot and grading plans; provisions for off-street parking and locations of driveway access; the specifications for exterior materials, color schemes; landscape drawings and plant specifications; the location, character and method of utilization of all utilities have been submitted to the Committee and approved by it in writing. Owners and lessees of lots within the Subdivision are encouraged to consult with the Committee prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay in approval.

(b) The Committee shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of final plans and specifications, which charge shall be paid in advance. The Committee shall publish as a part of its rules and regulations a schedule setting forth the various fees to be charged for the various types of submittals for approval.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) The Committee shall use reasonable judgment in passing upon all such plans and specifications, but the Committee shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the Committee acted with malice or wrongful intent.

6. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the Subdivision free and clear and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the Committee. No vehicle entrance to any lot in the Subdivision from any dedicated road or street shall be constructed or used unless serviced by a constructed drainage culvert located and sized in a manner which shall first be approved in writing by the Committee. The Committee's action

in reviewing such drainage plans shall be guided by the recommendations of the Planning Department of Eagle County, Colorado.

7. **EASEMENTS:** Easements and rights-of-way as shown or described on the recorded plat of the Subdivision are hereby reserved. In addition the following easements and rights-of-way are reserved:

(a) Easement reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Grantor for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage, sewer, sanitation, telephone, natural gas, liquid propane gas, television cable, lighting, heating, bridle path, pedestrian traffic, and similar services. Provided, however, that the use and exercise of said easement shall not disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

8. **FENCES:** No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the Committee as an integral or decorative part of a building to be erected on a lot.

9. **SIGNS:** No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot or structure for any purpose whatsoever, except such commercial signs as have been approved by the Committee either for identification of residences or places of business or other commercial uses. The Committee shall establish comprehensive sign regulations for the Subdivision providing for the administration and enforcement of same; regulate the erection, construction, restoration, alteration, location, landscaping and maintenance of signs, window signs, flags, pennants, banners and bunting, display boxes, residential name plate signs, subdivision interest signs, temporary site development signs, traffic control signs. For private property, murals and supergraphics; establishment of an approved sign program; establishment of a design review procedure and guidelines. The Committee shall review the appearance, lighting, form, color, character, dimensions, and materials of all signs requiring approval under this covenant and any rules and regulations created pursuant hereto. The Committee shall make such aesthetic judgments necessary to insure that all signs requiring approval under this covenant or any rules and regulations made pursuant hereto are in conformance with such sign rules and regulations and in harmony with the character of the Subdivision. The Committee may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties. Review shall be in conformance with the procedure outlined in such rules and regulations.

10. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by Grantor or any successive person or entity. No private wells or sanitation system shall be used within the Subdivision.

11. TRASH: No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and protected from disturbance.

12. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other household pets for personal enjoyment and not for commercial purposes and except horses owned and used in conjunction with an equestrian-livery operation approved by the Committee) shall be kept, raised or bred in the Subdivision. The keeping of dogs, cats and other household pets for personal enjoyment shall be strictly governed by all applicable rules and regulations adopted by the County of Eagle, Colorado, any successor governmental entity, the Committee aforementioned, or any homeowners association created for the benefit of property owners and lessees of the Subdivision.

13. TREES: Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the Committee.

14. SET BACK REQUIREMENTS: The Committee may determine the location of improvements in relation to property lines, and all actual construction sites must receive the advance written approval of the Committee prior to the commencement of construction. In determining the proper location for each improvement, the Committee shall consider the location of existing and future improvements on adjacent property, the wishes of adjacent property owners, and such other economic or aesthetic considerations as it may deem appropriate.

15. BUILDING HEIGHT: All building height maximums shall be as determined by the Committee. Building height is defined as the distance, measured vertically, from the finished grade at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, gambrel, hip, shed or similar pitched roof, and measured to a slope not to exceed 12:24.

16. PARKING REQUIREMENTS: Parking requirements shall be determined by the Committee. The following provisions shall apply to off-street parking and loading facilities:

The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The Committee shall not approve any construction until plans are presented and approved by the Committee that show property that is available and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the Committee's approval is granted shall be conditional

upon the unqualified continuance and availability of the amount of parking and loading space required by this covenant. Should the owner or occupant of any lot or building change the use to which the lot or building is utilized, thereby increasing off-street parking and loading requirements, it shall be a violation of this covenant to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are complied with. With respect to additional general provisions, design requirements, minimum off-street loading requirements, minimum off-street parking space requirements, clear-vision area requirements, the Committee shall be guided by the standards set forth in the Eagle County Zoning Resolution, as amended.

17. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The Committee shall make rules and regulations specifying the location, type, and quantities of ground cover, plants, shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.

18. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by the Committee in writing.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exception is granted in writing by the Committee.

20. NUISANCE: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

21. TRADE NAMES: No word, name, symbol, or combination thereof shall be used to identify for commercial purposes a house, structure, business or service within the Subdivision unless the same shall have been first approved in writing by the Committee.

22. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the Subdivision or herein may be granted in writing by the Committee upon approval thereof by the Board of County Commissioners of Eagle County, Colorado.

23. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the Subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 2000, at which time they shall be automatically extended for five successive terms of ten years each.

24. AMENDMENT: The conditions, restrictions, stipulations, agreements, and covenants contained herein may be abandoned,

terminated, or amended by the Grantor until such time as 70% of the land included within the boundaries of the Subdivision have been sold by the Grantor, at which time the then owners of 51% of the land in the Subdivision may call an election to select a "Landowners Committee" comprised of five individual owners in the subdivision, one of whom shall be the Grantor, if the Grantor shall at such time still be an owner of property in the Subdivision, and said Committee, by 4/5 majority vote, may amend, alter, revoke or modify the conditions, restrictions, stipulations, agreements and covenants contained herein. In determining the land included within the boundaries of the Subdivision, those parcels designated on the final plat as "public tracts" shall be counted and shall be deemed to be owned by Benchmark at Beaver Creek.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the Board of County Commissioners of Eagle County, Colorado, or any person or persons owning real property in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violations.

26. PENALTIES AND EXPENSES OF ENFORCEMENT; LIENS FOR NON-PAYMENT OF SAME: If any person shall violate any of the provisions of this instrument or the rules and regulations promulgated by the Committee pursuant to this instrument for which penalties are provided, or cause expenses to the Committee as a result of such violations, and fail to or refuse to pay such penalties or expenses, then such unpaid penalties or expenses shall be chargeable to the owner, including interest, and shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

- a) tax and special assessment liens in favor of any assessing unit; and
- b) all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the creation of such a lien.

To evidence such a lien the Committee shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of record of the subject property, and the legal description of the subject property. Such notice shall be signed by a member of the Committee and shall be recorded in the office of the Clerk and Recorder of the County of Eagle, State of Colorado. Such lien for the penalties or expenses shall attach from the date of the failure of payment of said assessment of penalties or expenses, and may be enforced by foreclosure on the defaulting owner's property by the Committee. In the event of such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees. The Grantor hereunder shall have the power to bid in said real property at any foreclosure sale and to acquire and hold, lease, mortgage or convey the same.

The amount of any such penalties or expenses assessed against such real property shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid penalties or expenses may be maintained without foreclosing or waiving the lien securing said debt.

Any mortgage holder or similar encumbrancer holding a lien on any real property in the Subdivision may pay any unpaid penalties or expenses created hereunder with respect to such real property, and upon such payment such encumbrancer shall have a lien on such real property for the amounts paid, said lien to be of the same priority as the lien of his respective encumbrance.

27. NON-CONFORMING USES AND BUILDINGS: The lawful use of a building or structure, or the lawful use of any land as existing and lawful at the time of recording of this instrument, or in the case of amendment of this instrument then at the time of such amendment, may be continued although such use does not conform to the provisions of this instrument or amendments thereto; and such use may be extended throughout the same building, provided no structural alteration of such structure is proposed or made for the purpose of such extension.

27.1. Repair and Maintenance. Repair and maintenance of a non-conforming building shall be permitted.

27.2. Restoration. A non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event, and completed within 18 months of such commencement.

27.3. Change in Use. A non-conforming use shall not be replaced by a use considered to exhibit a greater degree of non-conformity than the existing use; a non-conforming use may be replaced by a use considered to exhibit an equal or lesser degree of non-conformity, to be determined by the Committee based on the intent and purposes of this instrument.

27.4. Abandonment. Whenever a non-conforming use of a building or land has been abandoned for a period of one year, future use of the land or building shall be in conformity with all applicable provisions of this instrument or rules and regulations promulgated by the Committee pursuant to this instrument.

28. **SEVERABILITY:** Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

Executed this 4th day of April, 1975.

BENCHMARK AT BEAVER CREEK, a Colorado Limited Partnership

By BENCHMARK-AVON PROPERTIES, a Partnership, Its Sole General Partner

By Ronald D. Allred
Ronald D. Allred, A Managing Partner and Attorney-In-Fact

By A. J. Wells
A. J. Wells, A Managing Partner and Attorney-In-Fact

By Doyle G. Fulton
Doyle G. Fulton, A Managing Partner and Attorney-In-Fact

STATE OF COLORADO)
COUNTY OF EAGLE)

ss.

The above and foregoing instrument was acknowledged before me this 4th day of April, 1975, by RONALD D. ALLRED, A. J. WELLS, and DOYLE G. FULTON, Attorneys-in-fact for Benchmark-Avon Properties, General Partner of Benchmark at Beaver Creek.

My commission expires: My Commission expires Nov. 3, 1978

WITNESS my hand and official seal.



George Rosenberg
NOTARY PUBLIC

SECOND AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS

FOR

BENCHMARK AT BEAVER CREEK SUBDIVISION

BENCHMARK AT BEAVER CREEK, being a subdivision in Eagle County, Colorado, the Final Plat of which has been filed under Reception No. 129460 and recorded in Map Case #2, Drawer "B" of Plats in Book 233 at Page 566 in the records of the Eagle County Clerk and Recorder and the Revised Final Plat of which has been filed under Reception No. 134061 and recorded in Map Case #2, Drawer "B" in Book 238 at Page 41 in the records of the Eagle County Clerk and Recorder; and

BENCHMARK AT BEAVER CREEK, a limited partnership, Grantor, as the owner of at least 51% of the land included within the boundaries of said Subdivision, hereby amends in part the previously filed Amended Declaration of Protective Covenants for said Subdivision as recorded in Book 239 at Page 249 in the records of the Eagle County Clerk and Recorder; and

BENCHMARK AT BEAVER CREEK, Grantor, hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

I. Paragraph 1 of the previously filed Amended Declaration of Protective Covenants is amended by the addition of the following definition:

"Industrial - A lot which may be used for the broad range of Manufacturing, Warehousing, Storage, Retail and Sales Operations required for the proper and convenient functioning of industrial centers serving large areas of Eagle County, including but not limited to all of the uses by right contained in the Zoning Resolution for the County of Eagle, State of Colorado,

and/or also an electric utility substation including the placement of all equipment, the construction of roads, and all other appurtenances necessary to operate an electric substation, also including warehouse, storage, garage and office use thereto."

II. Paragraph 3 of the previously filed Amended Declaration of Protective Covenants is amended as follows: Lot 5, Block 1 in the Subdivision is hereby deleted from the definition "Multiple Family" and said Lot 5, Block 1 is added to the definition "Commercial"; further, the definition "Industrial" as set forth in Paragraph 1 of said Amended Declaration of Protective Covenants is added to said Paragraph 3, and Block 1, Lot 5 shall be included under said definition.

Only the amendments contained herein shall affect the previously filed Amended Declaration of Protective Covenants, and all other provisions of said Amended Declaration of Protective Covenants shall remain in full force and effect.

Executed this 29th day of March, 1976.

BENCHMARK AT BEAVER CREEK, a Colorado limited partnership,

By: BENCHMARK-AVON PROPERTIES, a partnership, its sole general partner

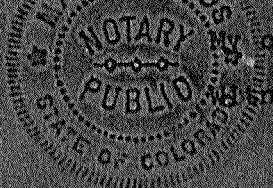
By: Ronald D. Allred
Ronald D. Allred, a Managing Partner

By: A. J. Wells
A. J. Wells, a managing partner

By: Doyle G. Fulton
Doyle G. Fulton, a managing partner

STATE OF COLORADO)
COUNTY OF EAGLE) ss.

The above and foregoing instrument was acknowledged before me this 29th day of March, 1976, by RONALD D. ALLRED, A. J. WELLS, and DOYLE G. FULTON, managing partners of Benchmark-Avon Properties, a partnership and general partner of Benchmark at Beaver Creek.



My commission expires: My Commission expires May 20, 1979

Witness my hand and official seal.

Margaret Woods
Notary Public

and/or also an electric utility substation including the placement of all equipment, the construction of roads, and all other appurtenances necessary to operate an electric substation, also including warehouse, storage, garage and office use thereto."

II. Paragraph 3 of the previously filed Amended Declaration of Protective Covenants is amended as follows: Lot 5, Block 1 in the Subdivision is hereby deleted from the definition "Multiple Family" and said Lot 5, Block 1 is added to the definition "Commercial"; further, the definition "Industrial" as set forth in Paragraph 1 of said Amended Declaration of Protective Covenants is added to said Paragraph 3, and Block 1, Lot 5 shall be included under said definition.

Only the amendments contained herein shall affect the previously filed Amended Declaration of Protective Covenants, and all other provisions of said Amended Declaration of Protective Covenants shall remain in full force and effect.

Executed this 29th day of March, 1976.

BENCHMARK AT BEAVER CREEK, a Colorado limited partnership,

By: BENCHMARK-AVON PROPERTIES, a partnership, its sole general partner

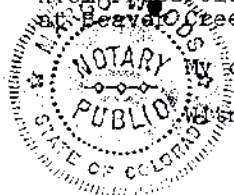
By: Ronald D. Allred
Ronald D. Allred, a Managing Partner

By: A. J. Wells
A. J. Wells, a managing partner

By: Doyle G. Fulton
Doyle G. Fulton, a managing partner

STATE OF COLORADO)
COUNTY OF EAGLE) ss.

The above and foregoing instrument was acknowledged before me this 29th day of March, 1976, by RONALD D. ALLRED, A. J. WELLS, and DOYLE G. FULTON, managing partners of Benchmark-Avon Properties, a partnership and general partner of Benchmark at Beaver Creek.



My commission expires: My Commission expires May 20, 1978

In witness my hand and official seal.

Margo Woods
Notary Public

141817

STATE OF COLORADO }
County of EAGLE } ss.
I hereby certify that this instrument was
Filed for record in my office on

APR - 5 1976

at 1:20 o'clock P M and recorded
in Book 245 Page 642
MAXWELL B. BARZ, County Clerk & Recorder
By Steve Ball Deputy

\$4.00 pd

DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS

This Declaration of Additional Protective Covenants made this 11th day of June, 1976 by BENCHMARK AT BEAVER CREEK, a Limited Partnership (the "Declarant").

WITNESSETH

WHEREAS, the Declarant is the present owner of certain property situated in the County of Eagle, State of Colorado more particularly described in Exhibit A attached hereto and hereby incorporated by reference, which land is sometimes herein referred to as the "Property", and

WHEREAS, the Property is subject to certain existing restrictions of record set forth in instrument recorded in Book 233 at Page 565, and in Amended Declaration recorded in Book 239 at Page 249, and Second Amendment to Declaration of Protective Covenants recorded in Book 245 at Page 642, and

WHEREAS, Declarant is desirous of subjecting the Property to the additional restrictions hereinafter set forth which shall be in addition to the above-described restrictions, to insure proper use and appropriate improvement of said Property as follows:

1. No lot nor any portion thereof of the Property shall at any time be used for any of the following purposes:

(a) A package liquor store operated primarily and exclusively for such purpose.

(b) A public movie theatre.

(c) A hardware store.

(d) A grocery store whether independent or chain operated but not, including other stores which may offer on an ancillary basis certain selected items for sale which may also be sold by an independent or chain operated grocery store.

(e) A department or variety department store, but not including a store or stores utilizing no more than 5,000 square feet within each such store for the sale of certain items which may also be sold by a variety department store.

(f) A bowling alley for public bowling, but not including bowling facilities which may be provided by lodging or resort facilities on the Property for the primary use of the patrons of such facilities.

(g) No more than two gasoline service stations.

(h) Medical/dental clinic offices, but not including individual medical or dental offices which may be established within structures not established primarily for the purposes of containing medical/dental clinic offices.

(i) Public laundromat or laundry and dry cleaning facilities, but not including such facilities which may be operated by a lodging or resort facility which may be established on the Property for the primary benefit of the patrons of such facility.

(j) A bank, state or federally chartered.

(k) Savings and loan association, state or federally chartered.

(l) Finance company.

2. Each of the foregoing restrictions shall run with the Property, and a breach of any one of them or continuance thereof, may at the option of the Declarant, its successors or assigns, be enjoined, abated or remedied by appropriate proceedings, in addition to any other remedy at law or in equity. The attorneys fees and expenses of the prevailing party in any such action shall be included in the amount of any judgment obtained against the other party. It is understood, however,

that the breach of any of the foregoing covenants, conditions and restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust on the Property made in good faith and for value; provided, however, (i) that any breach or continuance thereof may be enjoined, abated or remedied by the proper proceeding as aforesaid; and (ii) that each and all of the foregoing restrictions shall at all times remain in full force and effect against said premises or any part thereof, notwithstanding any foreclosure of any such mortgage or deed of trust. No assent, expressed or implied, to any breach of any one or more of the within restrictions shall be deemed to be taken to be a waiver of any succeeding or other breach.

3. If any provisions of these additional protective covenants are held invalid as a matter of law, such invalidity shall not affect the other provisions of these covenants, all of which shall remain in full force and effect as herein set forth.

4. These additional protective covenants shall remain in full force and effect until June 11, 1983; provided, however, by written recorded instrument, the Declarant, its successors or assigns, may waive or terminate the additional protective covenants, or any restriction included herein prior to that date. The benefits and burdens of these covenants are expressly intended to be limited to the parties hereto and their successors and do not create any rights or obligations in third parties of any kind.

IN WITNESS WHEREOF, the Declarant has caused these covenants to be executed the day and year first above written.

BENCHMARK AT BEAVER CREEK, a
limited partnership

BY: BENCHMARK-AVON PROPERTIES, a
partnership, the sole general
partner

BY: Ronald D. Allred
RONALD D. ALLRED, a Managing
Partner

BY: Doyle S. Fulton
DOYLE S. FULTON, a Managing
Partner

BY: A. J. Wells
A. J. WELLS, a Managing
Partner

STATE OF COLORADO)
CITY AND) SS.
COUNTY OF DENVER)

The foregoing Declaration of Additional Protective
Covenants was subscribed and sworn to before me this 11th
day of June, 1976 by RONALD D. ALLRED, DOYLE G. FULTON and
A. J. WELLS, as Managing Partners of Benchmark ^{-Aven Properties} ~~At Beaver~~
Creek, a limited partnership.

Witness my hand and official seal.

My commission expires: Nov 4, 1978

George Rosenberg
Notary Public



EXHIBIT A TO DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS
DATED JUNE 11, 1976 BY BENCHMARK AT BEAVER CREEK, A LIMITED
PARTNERSHIP.

Lots 25 through 32, and Lot 35, Block 2, BENCHMARK AT BEAVER CREEK SUBDIVISION, according to the recorded plats thereof in the Office of the Clerk and Recorder of Eagle County, Colorado, as recorded December 24, 1974, in Book 238 at Page 41, and April 27, 1976, in Book 246 at Page 44, the above-described Lots 25 and 26 being more particularly described as follows:

LOT 25:

A parcel of land in the County of Eagle and State of Colorado, being a portion of Benchmark at Beaver Creek as recorded December 24, 1974, in Book 238 at Page 41, and April 27, 1976, in Book 246 at Page 44, lying within the Northwest one-quarter of Section 12, Township 5 South, Range 82 West of the Sixth Principal Meridian; said parcel of land being more particularly described as follows:

Commencing at the point of intersection of the Westerly right-of-way line of tract "F" (also known as Avon Road) with the Southerly right-of-way line of Interstate Highway No. 70, said point also being the Northeasterly corner of Lot 29, Block 2, of said Benchmark at Beaver Creek Subdivision; thence S 54°11'08" E and along said Southerly right-of-way line 99.75 feet; thence continuing along said Southerly right-of-way line S 61°46'15" E 524.56 feet to the true point of beginning; thence continuing along said Southerly right-of-way line S 61°46'15" E 541.94 feet to a point of intersection with the Northerly right-of-way line of Beaver Creek Boulevard; thence along said Northerly right-of-way line 311.98 feet along the arc of a 325.00 foot radius curve to the left having a central angle of 55°00'00" and whose long chord bears S 89°16'15" W 300.14 feet; thence continuing along said Northerly right-of-way line S 63°13'45" W 90.00 feet to a point of curve; thence continuing along said Northerly right-of-way line 310.22 feet along the arc of a 372.63 foot radius curve to the right having a central angle of 47°41'57" and whose long chord bears S 87°04'44" W 301.34 feet; thence N 33°28'26" E 369.74 feet to the true point of beginning. Said parcel of land contains 2.1843 acres, more or less.

LOT 26:

A parcel of land in the County of Eagle and State of Colorado, being a portion of Benchmark at Beaver Creek as recorded December 24, 1974, in Book 238 at Page 41, and April 27, 1976, in Book 246 at Page 44, lying within the Northwest one-quarter of Section 12, Township 5 South, Range 82 West of the Sixth Principal Meridian; said parcel of land being more particularly described as follows:

Commencing at the point of intersection of the Westerly right-of-way line of tract "F" (also known as Avon Road) with the Southerly right-of-way line of Interstate Highway No. 70, said point also being the Northeasterly corner of Lot 29, Block 2, of said Benchmark at Beaver Creek Subdivision; thence S 54°11'08" E and along said Southerly right-of-way line 99.75 feet; thence continuing along said Southerly right-of-way line S 61°46'15" E 201.00 feet to the true point of beginning; thence continuing along said Southerly right-of-way line S 61°46'15" E 323.56 feet; thence S 33°28'26" W 369.74 feet to a point on the Northerly right-of-way line of Beaver Creek Boulevard; thence N 69°04'18" W and along said Northerly line, 174.91 feet; thence N 11°38'42" E 407.36 feet to the true point of beginning. Said parcel of land contains 2.1746 acres, more or less.

143173

STATE OF COLORADO }
County of EAGLE }
I hereby certify that this instrument was
Filed for record in my office on

JUN 14, 1976

to \$10.00
in Book 246 Page 947
MARGARET R. BART, County Clerk & Recorder
Stacy Hall
\$10.00

Return to:
Benchmark at Beaver Creek
Box 5
Avon, Colo 81657

146410

11/18/76 @ 1PM

250/143

RESTATEMENT OF AND THIRD AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION

BENCHMARK AT BEAVER CREEK, a Colorado limited partnership, is the beneficial owner of all that real property within the subdivision named BENCHMARK AT BEAVER CREEK in Eagle County, Colorado, the Final Plat, as amended, of which has been filed under Reception No. 129460 and recorded in Map Case #2, Drawer "A" of Plats in Book 233 at Page 566 in the records of the Eagle County Clerk and Recorder, the Revised Final Plat of which has been filed under Reception No. 134061 and recorded in Map Case #2, Drawer "B" in Book 238 at Page 41 in the records of the Eagle County Clerk and Recorder; Final Plat Amendment No. 1 filed under Reception No. 142223 and recorded in Book 246 at Page 43; Final Plat Amendment No. 2 filed under Reception No. 142224 and recorded in Book 246 at Page 244, and Final Plat Amendment No. 3 filed under Reception No. 145347 in Book 249 at Page 93, all respectively in the records of the Eagle County Clerk and Recorder.

BENCHMARK AT BEAVER CREEK, Grantor, as the owner of at least 51% of the land included within the boundaries of said Subdivision, hereby amends in total the previously filed Declaration of Protective Covenants for said Subdivision as recorded in Book 233 at Page 565 and the Amended Declaration of Protective Covenants as recorded in Book 245 at Page 642, both respectively recorded in the records of the Eagle County Clerk and Recorder; provided, however, that this instrument shall in no wise affect that certain instrument entitled Declaration of Additional Protective Covenants recorded in Book 246 at Page 947 in the records of the Clerk and Recorder of Eagle County, Colorado; and

BENCHMARK AT BEAVER CREEK, Grantor, hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

1. Commercial - Lots in the Commercial Zone are intended to provide for the broad range of commercial operations and services required for the proper and convenient functioning of Commercial Centers serving large areas of the County. Uses permitted are intended to include all retail and service operations that may be appropriately located within a shopping district and that are normally required to sustain a community including but not limited to the following: Wholesale and retail establishments, including sale of food, beverages, drygoods, furniture, appliances, bakery, automotive and vehicular equipment, hardware, clothing, building materials, feed, garden supply, equipment rental and plant

materials, personal service establishments, including banks, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals only, mortuary, photo studio, shoe repair, tailor shop, bowling alley, restaurant, cocktail lounge, private reading club, theater and indoor recreation; general service establishments, including automobile service stations, vehicular rental service and repair shops, motel-hotel-lodges up to 750 units, boarding and rooming houses, offices for conduct of a business or profession, studios for conduct of arts and crafts, dental and medical clinics. Also, any use by Right of the C/L District and C/G District permitted under the Zoning Resolution of Eagle County, Colorado.

2. **Committee** - A group of five persons who shall be responsible for the administration and enforcement of these protective covenants. All such persons shall be appointed by Grantor.
3. **Common Open Space** - That portion of the Subdivision held in trust by Benchmark at Beaver Creek and Eagle County and used to provide common access to the public domain by residents and visitors to the Subdivision and the public in general.
4. **Community Facilities** - A lot which may be used for religious purposes, fire station, police or sheriff's station, or similar governmental purposes, public nursery or day-care center.
5. **Condominium** - A lot which may be used for multiple family residential purposes, residential duplex, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants. Condominium units are as defined in Section 38-33-101 et seq. C.R.S. 1973 as amended (Colorado Condominium Ownership Act). Duplex is defined herein as a building containing two dwelling units; dwelling units defined herein below under the term "single family."
6. **Industrial** - A lot which may be used for the broad range of Manufacturing, Warehousing, Storage, Retail and Sales Operations required for the proper and convenient functioning of industrial centers serving large areas of Eagle County, including but not limited to all of the uses by right contained in the Zoning Resolution for the County of Eagle, State of Colorado, and/or also an electric utility substation including the placement of all equipment, the

construction of roads, and all other appurtenances necessary to operate an electric substation, also including warehouse, storage, garage and office use thereto.

7. Lot - A lot located within Benchmark at Beaver Creek Subdivision.
8. Mobile Home Park - A lot which may be used for mobile home park purposes; which shall be subject to any rules and regulations for such purposes as are established by the State of Colorado and County of Eagle; and further shall be subject to any rules and regulations for mobile home parks which may be established by the Planning and Architectural Control Committee of the Benchmark at Beaver Creek Subdivision.
9. Multiple Family - A lot which may be used for multiple family residential apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
10. Single Family - A lot which may be used for the construction of only one dwelling unit and containing not less than 1,500 sq. ft. of habitable floor area. A dwelling unit is defined as one or more rooms in one building occupied by one family living independently of any other family, used solely for residential (human) occupancy, and not having more than one cooking facility. The term dwelling unit shall not include a mobile home whether or not fixed to the ground by a permanent continuous foundation. The term dwelling unit as used herein under this definition shall be exclusive and shall not include hotels, motels, boarding houses, clubs, or any institution, such as an asylum, hospital or jail.
11. Subdivision- Benchmark at Beaver Creek Subdivision.

2. GENERAL PURPOSES: These covenants are for the mutual benefit and protection of the owners and lessees of the lots in the Subdivision and are made for the purposes of creating and keeping the Subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference or destruction of the natural beauty of the Subdivision.

3. USES: All lots in the Subdivision shall fall within the following land use definitions:

<u>Definition</u>	<u>Lot Description</u>
1. Commercial, also designated general commercial or bank or motel-lodge or hotel-lodge or shopping center	Block 1: Lots 1 through and including 50 and 62, 63, 64, 65, 67 and 68 Block 2: Lots 20, Tract Q, 21 through and including 32, 35, 47 through and including 74 Block 3: Lots 3, 4, 7, 8
2. Common Open Space	Tracts A, B, and C
3. Community Facilities	Block 2: Lot 34 Block 3: Lot 3
4. Condominium, also designated apartment or duplex	Block 1: Lots 51, 52, 53, 54, 55, 57, 66 Block 2: Lots 2 through and including 19, 33, 34, 36 through and including 56, 58, 61, 62, 63, 64, 65 Block 3: Lots 1, 2, 5, 6, 9 through and including 14
5. Industrial	Block 1: Lots 10 through and including 37
6. Multiple Family, also designated apartment or condominium	Block 1: Lots 55, 57, 66 Block 2: Lots 2, 3, 4, 7, 11 through and including 19, 34, 41 through and including 47, 49, 51, 52, 54, 55, 56, 61, 62, 63, 64, 65 Block 3: Lots 1, 2, 5, 9 through and including 14
7. Mobile Home Park	Block 2: Lot 1
8. Single Family	Block 1: Lots 56, 58, 59, 60, 61, 69

4. PLANNING AND ARCHITECTURAL CONTROL COMMITTEE:

The Planning and Architectural Control Committee, hereinafter referred to as the Committee, shall consist of five members who shall be appointed and serve at the pleasure of the Grantor, Benchmark at Beaver Creek, its successors or assigns, to review, study, and approve or reject proposed improvements of any nature whatsoever within the area described in the Final Plat and any and all amendments thereto of Benchmark at Beaver Creek of which these protective covenants are made a part. The Grantor shall have the exclusive right to remove and/or replace any member of the Committee as the Grantor in its sole opinion shall deem necessary, including but not limited to the replacement of a committee member upon said member's resignation, disability or death. Said replacement shall be forthwith at the discretion of the Grantor. A majority of the Committee shall govern its actions. However, Grantor at its sole discretion may alter in part or in total any decision of the Committee. Any vacancy on the Committee shall be filled by appointment by the Grantor; in the event Grantor fails to make such appointment for a continuous period of 30 days, then in said event any vacancy may be filled by appointment of the Board of County Commissioners of Eagle County, Colorado.

(a) The Committee shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings.

(b) In passing upon any plans and specifications submitted for its approval the Committee shall consider:

(i) the suitability of the improvement, including materials of which it is to be constructed, to the site upon which it is to be located;

(ii) the nature of adjacent and neighboring improvements;

(iii) the quality of the materials to be utilized in any proposed improvement; and

(iv) the effect of any proposed improvement on the outlook of any adjacent or neighboring property.

(c) It shall be an objective of the Committee to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired.

(d) In the event the Committee fails to approve or disapprove plans and specifications submitted to it within thirty days of submission and no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and the related covenants shall be determined to have been fully complied with.

(e) The Committee is hereby authorized to collect reasonable fees as it may deem necessary from parties seeking or requiring the services of the Committee pursuant to these Protective Covenants and any and all rules and regulations adopted pursuant thereto. Said fees shall be the property of and inure to the benefit of Benchmark at Beaver Creek, a limited partnership and/or its successors and assigns. Said fees may be used by the Committee for its expenses.

5. APPROVAL OF CONSTRUCTION PLANS: All plans for construction and alteration shall be first submitted to the Committee as herein provided:

(a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of final plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor plan, elevation showing all sides, plot and grading plans; provisions for off-street parking and locations of driveway access; the specifications for exterior materials, color schemes; landscape drawings and plant specifications; the location, character and method of utilization of all utilities have been submitted to the Committee and approved by it in writing. Owners and lessees of lots within the Subdivision are encouraged to consult with the Committee prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay in approval.

(b) The Committee shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of final plans and specifications, which charge shall be paid in advance. The Committee shall publish as a part of its rules and regulations a schedule setting forth the various fees to be charged for the various types of submittals for approval.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) The Committee shall use reasonable judgment in passing upon all such plans and specifications, but the Committee shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the Committee acted with malice or wrongful intent.

6. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the Subdivision free and clear and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the Committee. No vehicle entrance to any lot in the Subdivision from any dedicated road or street shall be constructed or used unless serviced by a constructed drainage culvert located and sized in a manner which shall first be approved in writing by the Committee. The Committee's action in reviewing such drainage plans shall be guided by the recommendations of the Planning Department of Eagle County, Colorado.

7. EASEMENTS: Easements and rights-of-way as shown or described on the recorded plat of the Subdivision are hereby reserved. In addition the following easements and rights-of-way are reserved:

(a) Easement reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Grantor for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage, sewer, sanitation, telephone, natural gas, liquid propane gas, television cable, lighting, heating, bridle path, pedestrian traffic, and similar services. Provided, however, that the use and exercise of said easement shall not disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

8. FENCES: No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the Committee as an integral or decorative part of a building to be erected on a lot.

9. SIGNS: No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot or structure for any purpose whatsoever, except such commercial signs as have been approved by the Committee either for identification of residences or places of business or other commercial uses. The Committee shall establish comprehensive sign regulations for the Subdivision providing for the administration and enforcement of same; regulate the erection, construction, restoration, alteration, location, landscaping and maintenance of signs, window signs, flags, pennants, banners and bunting,

display boxes, residential name plate signs, subdivision interest signs, temporary site development signs, traffic control signs for private property, murals and supergraphics; establishment of an approved sign program; establishment of a design review procedure and guidelines. The Committee shall review the appearance, lighting, form, color, character, dimensions, and materials of all signs requiring approval under this covenant and any rules and regulations created pursuant hereto. The Committee shall make such aesthetic judgments necessary to insure that all signs requiring approval under this covenant or any rules and regulations made pursuant hereto are in conformance with such sign rules and regulations and in harmony with the character of the Subdivision. The Committee may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties. Review shall be in conformance with the procedure outlined in such rules and regulations.

10. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by Grantor or any successive person or entity. No private wells or sanitation system shall be used within the Subdivision.

11. TRASH: No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and protected from disturbance.

12. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other household pets for personal enjoyment and not for commercial purposes and except horses owned and used in conjunction with an equestrian-livery operation approved by the Committee) shall be kept, raised or bred in the Subdivision. The keeping of dogs, cats and other household pets for personal enjoyment shall be strictly governed by all applicable rules and regulations adopted by the County of Eagle, Colorado, any successor governmental entity, the Committee aforementioned, or any homeowners association created for the benefit of property owners and lessees of the Subdivision.

13. TREES: Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the Committee.

14. SET BACK REQUIREMENTS: The Committee may determine the location of improvements in relation to property lines, and all actual construction sites must receive the advance written approval of the Committee prior to the commencement of construction. In determining the proper location for each improvement, the Committee shall consider the location of existing and future improvements on adjacent property, the wishes of adjacent property owners, and such other economic or aesthetic considerations as it may deem appropriate.

15. BUILDING HEIGHT: All building height maximums shall be as determined by the Committee. Building height is defined as the distance, measured vertically, from the finished grade at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, gambrel, hip, shed or similar pitched roof, and measured to a slope not to exceed 12:24.

16. PARKING REQUIREMENTS: Parking requirements shall be determined by the Committee. The following provisions shall apply to off-street parking and loading facilities:

The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The Committee shall not approve any construction until plans are presented and approved by the Committee that show property that is available and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the Committee's approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this covenant. Should the owner or occupant of any lot or building change the use to which the lot or building is utilized, thereby increasing off-street parking and loading requirements, it shall be a violation of this covenant to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are complied with. With respect to additional general provisions, design requirements, minimum off-street loading requirements, minimum off-street parking space requirements, clear-vision area requirements, the Committee shall be guided by the standards set forth in the Eagle County Zoning Resolution, as amended.

17. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The Committee shall make rules and regulations specifying the location, type, and quantities of ground cover, plants, shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.

18. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by the Committee in writing.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exception is granted in writing by the Committee.

20. NUISANCE: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

21. TRADE NAMES: No word, name, symbol, or combination thereof shall be used to identify for commercial purposes a house, structure, business or service within the Subdivision unless the same shall have been first approved in writing by the Committee. "Benchmark", as a word, name, symbol, or any combination thereof, shall not be used to identify for commercial purposes any house, structure, business, or service within the Subdivision unless the same shall have been first approved in writing by the Grantor.

22. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the Subdivision or herein may be granted in writing by the Committee upon approval thereof by the Board of County Commissioners of Eagle County, Colorado.

23. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the Subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 2000, at which time they shall be automatically extended for five successive terms of ten years each.

24. AMENDMENT: The conditions, restrictions, stipulations, agreements, and covenants contained herein may be abandoned, terminated, or amended by the Grantor until such time as 70% of the land included within the boundaries of the Subdivision has been sold by the Grantor, at which time the then owners of 51% of the land in the Subdivision may call an election to select a "Landowners Committee" comprised of five individual owners in the subdivision, one of whom shall be the Grantor, if the Grantor shall at such time still be an owner of property in the Subdivision, and said Committee, by 4/5 majority vote, may amend, alter, revoke or modify the conditions, restrictions, stipulations, agreements and covenants contained herein. In determining the land included within the boundaries of the Subdivision, those parcels designated on the final plat as "public tracts" shall be counted and shall be deemed to be owned by Benchmark at Beaver Creek.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the Board of County Commissioners of Eagle County, Colorado, or any person or persons owning real property in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violations.

26. PENALTIES AND EXPENSES OF ENFORCEMENT; LIENS FOR NON-PAYMENT OF SAME: If any person shall violate any of the provisions of this instrument or the rules and regulations promulgated by the Committee pursuant to this instrument for which penalties are provided, or cause expenses to the Committee as a result of such violations, and fail to or refuse to pay such penalties or expenses, then such unpaid penalties or expenses shall be chargeable to the owner, including interest, and shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

a) Tax and special assessment liens in favor of any assessing unit; and

b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the creation of such a lien.

To evidence such a lien the Committee shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of record of the subject property, and the legal description of the subject property. Such notice shall

be signed by a member of the Committee and shall be recorded in the office of the Clerk and Recorder of the County of Eagle, State of Colorado. Such lien for the penalties or expenses shall attach from the date of the failure of payment of said assessment of penalties or expenses, and may be enforced by foreclosure on the defaulting owner's property by the Committee. In the event of such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees. The Grantor hereunder shall have the power to bid in said real property at any foreclosure sale and to acquire and hold, lease, mortgage or convey the same.

The amount of any such penalties or expenses assessed against such real property shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid penalties or expenses may be maintained without foreclosing or waiving the lien securing said debt.

Any mortgage holder or similar encumbrancer holding a lien on any real property in the Subdivision may pay any unpaid penalties or expenses created hereunder with respect to such real property, and upon such payment such encumbrancer shall have a lien on such real property for the amounts paid, said lien to be of the same priority as the lien of his respective encumbrance.

27. NON-CONFORMING USES AND BUILDINGS: The lawful use of a building or structure, or the lawful use of any land as existing and lawful at the time of recording of this instrument, or in the case of amendment of this instrument then at the time of such amendment, may be continued although such use does not conform to the provisions of this instrument or amendments thereto; and such use may be extended throughout the same building, provided no structural alteration of such structure is proposed or made for the purpose of such extension.

27.1. Repaid and Maintenance. Repair and maintenance of a non-conforming building shall be permitted.

27.2. Restoration. A non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event, and completed within 18 months of such commencement.

27.3. Change in Use. A non-conforming use shall not be replaced by a use considered to exhibit a greater degree of non-conformity than the existing use; a non-conforming use may be replaced by a use considered to exhibit an equal or lesser degree of non-conformity, to be determined by the Committee based on the intent and purposes of this instrument.

27.4. Abandonment. Whenever a non-conforming use of a building or land has been abandoned for a period of one year, future use of the land or building shall be in conformity with all applicable provisions of this instrument or rules and regulations promulgated by the Committee pursuant to this instrument.

28. **SEVERABILITY:** Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

29. **WEED ABATEMENT:** Any other provision contained herein to the contrary notwithstanding, all lots shall be maintained in a neat appearance, and where said lot shall be without any structure, any natural or artificial growth, i.e., natural grasses, bushes, etc., shall be maintained and controlled. In the event said growth on any lot shall become uncontrolled and unsightly, then in said event the Committee shall have the right to cut, trim, or remove said growth at the sole expense of the respective owner of any such lot.

30. **UTILITIES:** All utilities servicing any lot respectively in the Subdivision shall be by means of underground facilities, and all extensions for all utility services through the Subdivision or any part thereof shall be only by means of underground facilities, unless the respective owner of any lot shall have obtained the prior express written approval of the Grantor or its successors in interest for any utility facilities or extensions thereof by means of overhead facilities.

Executed this 18th day of November, 1976.

BENCHMARK AT BEAVER CREEK, a
Colorado Limited Partnership,

By BENCHMARK-AVON PROPERTIES, a
Partnership, Its Sole General
Partner,

By Ronald D. Allred
Ronald D. Allred, a Managing
Partner

STATE OF COLORADO)
COUNTY OF EAGLE) SS.

The above and foregoing instrument was acknowledged before me this 18th day of November, 1976, by RONALD D. ALLRED, a Managing Partner of Benchmark-Avon Properties, a Partnership.

My commission expires:

WITNESS my hand and official seal.



Margo Woods
Notary Public

RESTATEMENT OF AND FOURTH AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION

BENCHMARK AT BEAVER CREEK, a limited partnership, exercises its power pursuant to paragraph 24 of the Restatement of and Third Amendment to Declaration of Protective Covenants for the Benchmark at Beaver Creek Subdivision, as recorded in Book 250 at Page 143 in the records of the Eagle County Clerk and Recorder, Eagle, Colorado, and hereby amends in total the above referenced Restatement and Third Amendment, provided however, that this instrument shall in no wise affect the additional Protective Covenants recorded in Book 246 at Page 947 in the records of the Clerk and Recorder of Eagle County, Colorado; and

BENCHMARK AT BEAVER CREEK, Grantor, hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

1. Commercial - The commercial zone is intended to provide for the broad convenient functioning of commercial centers serving large areas of the County. Uses permitted are intended to include all retail and service operations, including but not limited to the following: wholesale and retail establishment, including sale of food, beverages, drygoods, furniture, appliances, bakery, automotive and vehicular equipment, hardware, clothing, building materials, feed, garden

supply, equipment rental and plant materials; personal service establishment including bank, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals only, mortuary, photo studio, shoe repair, tailor shop, bowling alley, restaurant, cocktail lounge, private club, theater and indoor recreation; general service establishment including service of automobiles, automobile service stations, vehicular rental service and repair shops, hotel-lodges up to 750 units, boarding and rooming house, offices for conduct of a business or profession, studio for conduct of arts and crafts, dental and medical clinics.

2. Committee - A group of five persons who shall be responsible for the administration and enforcement of these protective covenants. All such persons shall be appointed by Grantor.
3. Common Open Space - That portion of the Subdivision held in trust by Benchmark at Beaver Creek and used to provide common access to the public domain by residents and visitors to the Subdivision and the public in general.
4. Community Facilities - A lot which may be used for religious purposes, fire station, police or sheriff's station, or similar governmental purposes, public nursery or day-care center.
5. Condominium- A lot which may be used for multiple family residential purposes, residential duplex, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants. Condominium units are as defined in Section 38-33-101 et seq. C.R.S. 1973 as amended (Colorado Condominium Ownership Act). Duplex is defined herein as a building containing two dwelling units; dwelling units defined hereinbelow under the term "single family."

6. Industrial -- A lot which may be used for the broad range of Manufacturing, Warehousing, Storage, Retail and Sales Operations required for the proper and convenient functioning of industrial centers serving large areas of Eagle County, including but not limited to all of the uses by right contained in the Zoning Resolution for the County of Eagle, State of Colorado, and/or also an electric utility substation including the placement of all equipment, the construction of roads, and all other appurtenances necessary to operate an electric substation, also including warehouse, storage, garage and office use thereto.
7. Lot - A lot located within Benchmark at Beaver Creek Subdivision.
8. Mobile Home- A lot which may be used for mobile home park purposes; Park which shall be subject to any rules and regulations for such purposes as are established by the State of Colorado and Town of Avon; and further shall be subject to any rules and regulations for mobile home parks which may be established by the Planning and Architectural Control Committee of the Benchmark at Beaver Creek Subdivision.
9. Multiple - A lot which may be used for multiple family residential Family apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
10. Single - A lot which may be used for the construction of only Family one dwelling unit and containing not less than 1,500 sq. ft. of habitable floor area. A dwelling unit defined as one or more rooms in one building occupied by one family living independent of any other family, used solely for residential (human) occupancy, and not having more than one cooking facility. The term

dwelling unit shall not include a mobile home whether or not fixed to the ground by a permanent continuous foundation. The term dwelling unit as used herein under this definition shall be exclusive and shall not include hotels, motels, boarding houses, clubs, or any institution, such as an asylum, hospital or jail.

11. Subdivision- Benchmark at Beaver Creek Subdivision.

2. GENERAL PURPOSES: These covenants are for the mutual benefit and protection fo the owners and lessees of the lots in the Subdivision and are made for the purposes of creating and keeping the Subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference or destruction of the natural beauty of the Subdivision.

3. USES: All lots in the Subdivision shall fall within the following land use definitions:

<u>Definition</u>	<u>Lot Description</u>
1. Commercial, also designated general commercial or bank or motel-lodge or hotel-lodge or shopping center.	Block 1: Lots 1 thru 5, Lots 10 through 42, Lots 67 and 68. Block 2: Lots 20 thru 32, Lot 35, Lots 47 thru 75, Tract Q. Block 3: Lots 3 thru 8.
2. Common Open Space	Tracts A, B, and C.
3. Community Facilities	Tracts G and P.
4. Condominium, also designated apartment or duplex	Block 1: Lots 6 thru 9, Lots 43 thru 51 and Lot 70. Block 2: Lots 2 thru 19, Lots 23, 33 and 34; Lots 36 thru 56, Lot 58, Lots 61 thru 69, Lots 71 and 72, Lot 75. Block 3: Lots 1 thru 3, Lots 5 thru 9.
5. Industrial	Block 1: Lots 10 thru 29, 32 thru 41.
6. Multiple Family, also designated apartment or condominium	Block 1: Lots 6 thru 9, Lots 43 thru 51, Lot 70. Block 2: Lots 2,3,4,7, Lots 11 thru 19, Lots 23, 34, 41 thru 56, 58 Lots 61 thru 69, 71 and 72, 75. Block 3: Lots 1 thru 3, Lots 5 and 6, and Lots 8 and 9.
7. Mobile Home Park	Block 2: Lot 1
8. Single Family	Block 1: Lots 52 thru 57, Lot 69.
9. I-70 right-of-way exception	Tract D.
10. Avon Road right-of-way	Tract E, F.

- | | |
|---|-------------------|
| 11. Eagle River-Drainage use
and conservation | Tract H, I, K, L. |
| 12. Old River Bridge and conserva-
tion | Tract J. |
| 13. Denver and Rio Grande Western
Railroad right-of-way exception
to Plat | Tract M. |
| 14. Upper Eagle Valley Sanitation
District exception to Plat | Tract N, O. |
| 15. Shopping Center Phase 1 | Tract Q. |
| 16. Shopping Center sign | Tract R. |
| 17. Access, irrigation ditch drainage,
utility | Tract S. |
| 18. Private landscape and drainage | Tract T, U, V. |
| 19. Access, drainage, utility | Tract W. |
| 20. Private access | Tract X. |

4. PLANNING AND ARCHITECTURAL CONTROL COMMITTEE: The Planning and Architectural Control Committee, hereinafter referred to as the Committee, shall consist of five members who shall be appointed and serve at the pleasure of the Grantor, Benchmark at Beaver Creek, its successors or assigns, to review, study, and approve or reject proposed improvements of any nature whatsoever within the area described in the Final Plat and any and all amendments thereto of Benchmark at Beaver Creek of which these protective covenants are made a part. The Grantor shall have the exclusive right to remove and/or replace any member of the Committee as the Grantor in its sole opinion shall deem necessary, including but not limited to the replacement of a committee member upon said member's resignation, disability or death. Said replacement shall be forthwith at the discretion of the Grantor. A majority of the Committee shall govern its actions. However, Grantor at its sole discretion may alter in part or in total any decision of the Committee. Any vacancy on the Committee shall be filled by appointment by the Grantor; in the event Grantor fails to make such appointment for a continuous period of 30 days, then in said event any vacancy may be filled by appointment of the Board of County Commissioners of Eagle County, Colorado.

(a) The Committee shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings.

(b) In passing upon any plans and specifications submitted for its approval the Committee shall consider:

(i) The suitability of the improvement, including materials of which it is to be constructed, to the site upon which it is to be located;

(ii) the nature of adjacent and neighboring improvements;

(iii) the quality of the materials to be utilized in any proposed improvement; and

(iv) the effect of any proposed improvement on the outlook of any adjacent or neighboring property.

(c) It shall be an objective of the Committee to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired.

(d) In the event the Committee fails to approve or disapprove plans and specifications submitted to it within thirty days of submission and no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and the related covenants shall be determined to have been fully complied with.

(e) The Committee is hereby authorized to collect reasonable fees as it may deem necessary from parties seeking or requiring the services of the Committee pursuant to these Protective Covenants and any all rules and regulations adopted pursuant thereto. Said fees shall be the property of and inure to the benefit of Benchmark at Beaver Creek, a limited partnership and/or its successors and assigns. Said fees may be used by the Committee for its expenses.

5. APPROVAL OF CONSTRUCTION PLANS: All plans for construction and alteration shall be first submitted to the Committee as herein provided:

(a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of final plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor plan, elevation showing all sides, plot and grading plans; provisions for off-street parking and locations of driveway access; the specifications; the location, character and method of utilization of

all utilities have been submitted to the Committee and approved by it in writing. Owners and lessees of lots within the Subdivision are encouraged to consult with the Committee prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay in approval.

(b) The Committee shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of final plans and specifications, which charge shall be paid in advance. The Committee shall publish as a part of its rules and regulations a schedule setting forth the various fees to be charged for the various types of submittals for approval.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) The Committee shall use reasonable judgment in passing upon all such plans and specifications, but the Committee shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the Committee acted with malice or wrongful intent.

6. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the Subdivision free and clear and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the Committee. No vehicle entrance to any lot in the Subdivision from any dedicated road or street shall be constructed or used unless serviced by a constructed drainage culvert located and sized in a manner which shall first be approved in writing by the Committee. The Committee's action in reviewing such drainage plans shall be guided by the recommendations of the Planning Department of Eagle County, Colorado.

7. EASEMENTS: Easements and rights-of-way as shown or described on the recorded plat of the Subdivision are hereby reserved. In addition the following easements and rights-of-way are reserved:

(a) Easement reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Grantor for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage, sewer, sanitation, telephone, natural gas, liquid propane gas, television cable, lighting, heating, bridle path, pedestrian traffic, and similar services. Provided, however, that the use and exercise of said easement shall not disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

8. FENCES: No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the Committee as an integral or decorative part of a building to be erected on a lot.

9. SIGNS: No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot or structure for any purpose whatsoever, except such commercial signs as have been approved by the Committee either for identification of residences or places of business or other commercial uses. The Committee shall establish comprehensive sign regulations for the Subdivision providing for the administration and enforcement of same; regulate the erection, construction, restoration, alteration, location, landscaping and maintenance of signs, window signs, flags, pennants, banners and buntings, display boxes, residential name plate signs, subdivision interest signs, temporary site development signs, traffic control signs for private property, murals and supergraphics; establishment of an approved sign program; establishment of a design review procedure and guidelines. The Committee shall review appearance, lighting, form, color, character, dimensions, and materials of all signs requiring approval under this covenant and any rules and regulations created pursuant hereto. The Committee shall make such aesthetic judgments necessary to insure that all signs requiring approval under this covenant or any rules and regulations made pursuant hereto are in conformance with such

sign rules and regulations and in harmony with the character of the Subdivision. The Committee may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties. Review shall be in conformance with the procedure outlined in such rules and regulations.

10. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by Grantor or any successive person or entity. No private wells or sanitation system shall be used within the Subdivision.

11. TRASH: No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and protected from disturbance.

12. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other household pets for personal enjoyment and not for commercial purposes and except horses owned and used in conjunction with an equestrian-livery operation approved by the Committee) shall be kept, raised or bred in the Subdivision. The keeping of dogs, cats and other household pets for personal enjoyment shall be strictly governed by all applicable rules and regulations adopted by the Town of Avon, Colorado, any successor governmental entity, the Committee aforementioned, or any homeowners association created for the benefit of property owners and lessees of the Subdivision.

13. TREES: Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the Committee.

14. SET BACK REQUIREMENTS: The Committee may determine the location of improvements in relation to property lines, and all actual construction sites must receive the advance written approval of the Committee prior to the commencement of construction. In determining the proper location for each improvement, the Committee shall consider the location of existing and future improvements on adjacent property, the wishes of adjacent property owners, and such other economic or aesthetic considerations as it may deem appropriate.

15. BUILDING HEIGHT: All building height maximums shall be as determined by the Committee. Building height is defined as the distance, measured

vertically, from the finished grade at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, gambrel, hip, shed or similar pitched roof, and measured to a slope not to exceed 12:24.

16. PARKING REQUIREMENTS: Parking requirements shall be determined by the Committee. The following provisions shall apply to off-street parking and loading facilities:

The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The Committee shall not approve any construction until plans are presented and approved by the Committee that show property that is available and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the Committee's approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this covenant. Should the owner or occupant of any lot or building change the use to which the lot or building is utilized, thereby increasing off-street parking and loading requirements, it shall be a violation of this covenant to begin or maintain such altered use until such time as the increased off-street parking and loading requirements, minimum off-street loading requirements, clear-vision area requirements, the Committee shall be guided by the standards set forth in the Town of Avon Zoning Resolution.

17. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The Committee shall make rules and regulations specifying the location, type, and quantities of ground cover, plants, shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.

18. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by the Committee in writing.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exception is granted in writing by the Committee.

20. NUISANCE: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

21. TRADE NAMES: No word, name, symbol, or combination thereof shall be used to identify for commercial purposes a house, structure, business or service within the Subdivision unless the same shall have been first approved.

in writing by the Committee. "Benchmark", as a work, name, symbol, or any combination thereof, shall not be used to identify for commercial purposes any house, structure, business, or service within the Subdivision unless the same shall have been first approved in writing by the Grantor.

22. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the Subdivision or herein may be granted in writing by the Committee upon approval thereof by the Town of Avon, Colorado.

23. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the Subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 2000, at which time they shall be automatically extended for five successive terms of ten years each.

24. AMENDMENT: The conditions, restrictions, stipulations, agreements, and covenants contained herein may be abandoned, terminated, or amended by the Grantor until such time as 70% of the land included within the boundaries of the Subdivision has been sold by the Grantor, at which time the then owners of 51% of the land in the Subdivision may call an election to select a "Landowners Committee" comprised of five individual owners in the subdivision, one of whom shall be the Grantor, if the Grantor shall at such time still be an owner of property in the Subdivision, and said Committee, by 4/5 majority vote, may amend, alter, revoke or modify the conditions, restrictions, stipulations, agreements and covenants contained herein. In determining the land included within the boundaries of the Subdivision, those parcels designated on the final plat as "public tracts" shall be counted and shall be deemed to be owned by Benchmark at Beaver Creek.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the Town of Avon, Colorado, or any person or persons owning real property in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable

attorneys' fees, for such violations.

26. PENALTIES AND EXPENSES OF ENFORCEMENT; LIENS FOR NON-PAYMENT OF SAME: If any person shall violate any of the provisions of this instrument

or the rules and regulations promulgated by the Committee pursuant to this instrument for which penalties are provided, or cause expenses to the Committee as a result of such violations, and fail to or refuse to pay such penalties or expenses, then such unpaid penalties or expenses shall be chargeable to the owner, including interest, and shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

(a) Tax and special assessment liens in favor of any assessing unit; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the creation of such a lien.

To evidence such a lien the Committee shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of record of the subject property, and the legal description of the subject property. Such notice shall be signed by a member of the Committee and shall be recorded in the office of the Clerk and Recorder of the County of Eagle, State of Colorado. Such lien for the penalties or expenses shall attach from the date of the failure of payment of said assessment of penalties or expenses, and may be enforced by foreclosure on the defaulting owner's property by the Committee. In the event of such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees. The Grantor hereunder shall have the power to bid in said real property at any foreclosure sale and to acquire and hold, lease, mortgage or convey the same.

The amount of any such penalties or expenses assessed against such real property shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid penalties or expenses may be maintained without foreclosing or waiving the lien securing said debt.

Any mortgage holder or similar encumbrancer holding a lien on any

real property in the Subdivision may pay any unpaid penalties or expenses created hereunder with respect to such real property, and upon such payment such encumbrancer shall have a lien on such real property for the amounts paid, said lien to be of the same priority as the lien of his respective encumbrance.

27. NON-CONFORMING USES AND BUILDINGS: The lawful use of a building or structure, or the lawful use of any land as existing and lawful at the time of recording of this instrument, or in the case of amendment of this instrument then at the time of such amendment, may be continued although such use does not conform to the provisions of this instrument or amendments thereto; and such use may be extended throughout the same building, provided no structure is proposed or made for the purpose of such extension.

27.1 Repair and Maintenance. Repair and maintenance of a non-conforming building shall be permitted.

27.2. Restoration. A non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event, and completed within 18 months of such commencement.

27.3. Change in Use. A non-conforming use shall not be replaced by a use considered to exhibit a greater degree of non-conformity than the existing use; a non-conforming use may be replaced by a use considered to exhibit an equal or lesser degree of non-conformity, to be determined by the Committee based on the intent and purposes of this instrument.

27.4 Abandonment. Whenever a non-conforming use of a building or land has been abandoned for a period of one year, future use of the land or building shall be in conformity with all applicable provisions of this instrument or rules and regulations promulgated by the Committee pursuant to this instrument.

28. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

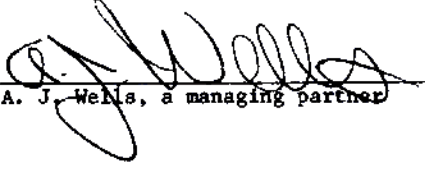
29. WEED ABATEMENT: Any other provision contained herein to the contrary notwithstanding, all lots shall be maintained in a neat appearance, and where said lot shall be without any structure, any natural or artificial growth, i.e., natural grasses, bushes, etc., shall be maintained and controlled. In the event said growth on any lot shall become uncontrolled and unsightly, then in said event the Committee shall have the right to cut, trim, or remove said growth at the sole expense of the respective owner of any such lot.

30. UTILITIES: All utilities servicing any lot respectively in the Subdivision shall be by means of underground facilities, and all extensions for all utility services through the Subdivision or any part thereof shall be only by means of underground facilities, unless the respective owner of any lot shall have obtained the prior express written approval of the Grantor or its successors in interest for any utility facilities or extensions thereof by means of overhead facilities.

Executed this 9th day of July, 1979.

BENCHMARK AT BEAVER CREEK, a
Colorado limited partnership,

By BENCHMARK-AVON PROPERTIES, a
partnership and general partner,

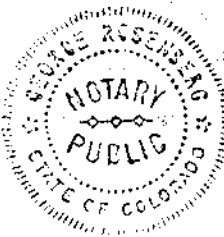
By 
A. J. Wells, a managing partner

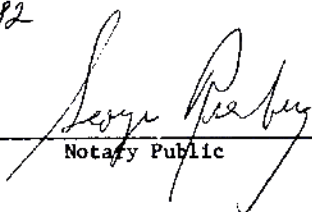
STATE OF COLORADO)
) SS.
COUNTY OF EAGLE)

The above and foregoing instrument was acknowledged before me this 9th day of July, 1979, by A. J. WELLS, a managing partner of Benchmark-Avon Properties, a partnership.

My commission expires: Nov. 4, 1982

WITNESS my hand and official seal




Notary Public

STATE OF COLORADO
COUNTY OF _____
FILED _____
JULY 12 1977
RECORDED

DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS

No fee
Still on
288/567

Beaumont at Beaver Creek, a Colorado limited partnership, ("Declarant") is the beneficial owner of all that real property located in Eagle County, Colorado and described on Exhibit A attached hereto and made a part hereof ("subject Property").

Declarant hereby makes and declares the following limitations, restrictions and uses upon and of the subject property as restrictive and protective covenants running with the land and binding upon Declarant and upon all persons claiming under Declarant and upon all future owners of any part of the subject property so long as these restrictive and protective covenants shall remain in effect.

1. Definitions. As used herein the following word or term shall have the following meaning:

Unit - a unit consists of one or more rooms in one building which may be occupied under the zoning regulations of the appropriate local governmental entity from time to time in force, by one family living independently of any other family for residential (human) occupancy. The term unit as used herein shall not include dormitories, boarding houses or any institutions such as an asylum, hospital or jail but shall include hotel or lodge rooms or separately rentable suites and shall include mobile home units for the purposes of which each separate mobile structure shall constitute one unit. Except as herein specified no room, building or other improvement shall be deemed a "unit".

2. Density Control. No more than 1,335 units shall be constructed on the subject property. Upon sale of lots within the subject property upon which a cumulative total of 1,335 units may be constructed, pursuant to the more restrictive of the subdivision plats or deed restrictions, no further lots within the subject property shall be sold unless use thereof is so restricted as to prevent construction of more than 1,335 units on the subject property.

3. Effect and Duration of Covenants. The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot within the subject property and each owner of any portion of the subject property or any interest therein, its successors, representatives and assigns, and shall continue in full force and effect until January 1, 2000 at which time they shall automatically be extended for five successive terms of ten years each.

4. Amendment. The conditions, restrictions, stipulations, agreements and covenants contained herein may be abandoned, terminated or amended by the Declarant until such time as 70% or more of the land area within the

subject property has been sold by Declarant. In the event Declarant has sold such proportion, the then owners of at least 51% of the land area in the subject property may amend, alter, revoke, or modify the conditions or restrictions, stipulations, agreements and covenants contained herein.

Provided, however, that no abandonment or termination and no amendment of these protective covenants which shall increase the number of units which may be constructed upon the subject property shall be implemented or adopted unless approved by the Board of County Commissioners of Eagle County, Colorado.

5. Enforcement. If any person shall violate or threaten to violate any of the provisions of this instrument it shall be lawful for the Board of County Commissioners of Eagle County, Colorado, or any person or persons owning real property within the subject property to institute proceedings in law or in equity to enforce the provisions of this instrument and to restrain the persons violating or threatening to violate them and to recover damages for such violations, actual and punitive, together with costs and reasonable attorney's fees.

6. Condition Precedent. It is an express condition precedent to the enforceability of any provision of this instrument that there appear of record in the Office of the Clerk and Recorder of Eagle County, Colorado, within one year of the date hereof an Order from the District Court in and for said County incorporating the Plan of Avon.

EXECUTED this 22 day of February, 1978.

Benchmark at Beaver Creek,
a Colorado limited partnership,

By Benchmark-Avon Properties,
a partnership, its sole general partner.

By: Ronald D. Alford
Managing Partner.

STATE OF COLORADO)
) ss.
County of Eagle)

The above and foregoing instrument was acknowledged before me this 22nd day of February, 1978 by Ronald D. Alford, a Managing Partner of Benchmark-Avon Properties, a partnership, sole general partner of Benchmark at Beaver Creek, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: February 1, 1980


 Maxwell P. Ross
County Clerk & Recorder

EXHIBIT A

All that real property within the subdivision named BENCHMARK AT BEAVER CREEK in Eagle County, Colorado, the Final Plat of which has been filed under Reception No. 129460 in Map Case #2, Drawer "B" of Plats, and recorded in Book 233 at Page 566 in the records of the Eagle County Clerk and Recorder; the Revised Final Plat of which has been filed under Reception No. 134061 in Map Case #2, Drawer "B", and recorded in Book 238 at Page 41, as corrected by Corrected Plat recorded August 11, 1976 in Book 247 at Page 989; the Final Plat Amendment No. 1 of which has been filed under Reception No. 142223 in Map Case #2, Drawer "3" and recorded in Book 246 at Page 43; the Final Plat Amendment No. 2 of which has been filed under Reception No. 142224 in Map Case #2, Drawer "B" and recorded in Book 246 at Page 44, and the Final Plat Amendment No. 3 of which has been filed under Reception No. 145347 in Map Case #2, Drawer "B" and recorded in Book 249 at Page 93, all of such records,

Except the following:

Tracts H, O and Q

Block 1;

Lots 1, 4, 10, 12, 14-21, 26, 27, 29-33, 36, 67 and 69

Block 2;

Lots 1, 2, 5-7, 9-11, 21, 22, 24-33, 35-37, 40, 57-59, 67-69 and 72

Lot 23 BK 2
Lot 66

126
17
No. Fifth Amendment

RESTATEMENT OF AND FIFTH AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION

Pursuant to paragraph 24 of the Restatement of and Fourth Amendment to Declaration of Protective Covenants for the Benchmark at Beaver Creek Subdivision, as recorded in Book 288 at Page 116 in the records of the Eagle County Clerk and Recorder, Eagle, Colorado, the undersigned constituting at least 4/5 of the duly elected Landowners Committee do hereby amend in total the above referenced Restatement of and Fourth Amendment, provided however, that this instrument shall in no wise affect the Additional Protective Covenants recorded in Book 246 at Page 947 in the records of the Clerk and Recorder of Eagle County, Colorado; and

The Landowners Committee (hereinafter referred to as Committee), hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and binding upon all present owners of real property in said subdivision and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

- 1.1 Commercial - A lot, tract of land or building space within a commercial zone intended to provide for the broad convenient functioning of commercial centers serving large areas of the Town of Avon and of Eagle County. Uses permitted are intended to include all retail and service operations, including but not limited to the following: wholesale and retail establishments, including sale of food, beverages, dry goods, furniture, appliances, bakery, automotive and vehicular equipment, hardware, clothing, building materials, feed, garden supply, equipment rental and plant materials; personal service establishments including a bank, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals only, mortuary, photo studio, shoe repair, tailor shop, bowling alley, restaurant, cocktail lounge, private club, theater and indoor recreation; general service establishments including service of automobiles, automobile service stations, vehicular rental service and repair shops, condominium-hotel/lodge, hotel/lodge, boarding and rooming house, offices for conduct of a business or profession, studio for conduct of arts and crafts, dental and medical clinics.

- 1.2 Landowners Committee - A group of five persons who shall be responsible for the administration and amendment of these protective covenants and who shall have the right to enforce these protective covenants. All such persons shall be elected as set forth in paragraph 24 of these covenants.
- 1.3 Common - That portion of the Subdivision held by Benchmark at Beaver Creek and/or its successors or assigns and used as private pen space.
- 1.4 Community Facilities - A lot, tract of land or building space which may be used for religious purposes or governmental purposes, such as, fire station, police station, water and sewer services, etc. or employee housing, public nursery or daycare center.
- 1.5 Condominium - A lot, tract of land or building space which may be used for multiple family residential purposes, residential duplex, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants. Condominium units are as defined in Section 38-33-101 et seq. C.R.S. 1973 as amended (Colorado Condominium Ownership Act). Duplex is defined herein as a single building containing two dwelling units.
- 1.6 Industrial - A lot, tract of land or building space which may be used for the broad range of Manufacturing, Warehousing, Storage, Retail and Sales Operations required for the proper and convenient functioning of industrial centers serving large areas of the Town of Avon and Eagle County, including but not limited to all of the uses by right contained in the Zoning Code for the Town of Avon, State of Colorado, and/or also an electric utility substation including the placement of all equipment, the construction of roads, and all other appurtenances necessary to operate an electric substation; also, including warehouse, storage, garage and office use.
- 1.7 Lot - A parcel or tract of land as described and located within Benchmark at Beaver Creek Subdivision.
- 1.8 Mobile Home Park - A lot or tract of land which may be used for mobile home park purposes; which shall be subject to any rules and regulations for such purposes as are established by the State of Colorado and Town of Avon; and further shall be subject to any rules and regulations for mobile home parks which may be established by the Planning and Architectural Control Committee of the Benchmark at Beaver Creek Subdivision.

- 1.9 Multiple Family - A lot, tract of land or building or building space which may be used for multiple family residential apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
- 1.10 Private Park - A lot, tract of land or building space which may be used for a Recreation and Commercial related thereto clubhouse for indoor and outdoor sports activities and customary support facilities, such as, but not limited to, swimming pools, tennis courts, archery range, restaurant/lounge, pro shop, and other similar activities or services.
- 1.11 Single Family - A lot, tract of land or building which may be used for the construction of only one dwelling unit and containing not less than 1,500 sq. ft. of habitable floor area.
- 1.12 Dwelling Unit - A dwelling unit is defined as one or more rooms in a building occupied by one family living independent of any other family, used solely for residential (human) occupancy, and not having more than one cooking facility. The term dwelling unit shall not include a mobile home whether or not fixed to the ground by a permanent continuous foundation. The term dwelling unit as used herein under this definition shall be exclusive and shall not include hotels, motels, boarding houses, clubs, or any institution, such as an asylum, hospital or jail.
- 1.13 Subdivision - Benchmark at Beaver Creek Subdivision.
- 1.14 Town - The Town of Avon, Colorado.
- 1.15 BM@BC - Benchmark at Beaver Creek, a Colorado limited partnership.

2. GENERAL PURPOSES: These covenants are for the mutual benefit and protection of the owners and lessees of the lots and tracts in the Subdivision and are made for the purposes of creating and keeping the Subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference with or destruction of the Subdivision.

3. USES: All lots and Tracts of land in the Subdivision shall fall within the following respective land use definitions:

<u>Definition</u>	<u>Lot Description</u>
3.1 Commercial, also designated general commercial or condominium-hotel/lodge or hotel/lodge or shopping center.	Block 1: Lots 1 thru 5, Lots 10 thru 42, Lots 52A and 52B, Lots 67 and 68. Block 2: Lots A, B and C, Lots 20 thru 25, Lots 29 thru 32, Lots 55 thru 75, and Tract Q. Block 3: Lot 2.

3.2	Common Open Space, also designated open space and conservation	Tracts A, B, and C.
3.3	Community Facilities	Tracts G and P.
3.4	Condominium, also designated apartment, multiple family duplex, or condominium-hotel-lodge	Block 1: Lots 5 thru 9, Lot 38, Lots 40 thru 51, Lot 70 and Lot 70A. Block 2: Lots A, B and C, Lots 2 thru 19, Lot 23, Lot 25, Lots 29 thru 34, Lots 36 thru 46, Lot 58, Lots 60 thru 69, Lots 71 thru 75. Block 3: Lot 1, 3, 8 and 9.
3.5	Industrial	Block 1: Lots 10 thru 37, Lot 39 and Lot 42.
3.6	Mobile Home Park	Block 2: Lot 1.
3.7	Private Park, Recreation and Commercial	Block 1: Lots 52A and 52B.
3.8	I-70 right-of-way exception	Tract D.
3.9	Avon Road right-of-way	Tract E, F.
3.10	Eagle River-Drainage use and conservation	Tract H, I, K, L.
3.11	Old River Bridge and conservation	Tract J.
3.12	Denver and Rio Grande Western Railroad right-of-way exception to Plat	Tract M.
3.13	Upper Eagle Valley Sanitation District exception to Plat	Tract N, O.
3.14	Shopping Center Phase I	Tract Q.
3.15	Shopping Center sign	Tract R.
3.16	Private landscape and drainage	Tract V.
3.17	Access, drainage, utility	Tract W.

4. PLANNING AND ARCHITECTURAL CONTROL COMMITTEE: The Planning and Architectural Control Committee, hereinafter referred to as the PACC, shall consist of five members who shall be appointed and serve at the pleasure of the Committee to review, study, and approve or reject proposed improvements of any nature whatsoever within the area described in the Final Plat and any and all amendments thereto of the Benchmark at Beaver Creek Subdivision of which these protective covenants are made a part. The Committee shall have the exclusive right to remove and/or replace any member of the PACC as the Committee in its sole opinion shall deem necessary, including but not limited to the replacement of a PACC member upon said member's resignation, disability or death. Said replacement shall be forthwith at the discretion of the Committee. A majority of the PACC shall govern its actions. However, Committee at its sole discretion may alter in part or in total any decision of the PACC. Any vacancy on the

PACC shall be filled by appointment by the Committee; in the event Committee fails to make such appointment for a continuous period of 30 days, then in said event any vacancy may be filled by appointment by the Council of the Town of Avon, Colorado.

(a) The PACC shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings.

(b) In passing upon any plans and specifications submitted for its approval the PACC shall consider:

(i) the suitability of the improvement (including materials of which it is to be constructed) to the site upon which it is to be located;

(ii) the nature of adjacent and neighboring improvements;

(iii) the quality of the materials to be utilized in any proposed improvement; and

(iv) the effect of any proposed improvement on the outlook of any adjacent or neighboring property.

(c) It shall be an objective of the PACC to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values (monetary or aesthetic) will be impaired.

(d) In the event the PACC fails to approve or disapprove plans and specifications submitted to it within thirty (30) days of submission and no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and the related covenants shall be determined to have been fully complied with.

(e) The PACC is hereby authorized to collect reasonable fees as it may deem necessary from parties seeking or requiring the services of the PACC pursuant to these Protective Covenants and any and all rules and regulations adopted pursuant thereto. Said fees shall be the property of and inure to the benefit of the Committee and/or its successors and assigns. Said fees may be used by the PACC for its expenses.

5. APPROVAL OF CONSTRUCTION PLANS: All plans for construction and alteration shall be first submitted to the PACC as herein provided:

(a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of final plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor plan, elevation showing all sides, plot and grading plans; provisions for off-street parking and locations of driveway access; the specifications; the location, character and method of utilization of

all utilities have been submitted to the PACC and approved by it in writing. Owners and lessees of lots within the Subdivision are encouraged to consult with the PACC prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay in approval.

(b) The PACC shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of final plans and specifications, which charge shall be paid in advance. The PACC shall publish as a part of its rules and regulations a schedule setting forth the various fees to be charged for the various types of submittals for approval.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) The PACC shall use reasonable judgment in passing upon all such plans and specifications, but the PACC shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the PACC acted with malice or wrongful intent.

6. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the Subdivision free and clear and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the PACC. No vehicle entrance to any lot in the Subdivision from any dedicated road or street shall be constructed or used unless serviced by a constructed drainage culvert located and sized in a manner which shall first be approved in writing by the PACC. The PACC's action in reviewing such drainage plans shall be guided by the recommendations of the Engineer for the Town of Avon, Colorado.

7. EASEMENTS: Easements and rights-of-way as shown or described on the recorded plat of the Subdivision are hereby reserved. In addition the following easements and rights-of-way are reserved:

(a) Easements reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Benchmark at Beaver Creek for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage, sewer, sanitation, telephone, natural gas, liquid propane gas, television cable, lighting, heating, bridle path, pedestrian traffic, and similar services.

Provided, however, that the use and exercise of said easement shall not permanently disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

8. FENCES: No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the PAAC as an integral or decorative part of a building to be erected on a lot.

9. SIGNS: No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot or structure for any purpose whatsoever, except such commercial signs as have been approved by the PACC either for identification of residences or places of business or other commercial uses. The PACC shall establish comprehensive sign regulations for the Subdivision providing for the administration and enforcement of same; regulate the erection, construction, restoration, alteration, location, landscaping and maintenance of signs, window signs, flags, pennants, banners and buntings, display boxes, residential name plate signs, subdivision interest signs, temporary site development signs, traffic control signs for private property, murals and supergraphics; establishment of an approved sign program; establishment of a design review procedure and guidelines. The PACC shall review appearance, lighting, form, color, character, dimensions, and materials of all signs requiring approval under this covenant and any rules and regulations created pursuant hereto. The PACC shall make such aesthetic judgments necessary to insure that all signs requiring approval under this covenant or any rules and regulations made pursuant hereto are in conformance with such sign rules and regulations and in harmony with the character of the Subdivision. The PACC may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties. Review shall be in conformance with the procedure outlined in such rules and regulations.

10. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by the appropriate governmental entity or any successive person or entity. No private wells or sanitation system shall be used within the Subdivision.

11. TRASH: No trash, garbage, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and protected from disturbance.

12. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other household pets for personal enjoyment and not for commercial purposes and except horses owned and used in conjunction with an equestrian-livery operation approved by the PACC) shall be kept, raised or bred in the Subdivision. The keeping of dogs, cats and other household pets for personal enjoyment shall be strictly governed by all applicable rules and regulations adopted by the Town of Avon, Colorado, any successor governmental entity, the PACC aforementioned, or any homeowners association created for the benefit of property owners and lessees of the Subdivision.

13. TREES: Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the PACC.

14. SETBACK REQUIREMENTS: The PACC may determine the location of improvements in relation to property lines, and all actual construction sites must receive the advance written approval of the PACC prior to the commencement of construction. In determining the proper location for each improvement, the PACC shall consider the location of existing and future improvements on adjacent property, the wishes of adjacent property owners, and such other economic or aesthetic considerations as it may deem appropriate.

15. BUILDING HEIGHT: All building height maximums shall be as determined by the PACC. Building height is defined as the distance, measured vertically, from the finished grade at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, gambrel, hip, shed or similar pitched roof, and measured to a slope not to exceed 12:24.

16. PARKING REQUIREMENTS: Parking requirements shall be determined by the PACC. The following provisions shall apply to off-street parking and loading facilities:

The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The PACC shall not approve any construction until plans are presented and approved by the PACC that show property that is available and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the PACC's approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this covenant. Should the owner or occupant of any lot or building change the use to which the lot or building is utilized, thereby increasing off-street parking and loading requirements, it shall be a violation of this covenant to begin or maintain such altered use until such time as the increased off-street parking and loading requirements, minimum off-street loading requirements, and clear-vision area requirements shall be met. The PACC shall be guided by the standards set forth in the Town of Avon Zoning Ordinance.

17. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The PACC shall make rules and regulations specifying the location, type, and quantities of ground cover, plants, shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.

18. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by the PACC in writing.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exception is granted in writing by the PACC.

20. NUISANCE: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

21. TRADE NAMES: No word, name, symbol, or combination thereof shall be used to identify for commercial purposes a house, structure, business or service within the Subdivision unless the same shall have been first approved in writing by the PACC. "Benchmark", as a word, name, symbol, or any combination thereof, shall not be used to identify for commercial purposes any house, structure, business, or service within the Subdivision unless the same shall have been first approved in writing by BM@BC

22. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the Subdivision or herein may be granted in writing by the PACC upon approval thereof by the Town of Avon, Colorado.

23. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the Subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 2000, at which time they shall be automatically extended for five successive terms of ten years each.

24. AMENDMENT: The conditions, restrictions, stipulations, agreements, and covenants contained herein may be abandoned, terminated, or amended by the Landowners Committee comprised of five individual owners in the Subdivision and elected by the owners of 51% of the land in the subdivision, one of whom shall be BM@BC, if BM@BC shall at such time of election still be an owner of property in the Subdivision, and said Committee, by 4/5 majority vote, may amend, alter, revoke or modify the conditions, restrictions, stipulations, agreements and covenants contained herein. The Committee shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings. In determining the ownership of the land included within the boundaries of the Subdivision, those parcels designated on the final plat as "Tracts A thru F, Tracts H, I, K, L, P, R, V and W" shall be counted and shall be deemed to be owned by BM@BC.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the PACC, the Town of Avon, Colorado, or any person or persons owning real property in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violation.

26. PENALTIES AND EXPENSES OF ENFORCEMENT; LIENS FOR NON-PAYMENT OF SAME: If any person shall violate any of the provisions of this instrument or the rules and regulations promulgated by the PACC pursuant to this instrument for which penalties are provided, or cause expenses to the PACC as a result of such violations, and fail to or refuse to pay such penalties or expenses, then such unpaid penalties or expenses shall be chargeable to the owner, including interest, and shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

(a) Tax and special assessment liens in favor of any assessing unit; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the creation of such a lien.

To evidence such a lien the PACC shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of record of the subject property, and the legal description of the subject property. Such notice shall be signed by a member of the PACC and shall be recorded in the office of the Clerk and Recorder of the County of Eagle, State of Colorado. Such lien for the penalties or expenses shall attach from the date of the failure of payment of said assessment of penalties or expenses, and may be enforced by foreclosure on the defaulting owner's property by the PACC. In the event of such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees.

The amount of any such penalties or expenses assessed against such real property shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid penalties or expenses may be maintained without foreclosing or waiving the lien securing said debt.

Any mortgage holder or similar encumbrancer holding a lien on any real property in the Subdivision may pay any unpaid penalties or expenses created hereunder with respect to such real property, and upon such payment such encumbrancer shall have a lien on such real property for the amounts paid, said lien to be of the same priority as the lien of his respective encumbrance.

27. NON-CONFORMING USES AND BUILDINGS: The lawful use of a building or structure, or the lawful use of any land as existing and lawful at the time of recording of this instrument, or in the case of amendment of this instrument then at the time of such amendment, may be continued although such use does not conform to the provisions of this instrument or amendments thereto; and such use may be extended throughout the same building, provided no structure is proposed or made for the purpose of such extension.

27.1 Repair and Maintenance. Repair and maintenance of a non-conforming building shall be permitted.

27.2 Restoration. A non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event, and completed within 18 months of such commencement.

27.3 Change in Use. A non-conforming use shall not be replaced by a use considered to exhibit a greater degree of non-conformity than the existing use; a non-conforming use may be replaced by a use considered to exhibit an equal or lesser degree of non-conformity, to be determined by the PAAC based on the intent and purposes of this instrument.

27.4 Abandonment. Whenever a non-conforming use of a building or land has been abandoned for a period of one year, future use of the land or building shall be in conformity with all applicable provisions of this instrument or rules and regulations promulgated by the PAAC pursuant to this instrument.

28. WEED ABATEMENT: Any other provision contained herein to the contrary notwithstanding, all lots shall be maintained in a neat appearance, and where said lot shall be without any structure, any natural or artificial growth, i.e., natural grasses, bushes, etc., shall be maintained and controlled. In the event said growth on any lot shall become uncontrolled and unsightly, then in said event, the PACC shall have the right to cut, trim, control or remove said growth at the sole expense of the respective owner of any such lot.

29. UTILITIES: All utilities servicing any lot respectively in the Subdivision shall be by means of underground facilities, and all extensions for all utility services through the Subdivision or any part thereof shall be only by means of underground facilities, unless the respective owner of any lot shall have obtained the prior express written approval of the PACC or its successors in interest for any utility facilities or extensions thereof by means of overhead facilities.

30. LIABILITY: The Committee, PACC or any other owner of real property in the Subdivision shall not be liable for damages to any person or association submitting any plans and specifications or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any such plans and


specifications or for any other action taken pursuant to these covenants in the reasonable exercise of their respective rights and powers hereunder. Any owner submitting or causing to be submitted any plans and specifications to the PACC agrees and covenants that he will not bring any action or suit to recover damages against the Committee, PACC, or any other owner, collectively, its members individually or its advisors, employees or agents. In the event of any legal action against the Committee or PACC, the prevailing party shall be entitled to reasonable attorney's fees.

31. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.


Executed this 4th day of MARCH, 1982.

LANDOWNERS' COMMITTEE

By:

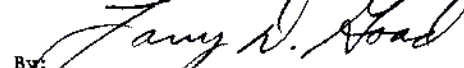


Angelo V. Alpi



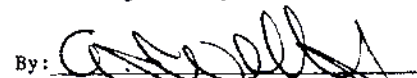
William Doyle

Wildridge Development Company, a
Colorado partnership

By: 

Larry D. Goad, Agent

Benchmark at Beaver Creek, a
limited partnership, by Benchmark
Company, a general partnership,
the sole general partner

By: 

A. J. Wells, Attorney-in-Fact

STATE OF COLORADO)
) SS.
COUNTY OF EAGLE)

The above and foregoing instrument was acknowledged before me this 4th day of March, 1982, by A. J. Wells as Attorney-in-Fact for Benchmark Company, a partnership and general partner of Benchmark at Beaver Creek, a limited partnership, and by Angelo V. Alpi, and by William Doyle, and by Larry D. Goad as Agent for Wildridge Development Company, a Colorado partnership, all as members of the Landowners' Committee.

My commission expires: 6-30-84.

WITNESS my hand and official seal.



Alma Rodgers
Notary Public
Box 20
Wor. Co. 81620
Address

#11

RESTATEMENT OF AND FIFTH AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION

BOOK 337
PAGE 366
JOHNNETTE PHILLIPS
EAGLE COY. RECORDER

APR 29 11 35 AM '05

Pursuant to paragraph 24 of the Restatement of and Fifth Amendment to Declaration of Protective Covenants for the Benchmark at Beaver Creek Subdivision, as recorded in Book 337 at Page 366 in the records of the Eagle County Clerk and Recorder, Eagle, Colorado, the undersigned constituting at least 4/5 of the duly elected Landowners Committee do hereby amend in total the above referenced Restatement of and Fifth Amendment, provided however, that this instrument shall in no wise affect the Additional Protective Covenants recorded in Book 246 at Page 947 in the records of the Clerk and Recorder of Eagle County, Colorado; and

The Landowners Committee (hereinafter referred to as Committee), hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and binding upon all present owners of real property in said subdivision and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein the following words and terms shall have the following meanings:

- 1.1 Commercial - A lot, tract of land or building space within a commercial zone intended to provide for the broad convenient functioning of commercial centers serving large areas of the Town of Avon and of Eagle County. Uses permitted are intended to include all retail and service operations, including but not limited to the following: wholesale and retail establishments, including sale of food, beverages, dry goods, furniture, appliances, bakery, automotive and

vehicular equipment, hardware, clothing, building materials, garden supply, equipment rental and plant materials; personal service establishments including a bank, barber or beauty shop, laundromat, laundry or dry cleaning plant serving individuals, mortuary, photo studio, shoe repair, tailor shop, bowling alley, restaurant, cocktail lounge, private club, theater and indoor recreation; general service establishments including service of automobiles, automobile service stations, vehicular rental service and repair shops, condominium-hotel/lodge, hotel/lodge, boarding and rooming house, offices for conduct of a business or profession, studio for conduct of arts and crafts, dental and medical clinics.

- 1.2 Landowners Committee - A group of five persons who shall be responsible for the administration and amendment of these protective covenants and who shall have the right to enforce these protective covenants. All such persons shall be elected as set forth in paragraph 24 of these covenants.
- 1.3 Common - That portion of the Subdivision held by Benchmark at Beaver Creek and/or its successors or assigns and used as private Open space.
- 1.4 Community Facilities - A lot, tract of land or building space which may be used for religious purposes or governmental purposes, such as, fire station, police station, water and sewer services, etc. or employee housing, public nursery or daycare center.
- 1.5 Condominium - A lot, tract of land or building space which may be used for multiple family residential purposes, residential duplex, condominiums or apartments, limited retail shops, limited service shops, offices and restaurants. Condominium units are as defined in Section 38-33-101 et seq. C.R.S. 1973 as amended (Colorado Condominium Ownership Act). Duplex is defined herein as a single building containing two dwelling units.

- 1.6 Industrial - A lot, tract of land or building space which may be used for the broad range of Manufacturing, Warehousing, Storage, Retail and Sales Operations required for the proper and convenient functioning of industrial centers serving large areas of the Town of Avon and Eagle County, including but not limited to all of the uses by right contained in the Zoning Code for the Town of Avon, State of Colorado, and/or also an electric utility substation including the placement of all equipment, the construction of roads, and all other appurtenances necessary to operate an electric substation; also, including warehouse, storage, garage and office use.
- 1.7 Lot - A parcel or tract of land as described and located within Benchmark at Beaver Creek Subdivision.
- 1.8 Mobile Home - Park - A lot or tract of land which may be used for mobile home park purposes, which shall be subject to any rules and regulations for such purposes as are established by the State of Colorado and Town of Avon; and further shall be subject to any rules and regulations for mobile home parks which may be established by the Planning and Architectural Control Committee of the Benchmark at Beaver Creek Subdivision.
- 1.9 Multiple Family - A lot, tract of land or building or building space which may be used for multiple family residential apartment purposes, limited service shops, limited retail shops, restaurants, offices, medical and dental clinics.
- 1.10 Private Park - Recreation and Commercial related thereto - A lot, tract of land or building space which may be used for a clubhouse for indoor and outdoor sports activities and customary support facilities, such as, but not limited to, swimming pools, tennis courts, archery range, restaurant/lounge, pro shop, and other similar activities or services.

1.11 Single Family - A lot, tract of land or building which may be used for the construction of only one dwelling unit and containing not less than 1,500 sq. ft. of habitable floor area.

1.12 Dwelling Unit - A dwelling unit is defined as one or more rooms in a building occupied by one family living independent of any other family, used solely for residential (human) occupancy, and not having more than one cooking facility. The term dwelling unit shall not include a mobile home whether or not fixed to the ground by a permanent continuous foundation. The term dwelling unit as used herein under this definition shall be exclusive and shall not include hotels, motels, boarding houses, clubs, or any institution, such as an asylum, hospital or jail.

1.13 Subdivision - Benchmark at Beaver Creek Subdivision.

1.14 Town - The Town of Avon, Colorado.

1.15 BM@BC - Benchmark at Beaver Creek, a Colorado limited partnership.

1.16 WWR - Wildwood Resort.

2. GENERAL PURPOSES: These covenants are for the mutual benefit and protection of the owners and leasees of the lots and tracts in the Subdivision and are made for the purposes of creating and keeping the Subdivision desirable, attractive, beneficial and suitable in architectural design, materials and appearance and guarding against unnecessary interference with or destruction of the Subdivision.

3. USES: All lots and Tracts of land in the Subdivision shall fall within the following respective land use definitions:

<u>Definition</u>	<u>Lot Description</u>
3.1 Commercial, also designated general commercial or condominium-hotel/loge or hotel/ lodge or shopping center	Block 1: Lots 1 thru 4, Lot 5 thru 42, WWR Lots 1 thru 3, Lots 67 and 68. Block 2: Lots A, B and C, Lots 29 thru 25. Lots 29 thru 32, Lots 55 thru 75, and Tract O. Block 3: Lot 2.

Our Lots 23 & 66

- | | | |
|------|--|--|
| 3.2 | Common Open Space, also designated open space and conservation | Tracts A, B, and C. |
| 3.3 | Community Facilities | Tracts G and P. |
| 3.4 | Condominium, also designated apartment, multiple family duplex, or condominium-hotel-lodge | Block 1: Lot 4, Lots 6 thru 9, Lot 32, Lots 40 thru 51, Lot 70 and Lot 70A.
Block 2: Lots A, B and C, Lots 2 thru 19, Lot 23, Lot 25, Lots 29 thru 34, Lots 36 thru 46, Lot 58, Lots 60 thru 69, Lots 71 thru 75.
Block 3: Lot 1, 3, 8 and 9.
WWR: Lot 1 and Lot 3. |
| 3.5 | Industrial | Block 1: Lots 10 thru 37, Lot 39 and Lot 42. |
| 3.6 | Mobile Home Park | Block 2: Lot 1. |
| 3.7 | Private Park, Recreation and Commercial | WWR Lot 2. |
| 3.8 | I-70 right-of-way exception | Tract D. |
| 3.9 | Avon Road right-of-way | Tract E, F. |
| 3.10 | Eagle River-Drainage use and conservation | Tract H, I, K, L. |
| 3.11 | Old River Bridge and conservation | Tract J. |
| 3.12 | Denver and Rio Grande Western Railroad right-of-way exception to Plat | Tract M. |
| 3.13 | Upper Eagle Valley Sanitation District exception to Plat | Tract N, O. |
| 3.14 | Shopping Center Phase 1 | Tract Q. |
| 3.15 | Shopping Center sign | Tract R. |
| 3.16 | Private landscape and drainage | Tract V. |
| 3.17 | Access, drainage, utility | Tract W. |
| 3.18 | Open Space, drainage, landscaping & signage | WWR Lot 4 |
| 3.19 | Snow Storage, Landscaping, Drainage, Signage and Open Space | WWR Tract AA. |

3.20 Snow Storage, Landscaping,
Drainage, Parking, Signage
and Open Space

See Tract 88.

4. PLANNING AND ARCHITECTURAL CONTROL COMMITTEE: The Planning and Architectural Control Committee, hereinafter referred to as the PACC, shall consist of five members who shall be appointed and serve at the pleasure of the Committee to review, study, approve or reject proposed improvements of any nature whatsoever within the area described in the Final Plat and any and all amendments thereto of the Benchmark at Beaver Creek Subdivision of which these protective covenants are made a part. The Committee shall have the exclusive right to remove and/or replace any member of the PACC as the Committee in its sole opinion shall deem necessary, including but not limited to the replacement of a PACC member upon said member's resignation, disability or death. Said replacement shall be forthwith at the discretion of the Committee. A majority of the PACC shall govern its actions. However, Committee at its sole discretion may alter in part or in total any decision of the PACC. Any vacancy on the PACC shall be filled by appointment by the Committee; in the event Committee fails to make such appointment for a continuous period of 30 days, then in said event any vacancy may be filled by appointment by the Council of the Town of Avon, Colorado.

(a) The PACC shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings.

(b) In passing upon any plans and specifications submitted for its approval the PACC shall consider:

(i) the suitability of the improvement (including materials of which it is to be constructed) to the site upon which it is to be located;

(ii) the nature of adjacent and neighboring improvements;

(iii) the quality of the materials to be utilized in any proposed improvement; and

(iv) the effect of any proposed improvement on the outlook of any adjacent or neighboring property.

(c) It shall be an objective of the PACC to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values (monetary or aesthetic) will be impaired.

(d) In the event the PACC fails to approve or disapprove plans and specifications submitted to it within thirty (30) days of submission and no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and the related covenants shall be determined to have been fully complied with.

(e) The PACC is hereby authorized to collect reasonable fees as it may deem necessary from parties seeking or requiring the services of the PACC pursuant to these Protective Covenants and any and all rules and regulations adopted pursuant thereto. Said fees shall be the property of and inure to the benefit of the Committee and/or its successors and assigns. Said fees may be used by the PACC for its expenses.

4. APPROVAL OF CONSTRUCTION PLANS. All plans for construction and alteration shall be first submitted to the PACC as herein provided:

(a) No building or other structure shall be constructed, erected, altered or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until two complete sets of final plans and specifications including, but not limited to, a color rendering; geologic soils site investigation and foundation report; floor plan, elevation showing all sides, plot and grading plans, provisions for off-street parking and locations of driveway access; the specifications; the location, character and method of utilization of all utilities have been submitted to the PACC and approved by it in writing. Owners and lessees of lots within the Subdivision are encouraged to consult with the PACC prior to and during the preparation of such plans and specifications in order to avoid unnecessary delay in approval.

(b) The PACC shall be authorized to levy a reasonable charge, not exceeding ten cents for each square foot of enclosed floor space, for the review of plans and specifications, which charge shall be paid in advance. The PACC shall publish as a part of its rules and regulations a schedule setting forth the various fees to be charged for the various types of submittals for approval.

(c) Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

(d) The PACC shall use reasonable judgment in passing upon all such plans and specifications, but the PACC shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the PACC acted with malice or wrongful intent.

6. DRAINAGE: All plans and specifications for structures and the construction of such structures shall maintain the drainage easements and rights-of-way within the Subdivision free and clear and unobstructed. No structure, road or other facility which encroaches upon or crosses any such drainage easement or right-of-way shall be constructed without prior approval in writing by the PACC. No vehicle entrance to any lot in the Subdivision from any dedicated road or street shall be constructed or used unless serviced by a constructed drainage culvert located and sized in a manner which shall first be approved in writing by the PACC. The PACC's action in reviewing such drainage plans shall be guided by the recommendations of the Engineer for the Town of Avon, Colorado.

7. EASEMENTS: Easements and rights-of-way as shown or described on the recorded plat of the Subdivision, as amended from time to time, are hereby reserved. In addition the following easements and rights-of-way are reserved:

(a) Easements reserved in the right-of-way of each road and street for water and all other utilities together with the installation, repair, and maintenance thereof.

(b) General easement maintained in perpetuity over and across all tracts and lots in the Subdivision in favor of Benchmark at Beaver Creek for installation, repair, improvement, removal and maintenance of utility facilities including water, water drainage, water storage, energy transmission, energy storage, sewer, sanitation, telephone, natural gas, liquid propane gas, television cable, lighting, heating, bridle path, pedestrian traffic, and similar services. Provided, however, that the use and exercise of said easement shall not permanently disturb improvements, excluding walks, drives, fences or landscaping, existing upon a lot or tract at the time of exercise or use of said easement.

8. FENCES: No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences or walls as may be approved by the PAAC as an integral or decorative part of a building to be erected on a lot.

9. SIGNS: No signs, billboards or other advertising of any kind shall be erected, constructed or maintained on any lot or structure for any purpose whatsoever, except such commercial signs as have been approved by the PACC either for identification of residences or places of business or other commercial uses. The PACC shall establish comprehensive sign regulations for the Subdivision providing for the administration and enforcement of same; regulate the erection, construction, restoration, alteration, location, landscaping and maintenance of signs, window signs, flags, pennants, banners and bunting, display boxes, residential name plate signs, subdivision interest signs, temporary site development signs, traffic control signs for private property, murals and supergraphics; establishment of an approved sign program; establishment of a design review procedure and guidelines. The PACC shall review appearance, lighting, form, color, character, dimensions, and materials of all signs requiring approval under this covenant and any rules and regulations created pursuant hereto. The PACC shall make such aesthetic judgments necessary to insure that all

signs requiring approval under this covenant or any rules and regulations adopted hereunder hereto are in conformance with such sign rules and regulations and in harmony with the character of the Subdivision. The PACC may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties. Review shall be in conformance with the procedure outlined in such rules and regulations.

10. WATER AND SANITATION: Each structure designed for occupancy or use by human beings shall be connected with water and sanitation facilities made available at any time in the future by the appropriate governmental entity or any successive person or entity. No private wells or sanitation systems shall be used within the Subdivision.

11. TRASH: No trash, garbage, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and protected from disturbance.

12. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other household pets for personal enjoyment and not for commercial purposes and except horses owned and used in conjunction with an equestrian-livery operation approved by the PACC) shall be kept, raised or bred in the Subdivision. The keeping of dogs, cats and other household pets for personal enjoyment shall be strictly governed by all applicable rules and regulations adopted by the Town of Avon, Colorado, any successor governmental entity, the PACC aforementioned, or any homeowners association created for the benefit of property owners and lessees of the Subdivision.

13. TREES: Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written approval of the PACC.

14. SETBACK REQUIREMENTS: The PACC may determine the location of improvements in relation to property lines, and all actual construction sites must receive the advance written approval of the PACC prior to the commencement of construction. In determining

the proper location for each improvement, the PACC shall consider the location of existing and future improvements on adjacent property, the wishes of adjacent property owners, and such other economic or aesthetic considerations as it may deem appropriate.

15. BUILDING HEIGHT: All building height maximums shall be as determined by the PACC. Building height is defined as the distance, measured vertically, from the finished grade at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, gambrel, hip, shed or similar pitched roof, and measured to a slope not to exceed 12:24.

16. PARKING REQUIREMENTS: Parking requirements shall be determined by the PACC. The following provisions shall apply to off-street parking and loading facilities:

The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The PACC shall not approve any construction until plans are presented and approved by the PACC that show property that is available and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the PACC's approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this covenant. Should the owner or occupant of any lot or building change the use to which the lot or building is utilized, thereby increasing off-street parking and loading requirements, it shall be a violation of this covenant to begin or maintain such altered use until such time as the increased off-street parking and loading requirements, minimum off-street loading requirements, and clear-vision area requirements shall be met. The PACC shall be guided by the standards set forth in the Town of Avon Zoning Ordinance.

17. LANDSCAPING: All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The PACC shall make rules and regulations specifying the location, type, and quantities of ground cover, plants, shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.

18. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by the PACC in writing.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exception is granted in writing by the PACC.

20. NUISANCE: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.

21. TRADE NAMES: No word, name, symbol, or combination thereof shall be used to identify for commercial purposes a house, structure, business or service within the Subdivision unless the same shall have been first approved in writing by the PACC. "Benchmark", as a word, name, symbol, or any combination thereof, shall not be used to identify for commercial purposes any house, structure, business, or service within the Subdivision unless the same shall have been first approved in writing by BM@BC.

22. VARIANCE: A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the Subdivision or herein may be granted in writing by the PACC upon approval thereof by the Town of Avon, Colorado.

23. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each lot in the Subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 2000, at which time they shall be automatically extended for five successive terms of ten years each.

24. AMENDMENT: The conditions, restrictions, stipulations, agreements, and covenants contained herein may be abandoned, terminated, or amended by the Landowners Committee comprised of five individual owners in the Subdivision and elected by the

members of 5/12 of the land in the subdivision, one of whom shall be BM@BC, shall at such time of election still be an owner of property in the Subdivision, and said Committee, by 4/5 majority vote, may amend, alter, revoke or modify the conditions, restrictions, stipulations, agreements and covenants contained herein. The Committee shall make such rules and regulations and adopt such procedures as it may deem necessary and appropriate to govern its proceedings. In determining the ownership of the land included within the boundaries of the Subdivision, those parcels designated on the final plat as "Tracts A thru F, Tracts H, I, K, L, P, R, V and W" shall be counted and shall be deemed to be owned by BM@BC.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Committee, the PACC, the Town of Avon, Colorado, or any person or persons owning real property in the Subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violation.

26. PENALTIES AND EXPENSES OF ENFORCEMENT; LIENS FOR NON-PAYMENT OF SAME: If any person shall violate any of the provisions of this instrument or the rules and regulations promulgated by the PACC pursuant to this instrument for which penalties are provided, or cause expenses to the PACC as a result of such violations, and fail to or refuse to pay such penalties or expenses, then such unpaid penalties or expenses shall be chargeable to the owner, including interest, and shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

- (a) Tax and special assessment liens in favor of any assessing unit; and
- (b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the creation of such a lien.

To evidence such a lien the PACC shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of record of the subject

property, and the legal description of the subject property. Such notices shall be signed by a member of the PACG and shall be recorded in the office of the County Recorder of the County of Eagle, State of Colorado. Such lien for the penalties and expenses shall attach from the date of the failure of payment of said assessments, penalties or expenses, and may be enforced by foreclosure on the defaulting owner's property by the PACG. In the event of such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees.

The amount of any such penalties or expenses assessed against such real property shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid penalties or expenses may be maintained without foreclosing or waiving the lien securing said debt.

Any mortgage holder or similar encumbrancer holding a lien on any real property in the Subdivision may pay any unpaid penalties or expenses created hereunder with respect to such real property, and upon such payment such encumbrancer shall have a lien on such real property for the amounts paid, said lien to be of the same priority as the lien of his respective encumbrance.

27. NON-CONFORMING USES AND BUILDINGS: The lawful use of a building or structure, or the lawful use of any land as existing and lawful at the time of recording of this instrument, or in the case of amendment of this instrument then at the time of such amendment, may be continued although such use does not conform to the provisions of this instrument or amendments thereto; and such use may be extended throughout the same building, provided no structure is proposed or made for the purpose of such extension.

27.1 Repair and Maintenance. Repair and maintenance of a non-conforming building shall be permitted.

27.2 Restoration. A non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event, and completed within 18 months of such commencement.

27.3 Change in Use. A non-conforming use shall not be replaced by a use considered to exhibit a greater degree of non-conformity than the existing use; a non-conforming use may be replaced by a use considered to exhibit an equal or lesser degree of non-conformity, to be determined by the PAAC based on the intent and purposes of this instrument.

27.4 Abandonment. Whenever a non-conforming use of a building or land has been abandoned for a period of one year, future use of the land or building shall be in conformity with all applicable provisions of this instrument or rules and regulations promulgated by the PAAC pursuant to this instrument.

28. WEED ABATEMENT: Any other provision contained herein to the contrary notwithstanding, all lots shall be maintained in a neat appearance, and where said lot shall be without any structure, any natural or artificial growth, i.e., natural grasses, bushes, etc., shall be maintained and controlled. In the event said growth on any lot shall become uncontrolled and unsightly, then in said event, the PACC shall have the right to cut, trim, control or remove said growth at the sole expense of the respective owner of any such lot.

29. UTILITIES: All utilities servicing any lot respectively in the Subdivision shall be by means of underground facilities, and all extensions for all utility services through the Subdivision or any part thereof shall be only by means of underground facilities, unless the respective owner of any lot shall have obtained the prior express written approval of the PACC or its successors in interest for any utility facilities or extensions thereof by means of overhead facilities.

30. LIABILITY: The Committee, PACC or any other owner of real property in the Subdivision shall not be liable for damages to any person or association submitting any

plans and specifications or to any other action taken pursuant to these covenants in the reasonable exercise of their respective rights and powers hereunder. Any owner submitting or causing to be submitted any plans and specifications to the PACC agrees and covenants that he will not bring any action or suit to recover damages against the Committee, PACC, or any other owner, collectively, its members individually or its advisors, employees or agents. In the event of any legal action against the Committee or PACC, the prevailing party shall be entitled to reasonable attorney's fees.

31. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

Executed this 9th day of April, 1985.

LANDOWNERS' COMMITTEE

BY:

Allan Nottingham
Angelo V. Alpi
Angelo V. Alpi

William Doyle
William Doyle

Wildridge Development Company, a
Colorado Partnership

BY:

Larry D. Goad
Larry D. Goad, Agent

Benchmark at Beaver Creek, a limited
partnership, by Benchmark Company, a
partnership and sole general partner

BY:

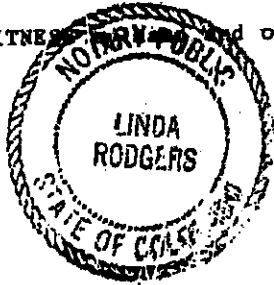
A. J. [Signature]
A. J. [Signature], Attorney-in-Fact

STATE OF COLORADO)
) SS.
COUNTY OF EAGLE)

The above and foregoing instrument was acknowledged before me this 9th day of April, 1985, by A. J. Wells as Attorney-in-Fact for Seuchmark Company, a partnership and general partner of Benchmark at Beaver Creek, a limited partnership, and by Angelo V. Alpi, ~~partner~~ ~~partner~~ and by Willis Doyle, and by Larry D. Goad as Agent for Wildridge Development Company, a Colorado partnership, all as members of the Landowners' Committee.

My commission expires: 6-30-88

WITNESSES and official seal.



Linda Rodgers
Notary Public

Address

**AMENDMENT TO DECLARATION OF
PROTECTIVE COVENANTS FOR
BENCHMARK AT BEAVER CREEK SUBDIVISION**

Pursuant to paragraph 24 of the Restatement of and Sixth Amendment to Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision, as recorded in Book 411 at Page 960 in the records of the Eagle County Clerk and Recorder, Eagle County, Colorado, at a duly called meeting of the Landowners' Committee of the Benchmark at Beaver Creek Subdivision held on June 12, 1986 in the Conference Room of Benchmark Companies, Benchmark Plaza, Avon, Colorado, 4 of the 5 members of the Landowners' Committee were present and adopted the following amendment to the Restatement of and Sixth Amendment to Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision:

Paragraph 4.(d) of the Restatement of and Sixth Amendment to Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision was amended in total to read as follows:

4.(d) "All other provisions of these Covenants to the contrary notwithstanding, all plans for construction and alteration which have been previously submitted to and approved by the Planning & Zoning Commission of the Town of Avon shall not be required to be submitted to PACC. Provided, however, the PACC may, at its sole option, within sixty (60) days from the initial filing or the resubmittal of an initial filing of any such construction plans with the Town of Avon, notify the Owner of the lot for which said construction plans have been submitted that it will be necessary for the owner to submit its plans for approval to the PACC in accordance with the Protective Covenants. Provided, further, in the event the Town of Avon through the Planning & Zoning Commission or similar body shall no longer exercise planning and architectural controls within the subdivision, then, in said event, all plans for construction and alteration shall be first submitted to the PACC as herein provided.

Provided, further, after the approval by the Town of Avon of an initial submittal, said approval shall be deemed an approval by the PACC unless, within ten (10) days of the approval by the Town, the PACC notifies the owner of the lot that it will be necessary for the owner to submit its' plans for approval to the PACC in accordance with the Protective Covenants.

In the event of any submissions of construction plans to the PACC as may be required herein, the PACC shall have thirty (30) days to approve or disapprove plans and specifications submitted. In the event the PACC shall fail to take action on any submittal, then, in said event, approval shall not be required and the Covenants shall be deemed to have been fully complied with."

12000

The above represents a true and correct statement of the Amendment to Restatement of and Sixth Amendment to Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision as adopted by 4 of the 5 members of the Landowners' Committee at the meeting stated above.

Angelo V. Alpi
Angelo V. Alpi,
Acting Secretary of the Landowners'
Committee for the June 12, 1986 meeting

Subscribed, s^v for, and acknowledged before me this 10th day of January, 1986 by Angelo V. Alpi who is known to me to have been the Acting Secretary of Benchmark at Beaver Creek Subdivision Landowners' Committee for the June 12, 1986 Landowners' Committee meeting.

Pinda Lodge
Notary Public

My Commission Expires: 1-5-92

Z4465001-15



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, SEPTEMBER 13, 2016
AVON TOWN HALL, ONE LAKE STREET

1. A CALL TO ORDER & ROLL CALL

Mayor Fancher called the meeting to order at 2:46 p.m. A roll call was taken and Council members present were Scott Prince, Matt Gennett, Buz Reynolds, Jake Wolf and Sarah Smith Hymes. Megan Burch was absent. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Planning Director Matt Pielsticker, Police Chief Greg Daly, Town Engineer Justin Hildreth, Public Works Director Gary Padilla, Executive Assistant to the Town Manager Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT

No public comments made.

4. PRESENTATION – EAGLE COUNTY CLIMATE ACTION PLAN (WALKING MOUNTAINS DIRECTOR OF SUSTAINABILITY & STEWARDSHIP PROGRAMS KIM LANGMAID)

Start Time: 00:15:40

Megan Burch arrived at 3:11 p.m.

5. ACTION ITEMS

Start time: 00:42:20

5.1 PUBLIC HEARING OUTDOOR USE OF AMPLIFIED SOUND APPLICATION REVIEW FOR AGENCY BE EVENT & MARKETING (FESTIVAL & SPECIAL EVENTS DIRECTOR DANITA DEMPSEY)

Mayor Fancher opened the Public Hearing and no comments were made. Councilor Reynolds moved to approve the Amplified Sound Permit for Agency BE for a private event on the Avon Performance Pavilion on Thursday, September 29, 2016; Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present.

5.2. FIRST READING OF ORDINANCE 16-18, TO APPROVE DEED AND EASEMENTS FOR TRACT O AND LOT 39, BLOCK 4, WILDRIDGE (PLANNING DIRECTOR MATT PIELSTICKER)

Councilor Reynolds recused himself due to a conflict.

Councilor Smith Hymes moved to approve first reading of Ordinance No. 16-18 approving the conveyance of a portion of Tract O and the acquisition of a portion of Lot 39, Wildridge Subdivision, Avon, Colorado; Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present. Councilor Reynolds abstained from vote.

5.3. PUBLIC HEARING SECOND READING OF ORDINANCE 16-14, APPROVING CODE TEXT AMENDMENTS FOR PUBLIC FACILITIES AND TOWN CENTER ZONE DISTRICT STANDARDS (PLANNING DIRECTOR MATT PIELSTICKER)

Mayor Fancher opened the Public Hearing and no comments were made. Councilor Smith Hymes moved to approve second and final reading of Ordinance 16-14 approving the following amendments to the Avon Development Code:



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, SEPTEMBER 13, 2016
AVON TOWN HALL, ONE LAKE STREET

1. Table 7.24-1, Allowed Uses, of the ADC is amended to add “S” (special review use) to the “PF” (Public Facilities zone district) column for the following Residential Uses: Dwelling, Single-Family Detached; Dwelling, Two-Family/Duplex; Dwelling, Townhouse; Dwelling, Multi-Family; Dwelling, live/work; and, Accessory DU; and
 2. Table 7.24-1, Allowed Uses, of the ADC is amended to add “P” (permitted) to the “TC” (Town Center zone district) column for the following Public and Institutional Uses: Library; Government services, offices and facilities; and, Post office branches;
- Councilor Reynolds seconded the motion and it passed unanimously by those present.

5.4. **PUBLIC HEARING SECOND READING OF ORDINANCE 16-17 TO AMEND DRINKING WATER LEASE WITH THE UPPER EAGLE REGIONAL WATER AUTHORITY (TOWN ATTORNEY ERIC HEIL)**
Mayor Fancher opened the Public Hearing and no comments were made. Councilor Reynolds moved to approve second and final reading of Ordinance 16-17 approving the First Amendment to the Ground Lease on Tract P, Benchmark at Beaver Creek, Avon, Colorado; Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present.

5.5. **ACTION ON REQUEST BY TREADSTONE DEVELOPMENT, LLC TO PROCESS A DEVELOPMENT APPLICATION FOR A HOTEL PROJECT USING PORTIONS OF TOWN PROPERTY (PLANNING DIRECTOR MATT PIELSTICKER)**
Keith Hampton commented.
Councilor Prince moved to authorize Treadstone Development LLC’s request to process a development application for a hotel project using portions of Town property to meet minimum landscaping requirements; Councilor Reynolds seconded the motion and it passed unanimously by those present.

5.6. **ACTION ON RENEWABLE ENERGY OPTIONS AT THE PUBLIC SAFETY FACILITY (TOWN ENGINEER JUSTIN HILDRETH)**

6. CONSENT AGENDA

Start Time: 01:26:47

- 6.1. **INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF AVON AND THE EAGLE COUNTY SHERIFF’S OFFICE/ COUNTY OF EAGLE (POLICE CHIEF GREG DALY)**
- 6.2. **INTERGOVERNMENTAL AGREEMENT OF THE COLORADO INFORMATION SHARING CONSORTIUM (POLICE CHIEF GREG DALY)**
- 6.3. **RESOLUTION 16-24, APPROVING PERMANENT DRAINAGE EASEMENT, LOT 33, WITH BECK FAMILY PARTNERSHIP, LTD (PROJECT ENGINEER JIM HORSLEY, TOWN ATTORNEY ERIC HEIL)**
- 6.4. **APPROVAL OF THE AUGUST 23, 2016 MINUTES (DEPUTY TOWN CLERK BRENDA TORRES)**

Councilor Reynolds moved to approve the consent agenda with the requested changes to the minutes from the August 23, 2016 Council meeting; Councilor Gennett seconded the motion and it passed unanimously by those present.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, SEPTEMBER 13, 2016
AVON TOWN HALL, ONE LAKE STREET

7. PRESENTATION – CHIEF GREG DALY SWEARING IN & BADGE PINNING CEREMONY

Start time: 01:34:32

8. EXECUTIVE SESSION

Start time: 01:39:27

- 8.1.** EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF REAL, PERSONAL, OR OTHER PROPERTY INTEREST UNDER C.R.S. §24-6-402(2)(A) AND TO DETERMINE POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) CONCERNING CONSERVATION OF CERTAIN TOWN OWNED PROPERTY
 - 8.2.** EXECUTIVE SESSION FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) AND TO DETERMINE POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) CONCERNING EAGLEBEND AFFORDABLE HOUSING
 - 8.3.** EXECUTIVE SESSION FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) IN REGARDS TO A PUBLIC-PRIVATE PARTNERSHIP
- Council convened into Executive Session at 4:22 p.m.

Executive Session ended at 5:36 p.m.

Council reconvened into regular session at 6:01 p.m.

9. MOTION TO CONTINUE THE MEETING TO 6:00 PM

6:00 PM CONTINUATION OF REGULAR MEETING

10. CALL TO ORDER & ROLL CALL

11. ACTION ITEM

Start time: 01:41:46

- 11.1.** FIRST READING OF ORDINANCE 16-20, REPEALING THE 2009 RECREATIONAL TRAILS MASTER PLAN, AND APPROVING THE 2016 RECREATIONAL TRAILS MASTER PLAN; SETTING A PUBLIC HEARING FOR SECOND READING ON OCTOBER 11, 2016 (PLANNING DIRECTOR MATT PIELSTICKER)
 - PLAN PRESENTATION (PLANNING DIRECTOR MATT PIELSTICKER/OLSSON ASSOCIATES ALEX NEES)
 - COLORADO PARKS AND WILDLIFE RECOMMENDATION (WILDLIFE MANAGER BILL ANDREE)
 - TOWN COUNCIL QUESTIONS, IF ANY
 - PUBLIC COMMENTS (TWO-MINUTE LIMIT)
 - TOWN COUNCIL QUESTIONS & COMMENTS
 - TOWN COUNCIL ACTION



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, SEPTEMBER 13, 2016
AVON TOWN HALL, ONE LAKE STREET

Tom Dubel, Michael Blair, Mark Luzar, Jack Gardner, John Shipp, Rick Spitzer, Rich Carroll, Pam Warren, Casey Wyse, Bill Wilto, Cody Wyse, Herb Pozen, Peter Copses, Gary McDavid, Carroll Tyler, Amy Phillips, Steve Coyer, Mike Farr, Sherry Bunting, Chuck Bunting, Russell Granger, Dan Griffith, Matt Kozusko, Eric Lickteig, Michelle Wolffe, Peter Buckley, Fritz Bratschie, Robert Fink, Steve Vardaman, Jim Benson, Howard Leavitt, Derek George, Laurie Baker, Casey Holmquist, Jamie Malin, Peter Warren, Kenneth Howell, Phil Struve, Dave Whitman and Angela Dalton commented.

Councilor Reynolds moved to approve first reading of Ordinance 16-20, approving the 2016 Recreational Trails Master Plan, with modifications as recommended by PZC; Councilor Smith Hymes seconded the motion with the caveat of delaying pump track until tract G study is completed. The motion passed on a 5 to 2 vote. Mayor Pro Tem Wolf and Councilor Gennett voted no. Second reading of the ordinance was set for the October 25, 2016 Council meeting.

12. WRITTEN REPORTS

- 12.1. UPDATE ON DUE DILIGENCE FILING FOR AVON LAKES NO. 1 AND NO. 2 (TOWN ENGINEER JUSTIN HILDRETH)
12.2. IMPLEMENTATION OF HB16-1311 PERTAINING TO VACATING WARRANTS (TOWN ATTORNEY ERIC HEIL)

13. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

- 13.1. PUBLIC ACCESS TV CHANNEL 5 & ECO (MAYOR PRO TEM JAKE WOLF)

14. MAYOR & COUNCIL COMMENTS

15. TOWN MANAGER UPDATE

16. ADJOURNMENT

There being no further business to come before the Council, the regular meeting adjourned at 8:58 p.m.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher
Jake Wolf
Matt Gennett
Megan Burch
Albert "Buz" Reynolds
Scott Prince
Sarah Smith Hymes



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Justin Hildreth, Town Engineer
Meeting Date: September 21, 2016
Subject: Construction of the Buck Creek Trail connector with funds from the 2016 Soft and Hard Surface Trail Improvements project budget

ACTION BEFORE COUNCIL

Give Staff direction on constructing the Buck Creek Trail Connector with funds from the 2016 Soft and Hard Surface Trail Improvements budget of \$100,000.

DISCUSSION

The Buck Creek Trail connector is a 200-Ft long paved trail that runs along Buck Creek from the Nottingham Road Trail to Nottingham Road on Tract V, Benchmark at Beaver Creek Subdivision which is owned by the Town. Figure 1 shows the approximate location of the trail. The trail was originally envisioned to be included as part of the 2001 Nottingham Road improvements but that project was canceled. The trail connector is currently included as part of the Comprehensive Transportation Plan and the Avon Trails Master Development Plan. Staff met with representatives of the Balas Townhomes, which is adjacent to Tract V and they are supportive of the project.

Construction of the trail has risen in prominence with the completion of the Medical Office Building (MOB). The MOB development constructed a paved trail along the west side of the building from Nottingham Road to Walking Mountains Lane. The Buck Creek trail connector will connect the recently completed MOB segment to the Nottingham Road Trail providing connectivity to Avon's trail system. Staff is finalizing a design of the trail and will obtain pricing from local contractors to construct this fall. It is anticipated the construction cost will be well below \$100,000.

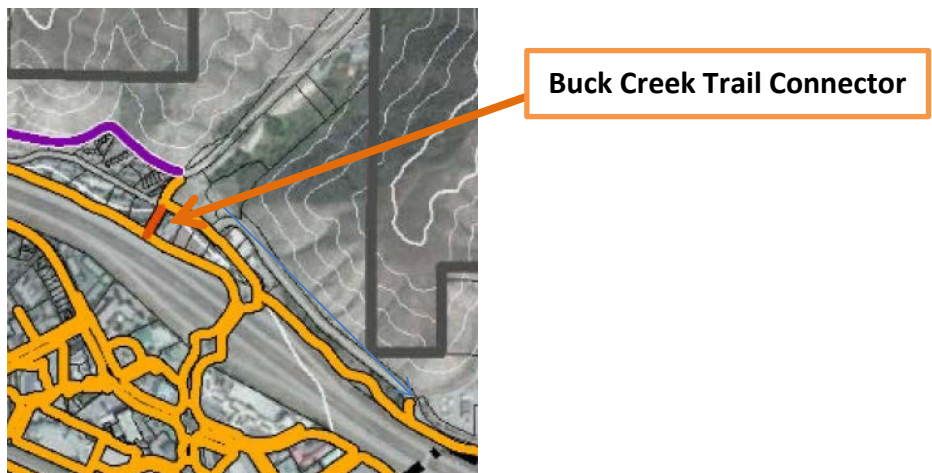


Figure 1: Buck Creek Trail Connector



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council

From: Danita Dempsey, Festival & Special Events Director

Virginia Egger, Town Manager

Meeting Date: September 21, 2016

Agenda Topic: Discussion of the *Review of Town of Avon Special Event Venues and Funding Investments for the Period January 2013 – August 2016* and Direction for Future Programming and Funding

ACTION BEFORE COUNCIL

To discuss the *Review of the Town of Avon Special Event Venues & Funding Investments for the Period January 2013 – August 2016* and to provide direction for future special event programming and funding beginning in 2017.

MEETING ORDER

The following order for the September 21, 2016 meeting is planned:

- Report presentation
(Festival & Special Event Director Danita Dempsey & Town Manager Virginia Egger)
- Town Council questions and comments
- Public comments
- Town Council direction

BACKGROUND

Town Council requested that staff prepare a report on special events for a public work session. The requested report is attached and covers the period January 2013 through August 2016.

ATTACHMENT

Review of Town of Avon Special Event Venues and Funding Investments for the Period January 2013 – August 2016



**REVIEW OF THE TOWN OF AVON
SPECIAL EVENT VENUES
&
FUNDING
INVESTMENTS**

**FOR THE PERIOD
JANUARY 2013 – AUGUST 2016**

**TOWN COUNCIL WORK SESSION
SEPTEMBER 21, 2016**

TABLE OF CONTENTS

- I. EXECUTIVE SUMMARY (page 4-5)
- II. OBSERVATIONS & QUESTIONS FOR DIRECTION (pages 6-9)
- III. ECONOMIC VITALITY: A STRATEGIC PLAN FOR SPECIAL EVENTS (pages 10-12)
- IV. SPECIAL EVENT VENUE INVESTMENTS (pages 13-15)
- V. 2013 – 2016 SPECIAL EVENT INVESTMENTS: DIRECT FUNDING (page 16-19)
- VI. 2013 – 2016 SPECIAL EVENTS: IN-KIND SUPPORT (page 20)
- VII. ADMISSION FEE (pages 21-22)
- VIII. SPECIAL EVENT AGREEMENT ANALYSIS (pages 23-28)
- IX. OTHER RESORT TOWNS: SPECIAL EVENTS COMPARISON (pages 29-30)
- X. PRIVATE PAVILION RENTALS (pages 31-33)
- XI. 2017 SPECIAL EVENTS (page 34)
- XII. EXHIBITS (page 35)

SECTION ONE

EXECUTIVE SUMMARY

The Avon Town Council has requested this report in preparation for its September 21st work session on special events. The term of the review is January 2013 through August 2016, and is tied to Avon's first Strategic Plan, which set forth the Town's direction for expanding Avon's special event offerings. It was also in 2013 that the Town Council approved significant funding to develop special event venues.

The contents of this report include the Council's goals for a diverse and vibrant set of events to enhance Avon's cultural fabric and to increase economic vitality, especially in non-winter months. The investments in venues, direct funding and in-kind support are summarized in the following pages. Information on the Town's collection and use of the paid ticket Admission Fee is summarized. In addition, the restrictions on use of the Harry A. Nottingham Park's main athletic field are presented to assist in ensuring that needed maintenance is factored into event scheduling.

Section Eight evaluates the Town's special event producer agreement and recommended changes, based upon feedback from producer experiences in working with the Town over the past three years.

- An advanced copy of this report was provided to all producers, who have held one or more special events in Avon since 2013, on September 8th.
- Comments, which were received, are reported on in Section Eight

The report is completed with information on other year-round resort towns which host special events, Avon's private rentals at the Pavilion and a listing of the 2017 special events, which have been approved to date.

The general review of the report and special event experience since 2013 is summarized as follows:

- Avon is not unique as a year-round resort community in desiring to host and benefit from special events. The summer and fall event schedule is full each weekend with a variety of choices in the valley and across the State of Colorado.
- Avon, again like other communities, has experienced the dynamic nature of events coming and going. Snowball has been in numerous venues, Snowball's sister event SnowGlobe has found a home in South Lake Tahoe where it started. Edfest moved to Vail, WWG to Steamboat, after expanding into Squaw. The Bud Lite series is gone, U.S. Burton Open is in. Feast and the Rendezvous Music Festival are no longer. This situational scenario is not expected to change, but the objective to have signature events which repeat annually and are synonymous with Avon, remains an important focus.
- Avon's approach to requiring that private producers provide venue amenities, including but not limited to sanitation, security, and parking, parallels other resort communities, which have an open lawn and outdoor stage.
- The Avon Pavilion's stage curtain has failed to meet expectations during strong wind bursts. The Council's direction to replace the curtain with a retractable door is in process.

- Avon began funding a series of nascent ticketed and free community events in 2014. Without exception, all events were produced at a high quality level:
 - There have been no arrests and no off-site impacts. This has been a primary goal of launching and maintaining events in our public venues
 - Parking and transportation has worked well
 - Venue set-up and breakdown have suffered only rare damages
 - The quality of the artists have meet a high standard
 - Venue and stage designs and amenities developed by producers have been exceptionally well done
 - The Town's Admission Fee has been targeted at purchasing assets which reduce production costs
 - A mix of music, cultural and athletic programming was launched
 - Maintenance requirements of the main upper field were met, but few dates remain for special events using the field remain, based upon 2016 scheduling

- Avon's free events have had the greatest initial success. These events have transparent budgets, see crowd sizes that meet expectations, subject to weather, and provided the greatest cultural event diversity.

- Private produced music and culinary festivals, which are ticketed, have been well-produced, but ticket sales, without exception have significantly lagged the needed sales to support the Town's three-year seed funding partnership. An objective review can find that any first, second and third year event must work to gain notoriety and a following. Avon's effort to "jump start" events with significant seed funding has not yielded the success hoped for in these early years.

Section Two provides staff and producer recommendations for the next period of special event production and poses important directional questions for the Town Council.

SECTION TWO

OBSERVATIONS & QUESTIONS FOR DIRECTION

The following observations and questions for Town Council direction result from the information provided in Sections Three through Twelve. It is this Section Two, which provides the most relevant and timely questions from which staff would like to receive direction at the September 21st work session for special event solicitation, evaluation, production and funding.

QUANTITY, QUALITY AND DIVERSITY OF EVENTS

- The number of event days has grown significantly; the Park’s upper main field, based on 2016 event days, are at near capacity
- The quality of production across all types of events has been well done
- The diversity of music, cultural and athletic events has been successful
- The return on cash and in-kind investment has not been as robust as anticipated when events were approved; nor has increased lodging, retail and restaurant sales tax matched assumptions
- The Town of Avon’s August 2015 Community Survey found strong support for Avon’s special events, with 36% of respondents being *very satisfied*, and 69% of respondents *satisfied* with Avon’s special events
- The majority of special event days have been in the summer, with winter event days programmed in high sales tax revenue months
- WinterWonderGrass reported in the *Vail Daily* that a lack of adequately priced lodging restricted the events growth potential in Avon; the event has relocated to Steamboat Springs
- Sales Tax Collections by season are as follows:

SALES TAX COLLECTIONS BY SEASON 2013 - 2015				
	WINTER	SPRING	SUMMER	FALL
	December - March	April - May	June - September	October - November
Average Collections	\$2,483,209	\$1,048,459	\$1,637,477	\$1,198,630
Percent of Total Collections	39%	16%	26%	19%
\$6,367,775				

QUESTIONS FOR COUNCIL:

- Is there a priority for which months events should be targeted for special events?
- How important is the Avon brand in approving events?
- Is there support from Council to ameliorate on site and/or off site impacts for artists who may attract a demographic which does not meet the Avon brand?
- Council has limited special event sponsorships, by any producer, to specifically not allow marijuana businesses; is this a policy the Council wishes to continue?

FREE SPECIAL EVENTS

- In these early years of special event development, the most successful events, when measured by attendees and community participatory support, have been Avon's new free music and cultural events
- Provide for the greatest range of genre diversity
- Free events have a strong sense of community gathering coupled with visitor participation
- Sponsorships for free events should be possible especially if marketed to sponsors as a summer "package"
- Free events are easy to administer as budgets are transparent and expected attendee counts do not require extensive planning, or off-site or on-site production costs, for example, park field preparation is simplified when fencing and other venue set up is not required
- Town staff can administer and produce free events (total number will matter), with a paid producer soliciting and managing the artistic talent, stage, sound and light production
- The Town can retain liquor sales and/or food vendor fees

QUESTIONS FOR COUNCIL:

- **How many free event days should be produced; or, is there a total funding limit to underwrite free events?**
- **What other types of free events should be considered (theatre, poetry slams, variety of music pop-ups, local band competitions, etc.)?**
- **Should Town staff produce all Town-sponsored free events and only retain producer expertise for artist management? It is estimated this would require one additional FTE, which could be funded from the Special Events Reserve (reducing monies currently expended on private producers and bear these costs with Town funding)**
- **Should the Town consider retaining liquor sales and/or food vendor fees when producing free events?**

NONPROFIT/FUNDRAISING SPECIAL EVENTS

- These events are highly successful when measured by the low cash contributions from the Town and number of participants
- Are predominantly athletic events

QUESTIONS FOR COUNCIL:

- **Should the Town consider a greater emphasis on making Town facilities available to nonprofit fundraising events when the public is welcome to attend?**
- **Is there Council support in permitting the Pavilion and park for athletic events when such events might limit the number of music events when competing for calendar dates?**

PRIVATE PRODUCER SPECIAL EVENTS

- Quality of all events has met a high standard, with minimal to community complaints or off-site impacts
- Ticket sales have not been at levels which producers have projected at the time of the request for Town support
- The first year's use of the Performance Pavilion and park is found by most producers to be more complicated than anticipated, even with Town staff guidance
- Building a culture of multi-day music events in Avon may require more time

QUESTIONS FOR COUNCIL:

- **Should major music events be targeted to months other than during high sales tax and lodging revenue months?**
- **How many major music events should be considered each year?**
- **Does the three year seed funding concept still hold relevance?**
- **Should support from the Town be limited to in-kind services?**
- **Should cash contributions, if any, be limited to specific uses, such as to artistic talent?**
- **Are event budgets and/or P&L statements important to funding decisions; should the Town fund profitable events?**
- **Can increased Town expenses be paid for with a liquor license site fee? (the Town cannot under State law profit share)**

FORMATION OF AN AD HOC ADVISORY COMMITTEE – 2017 SPECIAL EVENTS

- In 2014, the Town of Avon formalized its process for Community Grants
 - An application for interested applicants was developed
 - Criteria to evaluate applications were prepared and provided to applicants
 - A period for the solicitation and receipt of applications for funding in the next fiscal year was set
 - An ad hoc committee was appointed by the Town Manager to evaluate the applications and make funding recommendations. The members were from the business community and included at least one special event producer
 - This process has been highly successful in creating a level playing field for all applicants and appropriating monies within a set budget allocation
- Producers and others have recommended an Advisory Committee/Commission be established
- Staff supports the appointment of an ad hoc Advisory Committee for special events scheduling and funding in 2017
 - Why ad hoc instead of a commission with by-laws, etc.?

- It staff's view much will be learned in a first year effort, which then can be evaluated for a standing commission or committee in the next year or two;
- There is not time realistically to go through the formal process of defining a commission in Town code, with by-laws, solicitation of members and interviews for meaningful special event review in 2017
- The Community Grant process has been highly successful in gaining insight and recommendations from a citizen board
- It is not yet known and hard to predict what the purposes of a commission would include
- The appointment of up to seven persons would be done by the Mayor, in a timely manner, so the ad hoc committee can participate in setting dates and funding recommendations for 2017 special events. Appointees should represent the retail, restaurant and lodging business community, with nonprofit and some event producer mix to avoid too many conflicts of interest
- An application, as is done for Community Grants, would be developed by staff and distributed by not later than October 7th for receipt by November 1st
- The ad hoc committee would review the applications the week of November 14th , with recommendations for event dates and funding of events with recommended awards greater than \$15,000 being presented to Council at its December 8th (or preferably December 15th meeting – as a date change due to the election)
- Events receiving less than \$15,000 in funding and without calendar date conflicts would not be reviewed by Council
- The ad hoc committee would continue to meet as needed to review special event progress and to report to Town Council in August 2107 on further recommendations for an advisory committee

QUESTIONS FOR COUNCIL:

- **Should the Town set up a 2017 ad hoc advisory committee?**
- **Should Town staff proceed to develop and send out an application form for 2017 events, generally following the guidelines and informational requirements of Community Grant applicants?**
- **Is the Council favorable to a threshold of funding which would not need Council approval?**

SECTION THREE ECONOMIC VITALITY: A STRATEGIC PLAN FOR SPECIAL EVENTS

2013 – 2016/17 Town Council adopts a *Strategic Plan Vision* and sets strategies for special events: *The Town of Avon, surrounded by natural beauty, is today a strong community, which will maintain a focus on families and workers, and that will build on its strengths to become a nationally and internationally recognized year-round mountain resort community. Committed to providing a high level of municipal services for our citizens and visitors, and the stewardship of our natural resources, Avon will expand its cultural, recreational and educational offerings in partnership with our broader community and regional public and private sector agencies, thereby ensuring sustained economic vitality and a vibrant community experience.*

...The importance of vibrancy and activity within the Town will be supported by **attracting an array of new and diverse cultural and recreational events to Avon which are in concert with the values of our community and serve to nurture a cohesive sense of place and public...**

2016 – 17: TIER 1 PRIORITIES

Continue to solicit, develop and fund, in partnership with qualified producers, a diverse program of vibrant arts, educational, cultural and recreational offerings at the Pavilion & Mall, as directed through the annual Town Council review of all offerings. In particular, seek to add live theater as a desired multi-day or evening festival. Expand use of the Pavilion in shoulder seasons to local band productions, which are low key and low budget, such as a battle-of-the-bands or open mike nights.

- **VENUES:** The Town constructs new performance venues: Pavilion and Main Street Mall in 2014; new Town Hall is purchased in 2016. To best facilitate use of these new venues, the Avon Municipal Code addressing Amplified Use of Outdoor Sound and Liquor License were revised and adopted by Town Council.
- **BRAND PLATFORM:** The Town, in 2014, adopts its brand platform which guides Town investments in special events (Section Three: Exhibit 1).
- **MUNIREVS & DESTIMETRICS:** To measure economic impact of special events, the Town implements software (MuniRevs) in 2014, which in partnership with businesses, can measure daily sales and lodging tax receipts. The consistency of selection of the non-event baseline days from year-to-year is important when comparing taxes to the event days. Destimetrics, which provides lodging occupancy and rate information, is funded by the Town, and is used to evaluate room rates.

- **ECONOMIC DEVELOPMENT STRATEGY:** In December 2014, Council reviews the *Town of Avon Economic Development Strategy*. Economic Vitality: Special Events is included in the Strategy (Section Three: Exhibit 2).
 - Goal is to build a stronger year-round economy by reducing economic seasonality and growing the summer economy. *The building of a special events program is the number one priority.*
 - A Signature Special Events strategy is stated: A signature event is one which is synonymous with Avon. Salute to the USA is an example. The economic development program seeks to build additional signature events in Avon over the next 5 – 10 years.
 - Seed Funding for Signature Special Events: The business model for developing signature special events is based upon attracting qualified, passionate private sector producers. These generally small and medium sized business owners, are helped to establish special events either on the Pavilion or Main Street Mall through multi-year support funding to assist the right special events in gaining notoriety and thereby profitability through ticket sales and sponsorships.

The goal is that signature events can be produced at profit levels that need no on-going financial support.

 - Funding for seed support is from General Fund revenues
 - All signature events and funding are approved by Town Council

- **REQUEST FOR QUALIFICATIONS:** Distributed at various times to attract an array of events by qualified producers
 - WinterWonderGrass approaches the Town about moving its production to Avon; first event is February 2014
 - Town staff release the first of three Requests for Qualifications soliciting successful special event producers
 - ROI scenario developed to measure qualified producer financial requests and forecast length of time for Town’s financial recovery
 - A variety of events begin to be funded

- **TELLURIDE FESTIVAL MODEL:** The Town of Telluride’s Park/stage festival model is adapted for private producer use in Avon:
 - Both Towns have a stage and an open athletic field for attendees
 - Concept is a “free venue” where the producer has the autonomy to create the festival space inside the premise
 - Producer provides for artist talent, costs of production, marketing, sanitation, parking and transportation, damage deposit or bond payment instruments, etc.
 - Significant in-kind is provided by the Town
 - A key difference is Avon provides seed funding; Telluride rarely provides private sector producer funding

- **SUMMARY – SPECIAL EVENTS**
 - Goal to increase summer and off-season activity measured through lodging, retail and restaurant sales tax collections
 - Align special events with the Avon brand
 - Provide diversified array of events which are attractive to local residents; other valley residents and visitors will follow this authenticity
 - Quality of events and ensuring there are no off-site impacts through in-depth collaborative planning process
 - Measure success of the events through the following:
 - Enhance the cultural fabric of the community
 - Provide economic vitality to the Town
 - Produce high quality events
 - Forecast a horizon for growth and notoriety
 - Support the goal of producer profitability within 3-years
 - Becomes over time, synonymous with “Avon” and is of signature quality

SECTION FOUR

SPECIAL EVENT VENUE INVESTMENTS

HARRY A. NOTTINGHAM PARK

- Park Main Field Capacity: 5,000 (estimate); 19,000 attend Salute to the USA
- Supports events on the Pavilion; producers design field program
- Utilized for athletic events
- Utilized for events without use of the Pavilion
- Utilized by the general public
- Requires consistent maintenance, including mowing, irrigation, aeration, etc. Field maintenance does limit the number & types of events (See Section Four: Exhibit 1 for typical maintenance cycle.)
- Increased access to power at restroom building and Town Hall
- Limits to depth of staking for tents and vehicle movement to protect irrigation system and mitigate sod damage



AVON PERFORMANCE PAVILION

- Opened in January, 2015
- Designed for an array of activities; stage sized for a full symphony
- Full technical specifications developed for producers
- Event Terrace seats up to 220; not yet experienced
- Pavilion may be rented for private events
- Producers choose how to activate the Pavilion. For example:
 - Pavilion wash lights to full lighting systems/shows
 - Stacked sound systems to flown sound systems
 - VIP on Event Terrace, Viewing Plaza pavers or in Green Room
 - Green Room uses for artist hospitality and relations; Town Council Chambers also made available when needed for multiple artists
- Stage curtain being replaced by a fixed door system; 2017 pending funding



POSSIBILITY PLAZA/MAIN STREET MALL

- Completed in September of 2014
- Plaza capacity with SL-100 mobile stage and vendors: 1,200; high visibility for Avon events
- Lettuce Shed Lane terminus also can serve as an event venue
- Mall will be completed after construction of Lot B hotel



NEW TOWN HALL

- Interior Finish date: Fall 2017
- Opportunity to provide for special event space
- Tract G Study may also consider additional special event support venues



SECTION FIVE

2013-2016 SPECIAL EVENT INVESTMENTS: DIRECT FUNDING

Avon's special events are organized into the categories presented below. Section Five: Exhibit 1 provides a detailed review of the direct cash contributions to special events for the period 2013 – 2016. In-kind contributions are detailed in Section Six.

For private producer events, please see Section Five: Exhibits A – G, which provide specific information for each event, including ROI data, when available.

PRIVATE PRODUCER – TICKETED OR PARTICIPANT REGISTRATION FEE BASED

These special events are produced by private for profit companies. The Town executes an agreement or special event permit for the use of Town facilities to host the event on set dates.

- Music
 - Cash contributions to music festivals grew from \$50,000 in 2014 to \$147,000 in 2016
 - The number of festival days grew from three to seven per year
 - While each event was highly produced, with marketing and promotions and minimal negative community impacts, ticket sales lagged producer projections, which impedes lodging, restaurant and retail sales tax collections
 - Return on the investments made by the Town varied considerably by event, time of year and between years; no event contributed significantly to the local economy when compared to the Town's cash contribution
- Athletics
 - The use of the Town's Park fields brings large participant and spectator crowds to Avon
 - Direct cash contributions are relatively rare and average approximately \$2,000/event
- Cultural
 - Cash contribution grew from \$6,300 in 2013 to \$96,000 in 2016, with the seed funding for the creative writing event representing \$75,000 of the new funding. The writing event was postponed to 2017 to allow for additional marketing and promotions
 - Attendance numbers for RWB have not grown significantly over the five years of Town support
- Total cash investment: 2013: \$13,313 2016: \$250,616

PRIVATE PRODUCER – FREE EVENTS

These special events were either commissioned by the Town or funded in response to a producer proposal. The Town fully funds the event based upon a disclosed budget, in full or at a lower negotiated amount. All of the events are provided for free to the community. Events in this category represent Avon's most diverse set of cultural offerings.

- Music
 - Cash contributions have grown significantly from no investment dollars to an average of \$140,000 per year (2014 and 2016).
 - The funding of Après Avon during the 2015 Championships was a one-time benefit of \$185,000.
 - Attendance is weather dependent, but generally has shown support, with many offerings new in the last year or two
- Athletics
 - A one-time Audi driving event during the Championships – no funding provided
- Cultural
 - Cash contributions have dropped from a high of \$138,122 to \$23,150 when funding for Flavors of Colorado was not continued. This event was exceptionally well done, with extensive Front Range marketing. Participation did not support continued funding.
 - The participant survey conducted by VVF for International Dance reported strong interest in continuing Dancing in the Park (report not included here); the 2016 event tested the mettle of dancers and the audience in the pouring rain

Total cash investment: 2013: \$0

2016: \$138,150

TOWN PRODUCED - FREE EVENTS

It has been a deliberate decision since 2013 for the Town staff not to be direct special event producers, except for the signature *Salute to the USA* event. The decision recognizes the intermittent nature of events, which is difficult to staff for, and the advantage of private producers running special event businesses, which can better withstand economic downturns and recognizes the expertise of full-time producers. The Town in 2016, however, to bring more vitality to Avon's summer offerings the Town did produce a few new small community events.

- Music
 - \$6,300 was invested for seven different dates comprised of string quartets and event terrace Sunday afternoon community gatherings
- Cultural
 - The one-evening extravaganza *Salute to the USA* cost \$112,950 in 2016, down from \$119,000 in 2013. Reorganization of the event to obtain cost savings and discontinuation of live music accounted for the savings.
 - One smaller event was held in the winter of 2013 to use fireworks from the previous cancelled July 3rd; and the Icing in the Park event was not funded when low attendance did not support the cash contributed.

Total cash investment: 2013: \$169,542 2016: \$119,250

NONPROFIT/FUNDRAISING ORGANIZATIONS

The Town of Avon grants use of the Town Park to nonprofit organizations for their events for a nominal permit fee of \$100. The event can be for the organization's own fundraising support or to support a third party nonprofit. In addition to use of the Town Park and associated streets/parking/lake etc., cash contributions are made through the Community Grant Application process.

- Athletics
 - Cash contributions to nonprofit events have grown from \$5,000 to \$12,500, from 2013 to 2016 respectively.
 - Attendance numbers can range from more local attendance in the 100 person range to well over 5,000 participants/spectators
- Cultural
 - Little to no cash contributions is made. In 2015, the Walking Mountains film series garnered funding, but was not continued based upon low turn-out for the one-night event

Total cash investment: 2013: \$5,000 2016: \$12,500

RECREATION DEPARTMENT EVENTS

The Town's Recreation Department also utilizes the Performance Pavilion, lake and Park athletic fields for youth and adult programs. Ensuring usage dates for these events is part of the venue mix. Small amounts of participation funding is made available to some competitive series; \$2,663 in 2016. With the contracting of the paddleboats and SUP rentals, the Town has experienced net income from the operation versus a net loss.

TOTAL INVESTMENTS BY CATEGORY		
Event Category	Total Cash Investment 2013	Total Cash Investment 2016
Private Producer – Ticketed / Participant Registration – Fee Based	\$13,313	\$250,616
Private Producer – Free	\$0	\$138,150
Town Produced – Free	\$169,542	\$119,250
Non-Profit / Fundraising Organizations	\$5,000	\$12,500

SECTION SIX 2013 – 2016 SPECIAL EVENTS: IN-KIND SUPPORT

In-kind support, provided directly by the Town of Avon to private special event producers is intended to assist the producer with Town owned asset delivery and removal, banner decorations on Avon Road, some vehicular traffic direction and venue set-up. It does not include the producer's production specific design, such as music tents, lighting show, sound system, decorations, entry elements, etc. As producers become familiar with the stage and Park venue, reduced in-kind support can be anticipated. The Town tracks the in-kind costs. In 2016, Avon staff reached its capacity in being able to provide in-kind work for events. Additional administrative and Public Works staff will be required, if in-kind services are expanded for the current number of events or additional events.

TOWN OF AVON IN-KIND SUPPORT				
EVENT NAME	2013 TOTAL IN-KIND SUPPORT	2014 TOTAL IN-KIND SUPPORT	2015 TOTAL IN-KIND SUPPORT	2016 TOTAL IN-KIND SUPPORT
WinterWonderGrass Music Festival		\$25,000	\$25,000	\$25,000
Apres Avon 2015 Championships			Staff for Operations	
Apres Avon Spring Concerts				\$2,000
Reds, Whites & Brews Festival	\$6,200	\$6,000	\$4,000	\$4,000
Cover Rock Music Festival				\$7,500
Triple Bypass Bike Ride	Some Operations	Some Operations	\$2,500	\$2,500
Outlaws & Legends Music Festival				\$10,000
Dancing in the Park!			\$800	\$800
Boulder Symphony Orchestra				\$700
Bec Tri Sprint Triathlon	Some Operations	Some Operations	Some Operations	\$500
Avon Live! Summer Concerts			\$250	\$2,600
Flavors of Colorado		\$5,000	\$5,000	
Cielito Lindo Music Festival			\$1,000	
Round Up River Ranch / Campfire Games				\$1,200
Skylight Creative Writing Retreat				\$5,000
Man of the Cliff		\$5,000	\$5,000	\$4,000
Vali Valley Soccer Tournament	Use of Fields	Use of Fields	Use of Fields	Use of Fields
TOTALS:	<u>\$6,200</u>	<u>\$41,000</u>	<u>\$43,550</u>	<u>\$65,800</u>
IN-KIND USE OF FUNDS				
<ul style="list-style-type: none"> • Installation and removal of banners on Avon Road • Delivery, training and use of Genie and Lift Truck • Delivery, accounting and storage of town owned event assets • Set-up, programming and removal of traffic / parking control devices <ul style="list-style-type: none"> • Delivery of sand for field damage mitigation • Policing services to include EAP creation, on-site presense, sweep and brief/debriefing <ul style="list-style-type: none"> • Public Works staff on-site during festival hours, traffic control and management • Special Event staff on site, meeting and planning hours = cost plus 10% <ul style="list-style-type: none"> • Set-up and removal of barricade fencing 				

SECTION SEVEN ADMISSION FEE

The Town of Avon passed Resolution 13-26 to allow for an Admission Fee of \$2.00 per ticket per day to be collected for ticketed events. . The fee was increased to \$3.00 per ticket sold per day through Resolution 15-18. The use of fees is explicitly targeted at venue and operational expenditures, which help reduce the costs to producers of utilizing the Pavilion and Park as a festival site or enhance the facilities.

Revenues collected are restricted for special event related capital facilities, equipment and infrastructure improvements, including but not limited to:

- Acquisition of assets for special events such as tenting, fencing, tables, chairs, directional signage, or power and distribution assets.
- Improvements in the Park and Town-owned facility infrastructure such as type and location of power, resource recovery, warm water access, grey water and grease disposal receptacles, materials for conversion of facilities for various event types, and field and trail improvements.
- Defraying police, public transportation and traffic control costs when provided by the Town as an in-kind benefit for the special event.

Town staff works closely with the producers whose events generate the Admission Fee to prioritize the use of the monies. A summary of the collections and uses is provided in the following table.

ADMISSION FEE REVENUES 2014- 2016					
EVENT NAME	TOTAL ADMISSIONS	COMPS * (Staff / Artists)	COMPS ** GUESTS/ MARKETING	PAID ADMISSION ALL DAYS	TOTAL ADMISSION FEE
WinterWonderGrass / 2014	9,300	265	200	8,835	\$17,670
WinterWonderGrass / 2015	10,818	1,025	200	9,593	\$19,834
WinterWonderGrass / 2016	10,126	1,219	100	8,807	\$30,900
Reds, Whites & Brew / 2014	1,066	375	200	491	\$982
Reds, Whites & Brew / 2015	1,298	286	200	812	\$1,660
Reds, Whites & Brew / 2016	1,136	240	130	766	\$2,265
Cielito Lindo / 2015	1,052	258	200	594	\$1,450
Cover Rock / 2016	2,269	438	250	1,581	\$3,918
Outlaws & Legends /2016	1,494	303	320	871	\$3,390
TOTALS:	38,559	4,409	1,800	32,350	\$82,069
Percent of Total Admissions		11%	5%	84%	
* Per Resolution	** Per Agreement				
ADMISSION FEE EXPENDITURES 2014 - 2016					
USE OF FUNDS					TOTAL ADMISSION FEE'S SPENT
2014 Assets Expenditure Total					\$15,108
<u>Priority Items:</u> Sustainability Support; Power Assets; Event Signage					
2015 Assets Expenditures Total					\$9,850
<u>Priority Items:</u> Power Assets; Tables; Patio Heaters; Green Room Furniture; Event Signage					
2015 Damages, Repair & Mitigation					\$13,580
Field Preparation, Sand, Hauling & Stage Deck Repair					
2016 Expenditures Total					\$30,779
<u>Priority Items:</u> Pole Tents; Power Assets; Tables; Chairs; Bleachers; Barricade Fencing					
2016 Damages, Repair & Mitigation					\$6,170
Pre-Wind Wall Scaffolding, Stage Heat					
				TOTAL:	\$75,487
				BALANCE REMAINING:	\$6,582
2016 - 2017 PRIORITY ITEMS					
Storage & Moving Containers for Power Cables					\$1,300
Tent Replacement (10 x 10)					\$2,000
New Tents (10 x 20)					\$2,800
Event Signage Replacement					\$800
				TOTAL:	\$6,900

SECTION EIGHT

SPECIAL EVENT AGREEMENT ANALYSIS

The Town of Avon Special Event Agreement was developed in 2013, in preparation for the first WinterWonderGrass Festival, which was held in February 2014. The same general format has been used since this time, and is attached as Section Eight: Exhibit 1. The template for the agreement was based on the Town of Telluride's 2013 Bluegrass Festival Agreement. Telluride produces its events as Avon does in an open athletic field. The Telluride Agreement is attached as Section Eight: Exhibit 2.

The agreement concept is that the municipality provides the stage and Park venue for no charge, unlike the City of Denver which provides the full service Red Rocks Amphitheater for a rental fee. A producer in Avon (and Telluride) is then entrusted to develop the venue as well as provide the services needed for production of the event, and all required off site needs, including Parking and transportation. Avon, like Telluride, provides extensive in-kind support for the development of the festival venue and for certain production activities, such as police presence/services in and around the venue.

At the completion of each event, which uses the Avon Pavilion and Park, staff reviews the event with the event producer. Over the past seven months, producers have asked for certain changes to Avon's agreement. As stated above in Section One, special event producers were provided an advanced copy of this report for comment and recommendations.

In summary, from Town staff's work with producers, we together propose the following changes:

- Changes to specific sections of the Towns' Special Event Agreement as stipulated in the following table
- Eliminate initial physical wristband counts and rely solely on ticket manifests; assume all attendees are counted in the manifest and wear a wristband; final count will include broken wristbands
- Shift securing parking and transportation responsibilities to the Town; budget for the necessary administration and security needed to implement. Funding is recommended from the Special Event Reserve
- Set a 300 single day ticket benefit without the Admission Fee to support event marketing
- Eliminate the requirement for a marketing plan from the producer; and create a partnership with Avon for special event marketing through the Town website, press releases and social media
- Work with Avon businesses to provide pre-event marketing and producer contact information
- Simplify the Town's sales tax and vendor licensing requirements
- Create an advisory committee to assist in special event decisions to include creation of application criteria and goals, fit with Avon brand, approving special event dates, and recommended level of funding support. In the funding considerations, be proactive in establishing incentives for the private sector to support special event sponsorships through matching funds

- Eliminate individual event surveys with the Town conducting sample surveys with producers and at its discretion to gain consistency; Town will budget for this survey cost. Producer must provide permission for access to ticket holders contact information, collection and ownership by Avon. Data will be provided to the producer
- Create of a “producer packet” that includes basic guidelines and recommendations for event management in Avon’s venues such as; number of and placement of portable restrooms and resource recovery infrastructure, number of security personnel, placement of fencing and entry/exit gates, and local supplier list
- Replace the stage “curtain” with a fixed door to fully address wind conditions. The door is currently in design and expected to cost \$125,000 installed. Installation would be yet this year or in early spring 2017

The Town has offered to be responsible for installation and removal of a 4’ tall security fence along the perimeter of the upper soccer field; producers may select a higher fence and install/remove at the producer’s cost. Several producers responded that a 4’ tall fence would be inadequate and asked for a 7-8’ tall security fence instead. Town staff cannot support the 7-8’ request: 1) The cost for the approximately 1,700 – 2,000 linear feet of chain link fencing could be well into six figures to purchase; 2) Storage would be difficult in the long run; and 3) The time needed to transport and construct the fence and skill set are beyond Town staff’s capacity during the summer. It is understandable why fencing companies are utilized for security fencing of this height.

Finally, Highline principal James Deighan did not provide any specific comments on the proposed report, but did offer his thoughts for Avon’s future.

Avon has the best venue of any mountain town in Colorado. To promote the success of the facility, the Town of Avon needs to lean in and subsidize events there for a minimum of three years. This investment will help to create a behavior that not only draws awareness to the town and venue, but also establishes a culture that is replicated year over year.

Until a wow factor comes into play with Avon and that venue, the challenges you continue to incur can't be overcome.

20 years ago, Vail didn't have big events and wasn't known for being such a popular event hub. Vail Mountain began by leaning in substantially, with minor support from the Town of Vail. In the past few years, the Town of Vail realized that if the event model was to be sustained and continue to grow, they'd have to invest a substantial amount of resources. They have done just that and continue to do so.

I cannot speak for other event companies, but every event that is well funded by the Town of Vail which Highline produces, the ROI comes back well past the original investment.

I would urge the Town of Avon's town council to be very forward thinking when determining the resources you put behind growing the event platform in your town.

And speaking of Jackson Hole, between the Town of Jackson, The Tourism Bureau, the lodging community and Jackson Hole Mtn. Resort \$1.5 million dollars was spent on their spring festival, Rendezvous. The tax income return from that four-day weekend came back at \$7.8mm. Imagine the trickle-down effect alone on that investment.

2016 AVON

2016 AVON AGREEMENT	PRODUCER COMMENTS	PROPOSED CHANGES
3.1 Crowd Size - PRODUCER agrees the daily number of admissions shall not exceed XXX thousand (XXXX) on any day of the FESTIVAL. This includes children age 13 and older. Children age twelve and under shall not be counted as part of the admissions.	NO CHANGES RECOMMENDED	NONE THIS IS AN ESTIMATE PROVIDED BY THE PRODUCER. IT IS USED FOR DETERMINING EVENT SERVICES, SUCH AS PARKING DEMAND, SECURITY, ETC.
3.1.2 PRODUCER shall provide to AVON a total of 14 VIP Weekend Passes to be distributed to the Avon Town Council in pairs to each Councilor, Mayor and Mayor Pro Tem.	NO CHANGES RECOMMENDED	TOWN ATTORNEY ADDED IN RECENT AGREEMENTS: TOTAL VIP = 16
3.2.5 Wristband Reporting & Accounting - PRODUCER acknowledges and understands that all rules outlined in Resolution 15-08 and attached hereto as Attachment "B", shall apply to the 2016 FESTIVAL, including the payment of Admission Ticket Fees. Any wristbands lost, stolen or missing as a result of negligence by PRODUCER shall be considered as sold for the purposes of computing the Admission Ticket Fee. PRODUCER shall provide reporting and accounting of all admissions which documents the following:	THE PRE-COUNTS ARE NOT NEEDED;RELY ON TICKET MANIFEST	ELIMINATE WRISTBAND PRE-COUNT; PRODUCER GRANTS ACCESS TO TOWN TO SEE THE TICKET SELLER INFORMATION, SUCH AS EVENTBRITE
3.2.5.2 Scanning system, procedures and data collections to be in place to ensure that wristbands are distributed and accounted for strictly by type, to ensure that wristbands are not intermixed among admission types and to determine the Avon Admission Ticket Fee. The Town Manager or designee may view the scanned data for each day during non-peak times throughout the FESTIVAL.	NO CHANGES RECOMMENDED	UTILIZE SCANNED DATA MINUS BROKEN WRISTBANDS
3.2.5.3.6 Up to XXX (XXX) complimentary single-day admissions for PRODUCER guests.	MORE COMPS ARE NEEDED TO EFFECTIVELY MARKET	PROVIDE FOR 300 SINGLE DAY COMP TIX FOR MARKETING; CONTINUE 50 COMPS FOR FRIENDS AND FAMILY (GUESTS)
3.2.5.4 PRODUCER shall provide to the Town Manager or designee a report for Exempt Admissions and Paid Admissions thirty (30) days prior the FESTIVAL and once per week thereafter until DATE(S), after which point the report shall be provided daily.	CUMBERSOME TO PROVIDE ONCE PER WEEK	ONLY REQUIRE ON REPORT 30 DAYS PRIOR; ELIMINATE OTHER REQUIRED REPORTS, BUT ADD GENERAL STATEMENT OF NOTICE IF SALES ARE SIGNIFICANTLY DIFFERENT
4.1.2.1 PRODUCER shall include in the name of the XXXX Festival that it is "Sponsored by the Town of Avon".	NO CHANGES RECOMMENDED	THIS SHOULD BE BASED ON FINANCIAL AMOUNT PROVIDED BY THE TOWN & ONLY A REQUIREMENT FOR A SIGNIFICANT CASH DONATION.
4.1.2.2 PRODUCER shall develop and implement a comprehensive FESTIVAL marketing plan including print, radio, social, digital, video, broadcast and/or any other marketing platforms and promotions that may be available to assure a successful event and secure sponsorship of the FESTIVAL.	TOWN IS NOT A PARTNER IN MARKETING	TWO ACTIONS: 1) DELETE REQUIRED PLAN, BUT STATE TOWN WILL REVIEW IF REQUESTED; & 2) PROVIDE A ROBUST COMPREHENSIVE MARKETING PLAN FOR ALL EVENTS EACH YEAR ON TOWN WEBSITE AND THROUGH REGULAR SOCIAL MEDIA. ADD FUNDING INTO TOWN BUDGET AS MAY BE NEEDED.

2016 AVON AGREEMENT ANALYSIS

2016 AVON AGREEMENT	PRODUCER COMMENTS	PROPOSED CHANGES
<p>4.4 PARKING & TRANSPORTATION PLAN – PRODUCER shall provide to the Town Manager or designee a plan which details what transit services are required to be provided by AVON, including hours of service and estimated frequency of trips. The transportation plan shall specifically address the following by not later than DATE(S):</p>	<p>FRUSTRATING TO KNOW WHO TO CONTACT; TOWN SHOULD TAKE THIS ON</p>	<p>BASED UPON THE PROJECTED NUMBER OF TOTAL ATTENDEES PROVIDED BY THE PRODUCER, AVON WILL DETERMINE THE PARKING AND TRANSPORTATION NEEDS FOR THE FESTIVAL. AVON SHALL PROCURE THE PARKING, WITH THE PRODUCER ADDING TO ITS INSURED PREMISES AND MANAGE THE PARKING AND TRANSPORTATION SYSTEM, INCLUDING PEDESTRIAN SIGNAGE AND INFORMATION. FUNDING WILL BE FROM THE EVENT RESERVE. THE PRODUCER WILL AGREE TO INCLUDE THE PARKING AND TRANSPORTATION INFORMATION IN ITS WEBSITE AND MARKETING ANNOUNCEMENTS.</p> <p>SHOULD AVON NOT BE ABLE TO SECURE SUFFICIENT PARKING, THE EVENT WILL REDUCE ITS ATTENDANCE ACCORDINGLY.</p>
<p>4.4.1 Agreements with ECO Transit to accommodate FESTIVAL goers going to/from the Vail Transportation Center and those traveling east bound from Eagle, Gypsum, etc., during the FESTIVAL.</p>		
<p>4.4.2 Identification of all parking lots to be utilized for general public parking and all vendors, sponsors, musicians and staff including load-in procedures and a detailed map showing parking lot locations.</p>		
<p>4.4.3 All general public parking lots shall have “No Open Containers Allowed in the Town of Avon” signage posted at the lot during all hours of the FESTIVAL.</p>		
<p>4.4.4 Location of taxi line and communication procedure to taxi/limo services and pre-FESTIVAL information plan for attendees.</p>		
<p>4.4.5 Identify parking lot for overnight camping with management plan which includes security, medical, water refuse management and lighting, if applicable.</p>		
<p>4.4.6 A directional signage plan detailing the direction provided to vehicular traffic. This plan shall include types of signage used, quantity, location and installation/removal dates.</p>		
<p>4.4.7 Agreements with property owners for the use of parking lots shall be provided to the Town Manager by not later than DATE(S).</p>		
<p>4.5 PEDESTRIAN TRAFFIC PLAN - PRODUCER shall provide to the Town Manager a map which details pedestrian ingress and egress from all parking lots utilized for the FESTIVAL by DATE(S). The plan shall provide for the signage at the main point of entry and/or paths of ingress/egress stating “No Loitering”, “No Open Containers” and “FESTIVAL Entrance”.</p>		

2016 AVON AGREEMENT ANALYSIS

2016 AVON AGREEMENT	PRODUCER COMMENTS	PROPOSED CHANGES
<p>4.6 SECURITY PLAN – PRODUCER shall provide to the Town Manager a plan which details the security and law enforcement needs for the FESTIVAL by DATE(S). The plan shall include, but not be limited to, audience profile, security needs for alcohol sales, enforcement of marijuana restrictions, crowd management, lost children protocol, lost and found protocol, entry gate security checks, communication plan for law enforcement and emergency response agencies, chain of command, and external support from AVON and/or Eagle County Sheriff’s office. Contracts for services with security agencies shall be presented or a date to have such contracts shall be provided.</p>	<p>NO CHANGES RECOMMENDED</p>	<p>FOR FIRST TIME EVENTS, AVON SHOULD PROVIDE A LIST OF VENDORS.</p>
<p>4.10 PAVILION USAGE & PREMISES INSPECTION – PRODUCER and Avon shall jointly perform and document a pre-FESTIVAL inspection of the PREMISES not later than DATE(S), before the PREMISES are released to PRODUCER and returned to Avon. PRODUCER shall notify Avon Town Manager or designee of any problems or damage that may have occurred during the FESTIVAL during the post-FESTIVAL inspection.</p>	<p>PROVIDE THAT THE TOWN IS RESPONSIBLE FOR THE STAGE CURTAIN/DOOR</p>	<p>FINALIZE WEATHER MANAGEMENT PLAN FOR THE STAGE CURTAIN/DOOR</p>
<p>4.11.2 PRODUCER shall obtain general liability insurance coverage within the minimum limits set below naming AVON as an additional insured and insuring AVON and its officers, agents and employees against any and all liability and damages which may arise out of or directly or indirectly result from the conduct of the FESTIVAL. The policy dates shall include the entire range of dates for which Town property is used. The minimum limits and requirements of the coverage shall include: \$1,000,000 per occurrence primary coverage, and \$5,000,000 annual aggregate; 30 days’ written notice of cancellation; host and general liquor liability insurance in the same amounts listed above; \$5,000,000 personal and advertising injury coverage; and \$50,000 fire damage.</p>	<p>NO CHANGES RECOMMENDED</p>	<p>VERIFY LIMITS ARE SUFFICIENT FOR AN EVENT AND NOT EXCESSIVE</p>
<p>4.12.1 LIQUOR LICENSE: PRODUCER shall be solely responsible for identifying a local nonprofit to acquire a liquor license for the FESTIVAL. AVON shall provide to PRODUCER a list of local non-profits, which positively benefit the lives of local residents and/or the larger community of AVON. AVON encourages PRODUCER to consider one or more of the local non-profits as the liquor license applicant. Application for the license and all insurance and indemnification requirements pursuant to AVON Municipal Code 5.08.170 shall be the responsibility of PRODUCER and its nonprofit. PRODUCER shall submit to the Town Clerk a Special Event Liquor Application by not later than DATE(S).</p>	<p>NO CHANGES RECOMMENDED</p>	<p>AGREEMENT CREATES LINK TO LOCAL NONPROFITS. UNDERSTANDING IS THE TOWN MAY NOT REQUIRE A LOCAL NONPROFIT BE USED.</p>

2016 AVON AGREEMENT ANALYSIS

2016 AVON AGREEMENT	PRODUCER COMMENTS	PROPOSED CHANGES
4.12.8 BOND – PRODUCER shall deposit a bond or other security instrument in a form acceptable to the Town Manager and payable to the Town of Avon in the amount of \$xxxx. The bond is intended to secure payment of actual admissions’ fees, damages, repairs, clean-up , or any other payment or penalty due AVON under the terms of this Agreement. The bond is due at the Town of Avon Finance office no later than DATE(S). The bond, less any appropriate funds for payment, if any, shall be refunded to PRODUCER by DATE(S).	AMOUNT IS TOO HIGH AT \$20,000.	DETERMINE CORRECT AMOUNT TO COVER ESTIMATED ADMISSION FEES AND NOMINAL DAMAGE AMOUNT.
5.2 AVON shall provide financial support in the amount of \$xxxx to PRODUCER. Payment shall be made as follows:	NO CHANGES RECOMMENDED	EVALUTE FUNDING ONLY FOR ARTISTS; SHIFT CERTAIN COSTS AS IDENTIFIED HEREIN TO AVON
5.7 AVON shall provide portable fence materials (stadium barricade – approximately 900 linear feet), not already in use, located in Town Park for use by PRODUCER.	CHAIN LINK SECURITY FENCING IS VERY EXPENSIVE	TALL CHAIN LINK FENCING IS APPROXIMATELY \$11K, PER EVENT, INSTALLED. AVON SHOULD PROVIDE FULL FENCING OF THE UPPER SOCCER FIELD WITH 4' TALL FENCING, INSTALLED; NO SCRIM. AN EXTENDED SIGNED PERIMETER BEYOND THE FENCE SHOULD BE APPROVED TO AVOID LOITERING BY ANYONE NOT BUYING A TICKET. IF A PRODUCER DESIRES A HIGHER FENCE, THAT WOULD BE IN HIS/HER DISCRETION AND AT HIS/HER COST. FUNDING FOR THE FENCING WOULD BE FROM THE EVENTS RESERVE.

SECTION NINE OTHER RESORT TOWNS: SPECIAL EVENTS COMPARISON

Town staff has reached out to year-round resort communities, which have similar event venues. The following table summarizes our research. In summary, we have found:

- Avon’s approach to working with private producer’s parallel other communities in that the producer must provide the “production of the event”. The elements go beyond securing talent as this is a business for the producer. He or she also procures and covers the cost of security and crowd management, vendors, parking, transportation, sanitation and recycling, and sets up and breaks down the venue
- All communities provide some level of in-kind services
- Not all communities provide seed funding; Vail and Avon are the exceptions
- All communities offer some level of free events
- All communities experience the fluctuation of some events having success and others which are not successful
- Not all communities require a bond or other security instrument but in all communities producers are responsible for covering cost of damages
- All communities have restrictions on amplified sound, vehicles in event venues and staking
- All communities require business licenses for sold products/services
- All communities require a written permit and/or application

COMMUNITY COMPARISON RESEARCH				
	VAIL	TELLURIDE	WINTER PARK	AVON
Type Of Venue	Stage W/ Open Terraced Lawn And Covered Seating	Stage W/ Open Lawn Seating in Park	Open Lawn Seating in Park; Stage Brought in	Stage W/ Open Lawn Seating in Park
Attendance Capacity	2,800	12,000	4,500	5,000
Number of Event Per Year Over 1,000 ppl	10 Plus	5 Plus	8	5
Charge To Use Facility	Yes	No	No	No
Seating Provided	1,300/ Covered; 1,500 Lawn	No	Camp Style Chairs	Bleachers
Commission / Chamber / Advisory Committee	Yes	Yes	Yes	No
PRODUCER REQUIREMENTS				
Admission Fee Paid To Town on Tickets Sold	No	Yes	No	Yes
Insurance and Indemnification	Yes	Yes	Yes	Yes
Provide Budget	Yes	N/A	No	Variable
Damage Deposit	Yes	Yes	No	Yes
Marketing Plan	Yes	No	Yes	Variable
Survey Data	Yes	No	No	Variable
Post Event Recap	Yes	N/A	N/A	Yes
Vehicle Restrictions in Venue	Yes	Yes	Yes	Yes
Responsible For Damage to Facility	Yes	Yes	Yes	Yes
Vendor Business License Required if Selling Products or Services	Yes	Yes	Yes	Yes
Written Permit Application	Yes	Yes	Yes	Yes
Camping	No	Yes	Yes	No
Limits on Staking	Yes	Yes	Yes	Yes
Security / Crowd Management	Yes	Yes	Yes	Yes
Sanitation and Recycling	No	Yes	Yes / Town Assistance	Yes
Limits on Amplified Sound	Yes	Yes	Yes	Yes
Parking and Transportation	No	Yes	No / Town Provides When Warranted	Yes

SECTION TEN PRIVATE PAVILION RENTALS

The Pavilion was designed with the intention of making it available for private engagements, such as weddings and corporate events. A License Agreement was prepared for these types of events and includes:

- The ability of a private party to rent all of the Pavilion or certain areas such as the Green Room and Event Terrace only. It also allows some limited use of the Park near to the Pavilion
- Pricing was based on an evaluation of other outdoor venues in the Vail Valley; and is provided in the table on the next page
- Liquor permitting is simplified, under Colorado statutes, when liquor is not sold. TIPS trained personnel and liability insurance are the primary requirements. No Council action is needed
- The Town secured a general liability policy for private events, which the Licensee may use, subject to paying the premium
- Sound permits typically fall within administrative review

In 2016, four private rentals were reserved. Fees were negotiated in 2016 in order to begin usage and test the venue.

A decision to test the relocation of watercraft rentals was also made in the summer of 2016. The purpose of the relocation was to reduce the lake water activity conflicts off the Event Terrace, where most private events are planned. The results were positive for the SUP rental company, which also manages the Town’s paddleboat rentals. Whether to remove the dock is a remaining question for Town Council.

<u>PRIVATE PAVILION RENTALS</u>	DATE OF EVENT	AREA	ATTENDEES	LICENSE FEE
Corporate Event	6/8/16	Event Terrace	75	\$0.00
Wedding Gathering	8/26/16	Event Terrace	75	\$1,200
Wedding Ceremony	9/26/16	Event Terrace	125	\$1,200
Corporate Event	9/29/16	Pavilion/Park Area	250	\$2,400
TOTAL - PRIVATE PAVILION RENTALS				\$4,800



**EXHIBIT G
2015 RATE SHEET**

Avon Performance Pavilion at Harry A. Nottingham Park

- Bookings are available for 8-hour blocks only and are available Monday through Sunday. 8-hours are allotted for set-up, event hours and strike.
- Additional hours may be purchased in two hour increments for \$500 per two hour increment on the Stage and Event Terrace with or without the Green Room.
- Four hour blocks are 50% of the eight hour block pricing listed below

Peak Season: June 1 through Sunday of Labor Day Weekend

Off Peak Season: After Labor Day through Memorial Day

- The Avon Performance is not available on July 3 or July 4 on any given year
- Published rates are non-negotiable

<u>Time Periods</u>	<u>Peak Season Stage/With Green Room/Event Terrace/Viewing Plaza</u>	<u>Off Peak Stage/With Green Room/Event Terrace/Viewing Plaza</u>
8-Hour Blocks (Fri. – Sun.)	\$2,400	\$1,800
8-Hour Blocks (Mon. – Thurs.)	\$2,000	\$1,400
Non-Profit Private or Public	10% discount	10% discount

<u>Time Periods</u>	<u>Peak Season Stage/With Green Room</u>	<u>Off Peak Stage/With Green Room</u>	<u>Time Periods</u>	<u>Peak Season Event Terrace/With Green Room</u>	<u>Off Peak Event Terrace/With Green Room</u>
8-Hour Blocks (Fri. – Sun.)	\$1,800/ \$2,000	\$1,200/ \$1,400	8-Hour Blocks (Fri. – Sun.)	\$1,800/\$2,000	\$1,200/\$1,400
8-Hour Blocks (Mon. – Thurs.)	\$1,200/ \$1,400	\$800/ \$1,000	8-Hour Blocks (Mon. – Thurs.)	\$1,200/\$1,400	\$800/\$1,000
Non-Profit Private or Public	10% discount	10% discount	Non-Profit Private or Public	10% discount	10% discount



Time Periods	Peak Season Green Room	Off Peak Green Room	Time Periods	Peak Season Viewing Plaza	Off Peak Viewing Plaza
8-Hour Blocks (Fri. – Sun.)	\$275	\$200	8-Hour Blocks (Fri. – Sun.)	\$175	\$100
8-Hour Blocks (Mon. – Thurs.)	\$200	\$125	8-Hour Blocks (Mon. – Thurs.)	\$100	\$50
Non-Profit Private or Public	10% discount	10% discount	Non-Profit Private or Public	10% discount	10% discount

Additional Fees:

- Evaluated on event basis and outlined in Lease Agreement (i.e. insurance deductible, approved later termination time, additional cleaning, etc.)
- Additional site visits
- Additional Event Hours available in two hour increments at \$500 per two hour block with 24 hour notice

Fees/Deposit:

- Reservation deposit is 50% of total rental fee and applies towards total rental fee and non-refundable
- Damage deposit is based on number of people and refundable 30 days following event date
 - 1-50 people \$500
 - 51-100 people \$750
 - 100 people plus is \$1,000
- Final payment of remaining rental payment/fee (50%) is due in full 30 days prior to Event date



SECTION ELEVEN

2017 SPECIAL EVENTS

2017 APPROVED SPECIAL EVENTS:

- MAVIC HAUTE ROUTE COLORADO ROCKIES 2017 - The Mavic Haute Route Rockies 2017 bicycle race will begin on June 26th, when riders, crew and spectators arrive in Avon. The event continues the next day with a time-trial, another evening spent in Avon and then a morning departure on June 28th. The Town Council has approved total funding of \$49,000 in cash support, with an additional \$14,350 of in-kind, including a June 27th Performance Pavilion band(s).

The producer in his review of this report shared the following:

"... Nothing I can see of any note to change; personally I'm very impressed regarding the level of detail provided for each event and for the town overall. I believe it's much more in-depth and quantified than any city I've seen in Europe.

The branding proposition / story are also very high level, much stronger than most European towns of a similar size."

- SKYLIGHT WRITER'S RETREAT – The new event was postponed from Labor Day 2016 to June 9-11, 2017 to allow more time for marketing and program development. Total funding from the Town is \$75,000 with \$5,000 of in-kind support.
- SALUTE TO THE USA – Avon's most well-known event. Over the past years, the event has evolved into a strong family gathering, with attendees from Avon's Latino community representing a larger percentage of attendees. As a result, the Kids Zone has been relocated and greatly expanded and children-interactive puppets and buskers have replaced live bands. Staff seeks direction on whether a band should be added to the event, and what genre – from rock to symphony. Cost, depending on the artist(s) and production costs can range from \$15,000 to significantly higher dollar amounts. 2017 funding without music is estimated at the 2016 level of \$112,950, however, marketing can be merged into general festival marketing for a savings of \$4,000.

OTHER 2016 SPECIAL EVENTS: Private producers, who held events in 2016 at the Pavilion, are aware of Council's work session. We anticipate proposals for 2017 after direction is provided by the Council.

NEW SPECIAL EVENTS: Avon continues to receive private producer proposals for use of the Performance Pavilion and Avon staff solicits diverse events as well. A new indie/rock/progressive application has been received for the fall of 2017 and an August music/ECO festival has turned in an initial concept. Neither has been vetted.

Outreach to winter and summer markets/arts fair and children's theater are being pursued by Town staff. Solicitations to Live Nation, AEG and other western producers for "concerts" have been delayed. All special event recruitment is on-hold waiting Council direction.

SECTION TWELVE EXHIBITS

- SECTION THREE: EXHIBIT 1 (pages 36-45)
 - Avon Brand Platform
- SECTION THREE – EXHIBIT 2 (pages 46-47)
 - Economic Vitality – Special Events
- SECTION FOUR: EXHIBIT 1 (page 48)
 - 2016 Park & Pavilion Activity Calendar
- SECTION FIVE: EXHIBIT 1 (pages 49-55)
 - 2013 – 2016 Festival / Special Event Investments Summary
- SECTION FIVE: EXHIBIT A (page 56)
 - Cover Rock Music Festival Event Summary
- SECTION FIVE: EXHIBIT B (page 57)
 - Lacrosse Event Summary
- SECTION FIVE: EXHIBIT C (page 58)
 - Outlaws & Legends Music Festival Event Summary
- SECTION FIVE: EXHIBIT D (page 59)
 - Reds, Whites & Brews Festival Event Summary
- SECTION FIVE: EXHIBIT E (page 60)
 - Salute to the USA Festival Event Summary
- SECTION FIVE: EXHIBIT F (page 61)
 - Triple Bypass Event Summary
- SECTION FIVE: EXHIBIT G (pages 62-63)
 - WinterWonderGrass Music Festival Event Summary
- SECTION EIGHT: EXHIBIT 1 (pages 64-96)
 - 2016 Avon Agreement
- Section EIGHT: EXHIBIT 2 (pages 97-113)
 - 2013 Telluride Bluegrass Festival Agreement



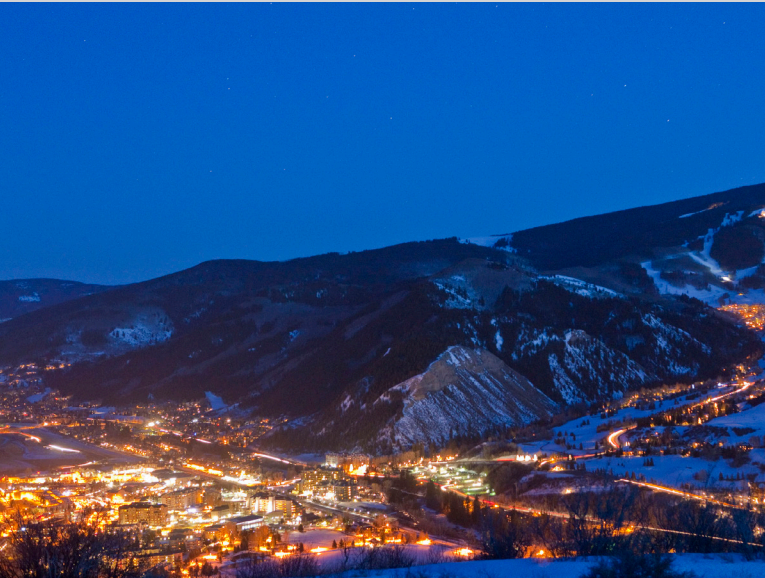
@



AVON
COLORADO

SECTION 3 - EXHIBIT 1

Brand Platform



@



Table of Contents

- 3 Brand Character
- 4 Brand Essence
- 5 Brand Promise
- 6 Brand Positioning
- 7 Brand Voice
- 8-9 Brand Story
- 10 Brand Vision

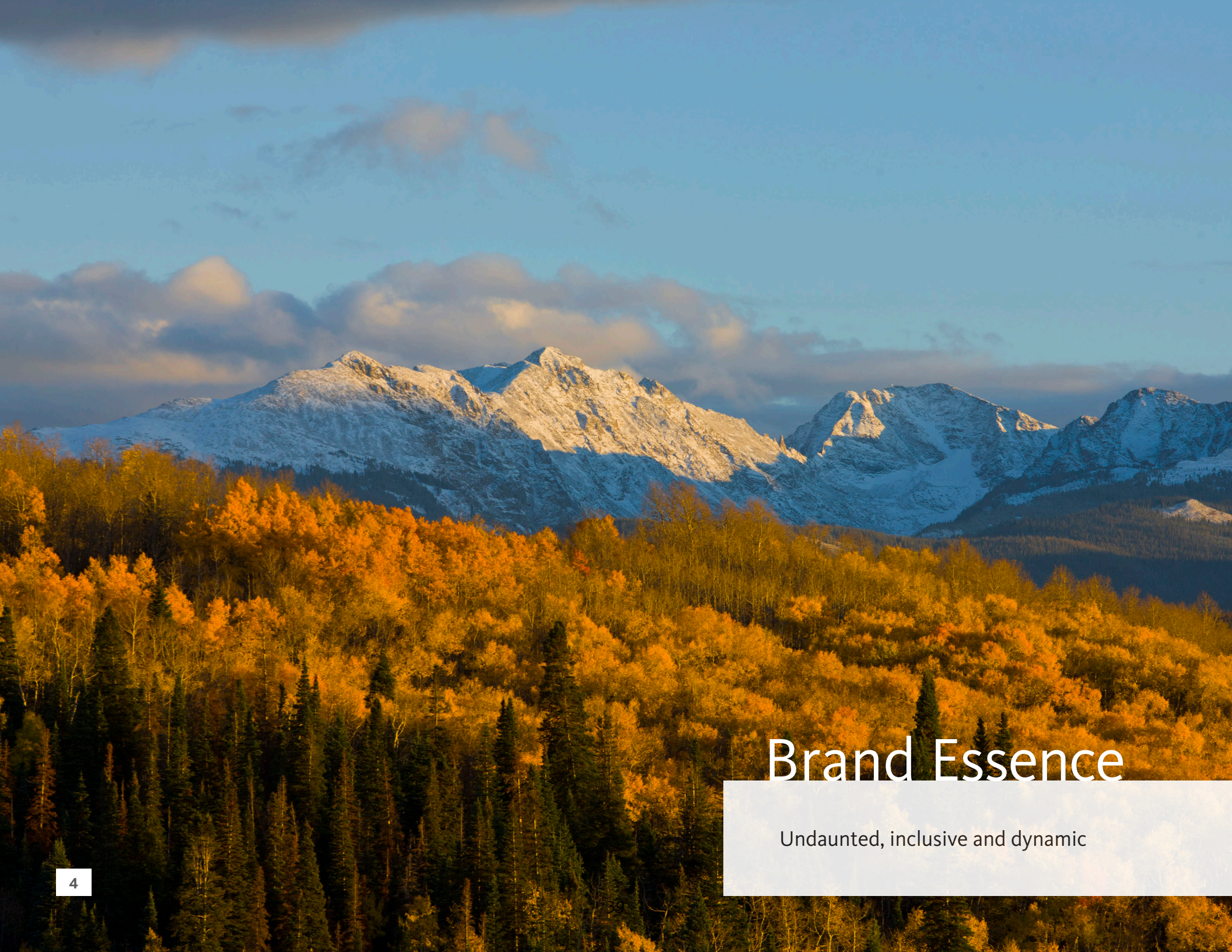




Brand Character

- Entrepreneurial and energetic
- Optimistic and open to change
- Appreciative and proud
- Nature-loving and adventurous
- Comfortable and unpretentious
- Welcoming and engaging
- Community-minded and family-oriented
- Complementary and connected to its resort neighbors
- Progressive and ecologically aware





Brand Essence

Undaunted, inclusive and dynamic



Brand Promise

Avon is more than a mountain town. And more than a mountain destination. It is a vibrant and diverse year-round, resort community defined by its spectacular surroundings and genuine local character.



Brand Positioning

For those seeking vibrant and inspiring Rocky Mountain experiences in a comfortable, unpretentious, small-town setting, Avon is a year-round mountain resort community and the gateway to the world-renowned Beaver Creek Resort. It is a town that connects the shared values of both its residents and visitors, creating a one-of-a-kind place to visit, work, grow a business, raise a family and play in a spectacular outdoor setting.



Brand Voice

- Smart yet down-to-earth
- Vibrant and positive
- Unpretentious and inclusive
- Light-hearted and good-humored
- Grateful and proud

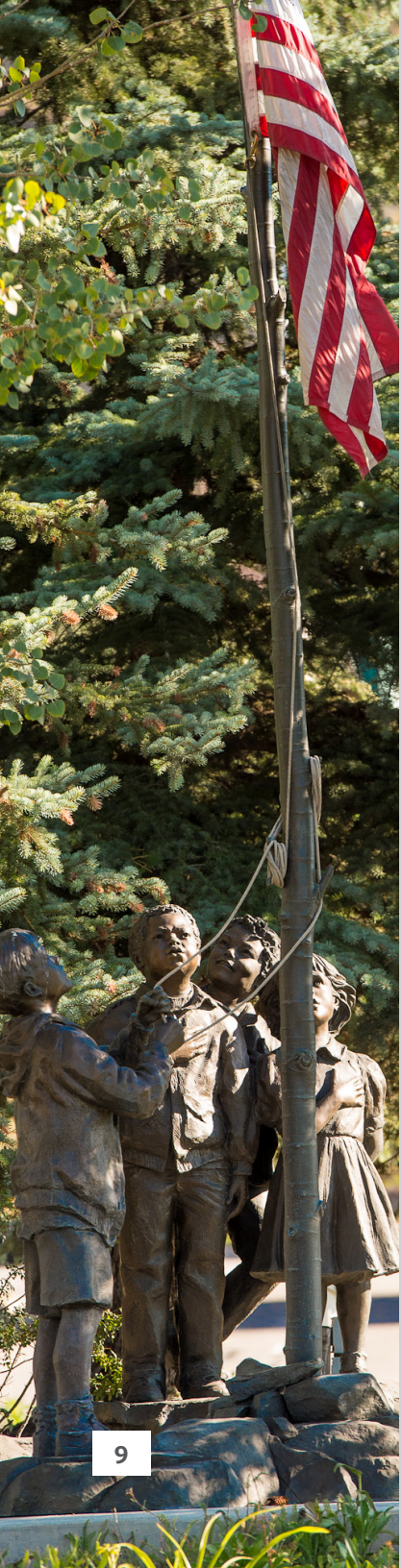


Brand Story

Avon is a Colorado mountain town with a difference. While its ranching and farming history runs deep, the town's more recent evolution into a resort community has lent it an intangible energy. A sense of promise and potential. The type of optimism and openness to change that is reserved for the young. This is a town on a mission. A community with initiative that verges on impatience. Its energy is derived from the magical combination of a place gifted with the Rocky Mountain's majestic beauty and pristine wilderness, and the undeniable passion of the people who are drawn to it.

Fed by the adventure found on the slopes of its neighboring ski resorts, at the edges of its sparkling rivers, and in the boundless open spaces that surround the town, Avon's residents boast a lifestyle that most only dream of. It's a place where earnings are supplemented with commute-free mornings, powder days, million dollar views, lunch breaks taken on river walks or biking trails and an intangible small-town feel that somehow makes its residents richer. And from this collective, intangible wealth springs a vision for Avon.





Brand Story (continued)

It is a desire to make a difference. A need to create a better place for both its people and its visitors. Avon's vision is unifying—a focus on strengthening its businesses, retail and service offerings, but it's also a focus on connecting its neighborhoods with its nature—bringing them all together on pathways and in gathering spaces that invite both visitors and residents to celebrate their surroundings.

Avon's reputation was built as the gateway to Beaver Creek, and its vision is a complement to this world-renowned resort that it flanks. Avon adds another dimension to the resort experience—an enriched and diverse collection of experiences that are defined by their genuine flavour, and enhanced by both Avon's spectacular natural environment and vibrant local community. Family-inspired events and activities at Nottingham Park pair with lively bistro patios on the community's walkways. Local artisan markets meld with major outdoor music festivals and its annual fireworks extravaganza. The Walking Mountains Science Center's Interpretive walks networks with freshly forged mountain bike trails. And the Vail Leadership Institute's programming draws thought leaders and taps potential from urban centers and start-up ecosystems. Each of these elements serve to unite a community and its visitors in the common desire for a vibrant, genuine, progressive experience in a true mountain town. Avon's positioning as a gateway to Beaver Creek gives way to this vision. Residents grow roots that sprout families and community pride. Visitors no longer simply pass through, but instead linger and return again and again for the opportunity to call this place home, if only for a short time. Avon...has arrived.

America's Top 5 Favourite Mountain Towns

AVON, Colorado

Avon, Colorado takes away the top spot in our annual readers' poll for their favourite mountain town. Located 2.5 hours from Denver on the scenic 1-70 or a short, half hour jaunt from Eagle Airport, Avon offers all of the picturesque Rocky Mountain beauty we've come to expect in a Colorado town, plus it is situated at the foot of Beaver Creek Resort and adjacent to Vail Resort. It's proximity to world-class skiing and resort amenities might make it an obvious choice, but Avon has more.

This unique community is comprised of east and west neighborhoods intersected by Avon Road with its famous roundabouts and imposing, magnificent bronze sculptures, but is strategically united. A pedestrian trail network, commercial walkways, green spaces and gathering places connect the community, showcase its merchants, feature its artisans and link its beautiful Nottingham Park and Lake and meandering Eagle River Walk for residents and visitors both. In addition to the town's inventive planning and complete walkability, its rich outdoor experience opportunities bring together all walks of life. The community is steadfastly dedicated to preserving its natural assets and creating a sustainable environment, and the renowned Walking Mountains Science Centre, the Avon Land Trust and a collection of passionate outdoor advocates and proactive user groups have positioned themselves as key contributors to the town's ability to attract and inspire outdoor sport and nature lovers from around the world.

And finally, Avon's deep arts and culture roots have been instrumental in sprouting a vibrant artisan community and a festival lineup that is unrivalled for its combination of homegrown and professionally produced events. Father's Day fishing derbies share the lineup with world-class music acts and the result is a year-long vibe of good times where locals and visitors rub shoulders and share in the festivities.



Population: 6,345
Median Age: 35.2
Median Home Price: \$421,090
Average Commute: 4.9 minutes



MOST POPULAR

ALL | GEAR | TRAVEL | FITNESS



Turn Your Bike into a Snowmobile



Blame the Burpees: A DNF Story



The True Story of the Carderock Murder



Ugly Species of Jellyfish Discovered



The Sochi Olympics Are a Five-Ring Mess

SECTION 3: EXHIBIT 2

ECONOMIC VITALITY: SPECIAL EVENTS

The Avon Economic Development Strategy understands the role of the municipality in supporting business activity through ensuring special events occur in Avon. The importance of Avon as a community is emphasized in the solicitation and selection of special events. Events must foremost be accessible to Avon residents and in keeping with the Avon brand. A diversity of special events is important so that an array of businesses benefit from Town supported festivals, concerts and the arts over the course of the year.

When measured by sales tax, Avon's 4% general sales tax is the single largest revenue source of the Town, accounting for 44.3% of operating revenues. An additional 6% comes from lodging taxes. (Source: 2015 Budget) Avon's tourist economy is seasonal, with sales collections distributed as follows:

Winter Months - 59% Summer Months - 24% Off-Season Months - 17%

The special event investment plan focuses on building a stronger year-round economy by reducing economic seasonality and growing the summer economy. *The building of a special events program is the number one priority of the Economic Development Office.*

Signature Special Events

A signature event is one which is synonymous with Avon. Salute to the USA is an example. The economic development program seeks to build additional signature events in Avon over the next 5 – 10 years.

Seed Funding for Signature Special Events: The business model for developing signature special events is based upon attracting qualified, passionate private sector producers. These generally small and medium sized business owners, are helped to establish special events either on the Pavilion or Main Street Mall through multi-year support funding to assist the right special events in gaining notoriety and thereby profitability through ticket sales and sponsorships. The goal is that signature events can be produced at profit levels that need no on-going financial support.

- Funding for seed support is from General Fund revenues
- Funding in 2014 was \$180,000; with 2015 reserved at a \$300,000 level
- All signature events and funding are approved by Town Council

Signature Events at the Pavilion:

- Up to eight major multi-day events each year at the Pavilion, in addition to Salute to the USA
 - Five events already started:
 - WinterWonderGrass
 - Reds, Whites and Brews
 - Flavors of Colorado
 - Sustainable Film Festival (Labor Day – plan for Pavilion in next three years)
 - Man of the Cliff
 - Additional events will be solicited through a Request for Qualifications: Diversity preferred
 - Shakespeare Festival
 - Writers Conference
 - Latin Music Festival
 - Other per producer interest

- It is critical to attract the right signature events and to also allow programming in the park for other important sports events and free, open usage (Exhibit I)

Signature Events on the Mall:

- Request for Qualifications to produce a winter market and summer farmers market, arts market, Lake Street/Mall Food Truck event, Special Events for Families
- TENTATIVE Bravo-Vail Summer Concert Venue

Vendors: In addition to signature events on the mall, adopting new Town code for allowing vendors on the mall, and potentially in other areas in the core of Avon, is planned for review in the 1st quarter on 2015.

One-Time Special Event Opportunities

The Town desires to have the alacrity to attract and support opportunities outside of the signature special events. These opportunities often times require funding. Examples include:

- 2015 Alpine World Ski Championships – Après Avon: \$250,000 – 13-day event of music, food and spontaneity.
- Mikaela Shiffrin Sponsorship – Athlete Signing, Video, Mikaela Way
- Concerts
- Private Party usage of Pavilion, including but not limited to receptions, weddings, speaker engagements

SECTION 4: EXHIBIT 1 - 2016 Park & Pavilion Activity Calendar

JANUARY						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

MARCH						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						



AUGUST						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Activity 
 Field Maintenance 

February - WWG

May - Field Rental/Soccer, D-n-D; Full Moon 5K Race

June - Field Rental/Library, D-n-D; Daddy Daughter TuTu 2K; Full Moon 5K Race;

Field Rental/Soccer, RWB, Vail Lacrosse, CoverRock

July - Salute, D-n-D; 2.4 Swim; Full Moon 5K Run; Triple Bypass, XTERRA, Disc Dogs, Outlaws & Legends

August - D-n-D; Full Moon; Avon Live!; BecTri, VIDF; RRR Camp Fire Games

September - Full Moon 5K Race; Lake Street Union, Skylight Writer's Conference

October - Full Moon; Zombie Run; Vail Soccer Tournament, MOTC

Recreation Department: Dunk-n-Dash on Monday's May through June; Father/Daughter 2K in June; Monthly Full Moon 5K; Zombie Dash in October; Saturday Community Yoga June through Sept.

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

PRIVATE PRODUCER / TICKETED OR PARTICIPANT REGISTRATION FEE BASED																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Music																
WinterWonderGrass	2/21 - 23/2014	3	Ticketed	8,835				\$50,000	\$25,000	\$75,000						
WinterWonderGrass	2/20 - 22/2015	3	Ticketed	9,593							\$50,000	\$25,000	\$75,000			
WinterWonderGrass (1)	2/19 - 21/2016	3	Ticketed	8,807										\$40,000	\$25,000	\$65,000
Cover Rock Festival (1)	6/25 - 26/2016	2	Ticketed	1,400										\$35,000	\$7,500	\$42,500
Outlaws & Legends Music Festival	7/29 - 30/2016	2	Ticketed	871										\$72,000	\$10,000	\$82,000
Cielito Lindo Music Festival	9/18 - 20/2015	3	Ticketed	800							\$50,000	\$10,000	\$60,000			
Music - Sub-total		16						\$50,000	\$25,000	\$75,000	\$100,000	\$35,000	\$135,000	\$147,000	\$42,500	\$189,500
Athletics																
Adventure Cycling Association	6/15/15	1	Participant Fee	50							\$0	\$0	\$0			
Tough Mudder	6/17/13	1	Participant Fee/Spectator Fee	35,000	\$2,500	\$0	\$2,500									
Haute Rockies Rockies - Test	6/21 - 22/2016	3	Free	40										\$2,100	\$0	\$2,100
Lacrosse Tournament	6/20 - 21 & 6/28 - 7/1/2013	6	Registration / Free to Spectators	2,000 participants / 3,500 spectators	\$0	\$0	\$0									
Lacrosse Tournament	6/16 - 19 & 7/6 - 9/2014	8	Registration / Free to Spectators	2,000 participants / 3,500 spectators				\$0	\$0	\$0						
Lacrosse Tournament	6/16 - 19 & 7/6 - 9/2015	8	Registration / Free to Spectators	2,000 participants / 3,500 spectators							\$0	\$0	\$0			
Lacrosse Tournament (1)	6/21 - 22 & 6/28 - 29/2016	4	Registration / Free to Spectators	2,000 participants / 3,500 spectators										\$0	\$0	\$0
XTERRA Championship	7/20/13	1	Registration / Free to Spectators	7,357 participants & spectators	\$2,500	\$0	\$2,500									
XTERRA Championship	7/19/14	1	Registration / Free to Spectators	8,533 participants & spectators				\$2,500	\$0	\$2,500						
XTERRA Championship	7/18/15	1	Registration / Free to Spectators	6,643 participants & spectators							\$2,500	\$0	\$2,500			
XTERRA Championship	7/16/16	1	Registration / Free to Spectators	649 participants										\$2,000	\$0	\$2,000
TransRockies Run (2)	8/17/13	1	Registration / Free to Spectators	400 participants / 20 spectators	\$0	\$0	\$0									
TransRockies Run (2)	8/13/14	1	Registration / Free to Spectators	400 participants / 20 spectators				\$0	\$0	\$0						
TransRockies Run (2)	8/17/15	1	Registration / Free to Spectators	400 participants / 20 spectators							\$0	\$0	\$0			
TransRockies Run (2)	8/14/16	1	Registration / Free to Spectators	600 participants / 20 spectators										\$0	\$0	\$0
Ragnar Relay Race (2)	8/13/13	1	Registration / Free to Spectators	2,000	\$0	\$0	\$0									
Ragnar Relay Race (2)	8/8/14	1	Registration / Free to Spectators	2,000				\$0	\$0	\$0						

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

PRIVATE PRODUCER / TICKETED OR PARTICIPANT REGISTRATION FEE BASED																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Ragnar Relay Race (2)	8/7/15	1	Registration / Free to Spectators	2,000							\$0	\$0	\$0			
Ragnar Relay Race (2)	8/12/16	1	Registration / Free to Spectators	2,000										\$0	\$0	\$0
Lake Street Union	9/17/16	1	Ticketed	165 projected										\$1,500	\$0	\$1,500
Vail Valley Soccer Tournament	10/4 - 5/2013	2	Registration / Free to Spectators	2,600 participants / 6,000 spectators	\$0	Use of Fields	\$0									
Vail Valley Soccer Tournament	10/4 - 5/2014	2	Registration / Free to Spectators	2,600 participants / 6,000 spectators				\$0	Use of Fields	\$0						
Vail Valley Soccer Tournament	10/3 - 4/2015	2	Registration / Free to Spectators	2,600 participants / 6,000 spectators							\$0	Use of Fields	\$0			
Vail Valley Soccer Tournament	10/1 - 2/2016	2	Registration / Free to Spectators	2,600 participants / 6,000 spectators										\$0	Use of Fields	\$0
Westin Riverfront Associate Fun Run	10/30/15	1	Registration	30							\$0	\$0	\$0			
Westin Riverfront Associate Fun Run	6/1/16	1	Registration	30	\$0	\$0	\$0							\$0	\$0	\$0
Westin Riverfront Associate Fun Run	10/30/16	1	Registration	30	\$0	\$0	\$0							\$0	\$0	\$0
Athletics - Sub-total		55			\$7,013	\$0	\$5,000	\$4,514	\$0	\$2,500	\$4,515	\$0	\$2,500	\$7,616	\$0	\$5,600
Cultural																
Alpine Arts Social Series (2)	01/01-12/31/2015	12	Participant Fee	267							\$20,000	\$0	\$20,000			
Alpine Arts Social Series (2)	TBD		Registration	Not Yet Available										\$7,500	\$0	\$7,500
Reds, Whites & Brews	6/29/13	1	Ticketed	900	\$3,800	\$6,200	\$10,000									
Reds, Whites & Brews	6/27 - 28/2014	2	Ticketed	491				\$15,000	\$6,000	\$21,000						
Reds, Whites & Brews	6/19 - 20/2015	2	Ticketed	778							\$6,000	\$4,000	\$10,000			
Reds, Whites & Brews (1)	6/17 - 18/2016	2	Ticketed	900										\$8,500	\$4,000	\$12,500
Beaver Creek Rodeo (2)	6/27 - 8/15/2013	7	Registration / Free to Spectators	12,000	\$2,500	\$0	\$2,500									
Beaver Creek Rodeo (2)	6/26 - 8/14/2014	7	Registration / Free to Spectators	13,200				\$2,500	\$0	\$2,500						
Beaver Creek Rodeo (2)	6/26 - 8/14/2015	7	Registration / Free to Spectators	2,000 per event							\$5,000	\$0	\$5,000			
Beaver Creek Rodeo (2)	6/23 - 8/10/2016	7	Registration / Free to Spectators	2,000 per event										\$5,000	\$0	\$5,000
Creative Writing Event (POSTPONED)	9/2 - 4/2016	3	Ticketed	Not Yet Available										\$75,000	\$5,000	\$80,000
American Crown Circus	9/20 - 22/2013	2	Ticketed	900	\$0	\$0	\$0									
Cultural - Sub-total		52			\$6,300	\$6,200	\$12,500	\$17,500	\$6,000	\$23,500	\$31,000	\$4,000	\$35,000	\$96,000	\$9,000	\$105,000
TOTAL - PRIVATE PRODUCER / TICKETED OR PARTICIPANT REGISTRATION FEE BASED					\$13,313	\$6,200	\$17,500	\$72,014	\$31,000	\$101,000	\$135,515	\$39,000	\$172,500	\$250,616	\$51,500	\$300,100

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

PRIVATE PRODUCER / FREE																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Music																
Apres Avon 2015 Championships	02/02 - 12/2015	11	Free	7,200							\$185,000	Staff for Operations	\$185,000			
Apres Avon Spring Concerts	03/18 & 03/25/2016	2	Free	200										\$37,000	\$2,000	\$39,000
Avon Presents BRAVO! Vail	07/10 & 07/17/2014	2	Free	300				\$19,500	\$15,000	\$34,500						
Boulder Symphony Orchestra	8/7/16	1	Free	300										\$14,000	\$700	\$14,700
Avon Live! Concert Series (3 Nights)	8/5; 8/12; & 8/19/2015	3	Free	3,300							\$47,000	\$250	\$47,250			
Avon Live! Concert Series (4 Nights)	8/10; 8/17; 8/24 & 8/31/2016	4	Free	2,200										\$64,000	\$2,600	\$66,600
Music - Sub-total		23						\$19,500	\$15,000	\$34,500	\$232,000	\$250	\$232,250	\$115,000	\$5,300	\$120,300
Athletics																
Audi Driving Experience	02/02 - 14/2015	13	Free	210							\$0	\$0	\$0			
Cultural																
Dancing in the Park - Vail International Dance (1 Night)	7/29/15	1	Free	575							\$20,000	\$800	\$20,800			
Dancing in the Park - Vail International Dance (1 Night)	8/4/16	1	Free	100										\$23,150	\$800	\$23,950
Flavors of Colorado	8/15 - 17/2014	3	Free	1,500				\$120,000	\$5,000	\$125,000						
Flavors of Colorado	7/24 - 26/2015	3	Free	3,500							\$118,122	\$5,000	\$123,122			
Cultural - Sub-total		8						\$120,000	\$5,000	\$125,000	\$138,122	\$5,800	\$143,922	\$23,150	\$800	\$23,950
TOTAL - PRIVATE PRODUCER / FREE					\$0	\$0	\$0	\$139,500	\$20,000	\$159,500	\$390,122	\$6,850	\$396,972	\$138,150	\$6,100	\$144,250

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

TOWN PRODUCED EVENTS / FREE																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Music																
Pop-Up Strings (Three Friday Evenings)	July 8, 15, 22	3	Free	20- 45										\$3,600	All Operations	\$3,600
Lakeside Sundays on the Event Terrace - One Sunday Evening/ Month* (July - Sept.)	7/17; 8/14 & 9/11/ 2016	3	Free - 250 person limit	150										\$2,700	All Operations	\$2,700
Music - Sub-total		6												\$6,300	All Operations	\$6,300
Cultural																
Fire & Ice	2/17/13	1	Free	2,000	\$42,900	All Operations	\$42,900									
Salute to the USA	7/3/13	1	Free	19,400	\$119,142	All Operations	\$119,142									
Salute to the USA	7/3/14	1	Free	19,500				\$92,394	All Operations	\$92,394						
Salute to the USA	7/3/15	1	Free	19,500							\$108,000	All Operations	\$108,000			
Salute to the USA (1)	7/3/16	1	Free	17,500										\$112,950	All Operations	\$112,950
Icing in the Park	12/14/13	1	Free	500	\$7,500	All Operations	\$7,500									
Cultural - Sub-total		6			\$169,542	\$0	\$169,542	\$92,394	\$0	\$92,394	\$108,000	\$0	\$108,000	\$112,950	\$0	\$112,950
TOTAL - TOWN PRODUCED EVENTS / FREE					\$169,542	\$0	\$169,542	\$92,394	\$0	\$92,394	\$108,000	\$0	\$108,000	\$119,250	\$0	\$119,250

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

NON-PROFIT / FUNDRAISING EVENTS																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Athletics																
Ride the Rockies	6/11 - 12/2014	2	Registration	2,000				\$2,423	Some Operations	\$2,423						
Volunteers for Outdoor Colorado	6/14 - 16/2013	2	Free	100 - 200												
Triple Bypass	7/13 - 14/2013	2	Registration / Free to Spectators	3,500 participants / 2,000 spectators	\$2,500	Some Operations	\$2,500									
Triple Bypass	7/12 - 13/2014	2	Registration / Free to Spectators	3,500 participants / 2,000 spectators				\$2,500	Some Operations	\$2,500						
Triple Bypass	7/12 - 13/2015	2	Registration / Free to Spectators	3,500 participants / 2,000 spectators							\$2,500	\$2,500	\$5,000			
Triple Bypass (1)	7/9 - 10/2016	2	Registration / Free to Spectators	3,500 participants / 2,000 spectators										\$2,500	\$2,500	\$5,000
BecTri Sprint Triathlon	8/3/13	1	Registration / Free to Spectators	70 participants / 110 spectators	\$2,500	Some Operations	\$2,500									
BecTri Sprint Triathlon	8/2/14	1	Registration / Free to Spectators	84 participants / 120 spectators				\$2,500	Some Operations	\$2,500						
BecTri Sprint Triathlon	8/1/15	1	Registration / Free to Spectators	98 participants / 130 spectators							\$3,000	Some Operations	\$3,000			
BecTri Sprint Triathlon	8/6/16	1	Registration / Free to Spectators	156 participants / 130 spectators										\$2,500	\$500	\$3,000
Colorado Disc Dogs	8/24/13	1	Registration / Free to Spectators	75	\$0	\$0	\$0									
Colorado Disc Dogs	8/16/14	1	Registration / Free to Spectators	75				\$0	\$0	\$0						
Colorado Disc Dogs	8/16/15	1	Registration / Free to Spectators	75							\$0	\$0	\$0			
Colorado Disc Dogs	7/16/16	1	Registration / Free to Spectators	75										\$0	\$0	\$0
Round Up River Ranch/Camp Fire Games	8/27/16	1	Registration	200										\$1,000	\$1,200	\$2,200
Man of the Cliff	9/26 - 28/2014	2	Participant Fee / Free to Spectators	2,200				\$7,500	\$5,000	\$12,500						
Man of the Cliff	10/09 - 11/2015	2	Participant Fee / Free to Spectators	5,000							\$7,000	\$5,000	\$12,000			
Man of the Cliff	10/15 - 16/2016	2	Participant Fee / Free to Spectators	4,400										\$6,500	\$4,000	\$10,500
Athletics - Sub-total		27			\$5,000	\$0	\$5,000	\$14,923	\$5,000	\$19,923	\$12,500	\$7,500	\$20,000	\$12,500	\$8,200	\$20,700

**SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary**

NON-PROFIT / FUNDRAISING EVENTS																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Cultural																
Vail Valley Young Professionals	6/23/2013	1	Free	75	\$0	\$0	\$0									
Youth Power 365	7/1/2016	1	Free	60										\$0	\$0	\$0
Walking Mountains Science: Movie in the Park	7/18/14	1	Free	75				\$0	\$0	\$0						
Walking Mountains Science Center Sustainable Film Series: Movie in the Park (8 - One Per Month)	October through May 2014	8	Free	700				\$2,500	\$0	\$2,500						
Walking Mountains Science Center Wild & Scenic Film	9/4/15	1	Fee	150							\$7,500	\$0	\$7,500			
Eagle River Presbyterian Church	10/24/14	1	Free	150				\$0	\$0	\$0						
Eagle River Presbyterian Church	10/25/15	1	Free	150							\$0	\$0	\$0			
Eagle River Presbyterian Church	10/22/16	1	Free	150										\$0	\$0	\$0
Cultural - Sub-total		15			\$0	\$0	\$0	\$2,500	\$0	\$2,500	\$7,500	\$0	\$7,500	\$0	\$0	\$0
TOTAL NON-PROFIT / FUNDRAISING EVENTS					\$5,000	\$0	\$5,000	\$17,423	\$5,000	\$22,423	\$20,000	\$7,500	\$27,500	\$12,500	\$8,200	\$20,700
TOTAL 2013 - 2016 SPECIAL EVENTS FUNDING					\$187,855	\$6,200	\$192,042	\$321,331	\$56,000	\$375,317	\$653,637	\$53,350	\$704,972	\$520,516	\$65,800	\$584,300

(1) = See Event Summary / Section 5 Exhibits (2) = Off Site Event

SECTION 5: EXHIBIT 1
2013 - 2016 Special Event
Investments Summary

RECREATION DEPARTMENT EVENTS																
					2013			2014			2015			2016		
	Event Date	Number of Event Days	Free vs. Ticketed	Attendance	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL	Cash Contribution	In Kind Support	TOTAL
Athletics																
Full Moon 5K Race (6 Evenings) ONLY DID ONE SO FAR	May - Sept.	6	Registration / Free to Spectators	8										\$165	All Operations	\$165
Daddy Daughter Tu-Tu 2K	6/19/16	1	Registration / Free to Spectators	10										\$298	All Operations	\$298
Paddle Boat Rental - Daily	June - September 2014	120	Fee	N/A				\$25,056	All Operations	\$25,056						
Paddle Boat & SUP Rental - Daily	June - September 2015	120	Fee	N/A							\$0	\$0	\$0			
Paddle Boat & SUP Rental - Daily	June - September 2016	120	Fee	N/A										\$0	\$0	\$0
Free Community Yoga (14 Saturday's)	June - August 2015	14	Free	300							\$300	All Operations	\$300			
Free Community Yoga (14 Saturday's)	June - August 2016	14	Free	420										\$300	All Operations	\$300
Dunk-n-Dash (5 Evenings/July)	Monday's 2014	5	Fee	165				\$7,555	All Operations	\$7,555						
Dunk-n-Dash (5 Evenings/July)	Monday's 2015	5	Fee	175							\$2,103	All Operations	\$2,103			
Dunk-n-Dash (5 Evenings)	June - August 2016	5	Fee	125										\$750	All Operations	\$750
Open Water Swim (Two Evenings/Week)	June - July 2014	16	Fee	256				\$820	All Operations	\$820						
Open Water Swim (Two Evenings/Week)	June - July 2015	16	Fee	300							\$960	All Operations	\$960			
Open Water Swim (Two Evenings/Week)	June - July 2016	16	Fee	300										\$550	All Operations	\$550
2.4 Water Swim (Two Saturdays)	07/09 & 07/23/2016	2	Fee	50										\$600	All Operations	\$600
Athletics - Sub-total					\$0	\$0	\$0	\$33,431	\$0	\$33,431	\$3,363	\$0	\$3,363	\$2,663	\$0	\$2,663
TOTAL - RECREATION DEPARTMENT EVENTS					\$0	\$0	\$0	\$33,431	\$0	\$33,431	\$3,363	\$0	\$3,363	\$2,663	\$0	\$2,663

**SECTION 5: EXHIBIT A
COVER ROCK MUSIC FESTIVAL**

PRODUCER OF EVENT: TRUE LOCAL EVENTS, L.L.C.; MR. TOM DOBREZ

DESCRIPTION OF THE EVENT: Tribute Band Music Festival

DATES: Saturday, June 25, 2016
Sunday, June 26, 2016

TIMES: 12:00 p.m. to 10:00 p.m.
TIMES: 12:00 p.m. to 8:00 p.m.

NUMBER OF EVENT DAYS: Two (2)

TOWN FUNDING: \$ 35,000

TOWN IN-KIND: \$ 7,500

2016 ESTIMATED ATTENDANCE PER DAY: 2,500

ACTUAL ATTENDANCE: 1,453

NON-EVENT WEEKEND COMPARED TO EVENT: COVER ROCK FESTIVAL 2-DAY LODGING, RESTAURANT, RETAIL TAX REVENUE 2016											
	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
2016	Non-Event Weekend June 2016	6/03/16-6/06/16	3,796	1,925	50.71%	\$77	\$147,734	\$321,118	\$1,011,001	\$24,125	\$1,503,978
	COVER ROCK 2016	6/24/16-6/26/16	3,167	2,305	72.78%	\$115	\$265,112	\$370,059	\$873,667	\$20,969	\$1,529,807
	Event vs. Non Event Variance		(629)	380	22.07%		\$117,378	\$48,941	(\$137,334)	(\$3,156)	\$25,829
	TOTAL 4% TAX*						\$4,695	\$1,958	(\$5,493)	(\$126)	\$1,033

COMMENTS – The Cover Rock Music Festival was well marketed and production was of a high quality. The community and festival attendee seemed to enjoy the band selections and genre of music. The Town worked with the producer to:

1. Relocate the “art exhibit” on the Main Street Mall and incorporate into the main event premise;
2. Increase the complimentary (free from \$3 Admission Fee) single day admissions from 75 to 250 single day tickets for sole purpose of marketing the festival; and,
3. Decrease the need for Avon Police staffing levels due to ticket sales projections and anticipated crowd behavior
4. There were no arrests or off-site impacts or complaints
5. All parking was accommodated on Town streets and lots, and in bank contracted lots

The producer would like the Town to:

1. Operate all aspects of parking and transportation including license agreements necessary for use of private parking lots
2. Consider sliding scale for Admission Fee based of cost of ticket to consumer
3. Remove requirement for weekly/daily reporting of sold tickets and comp tickets needed for operational purposes
4. Consider Town of Avon staff having access granted by the producer to monitor ticket and comps versus counting wristbands
5. Provide for a safer curtain and eliminate the need for windbreak scaffolding.

SECTION 5: EXHIBIT B
COLORADO LACROSSE TOURNAMENTS

PRODUCER OF EVENT: COLORADO LACROSSE; MR. MARK FOSTER

DESCRIPTION OF THE EVENT: Lacrosse Tournaments

DATES: Monday, June 13 - Thursday, June 19, 2016 **TIMES:** 8:00 a.m. to 6:00 p.m.

NUMBER OF EVENT DAYS: Four (4)

TOWN FUNDING: \$0

TOWN IN-KIND: \$0

2016 ESTIMATED ATTENDANCE PER DAY: 5,500 **ACTUAL ATTENDANCES:** 5,500

NON EVENT WEEKEND COMPARED TO EVENT: WARRIOR LACROSSE TOURNAMENT 4-DAY LODGING, RESTAURANT, RETAIL TAX REVENUE 2015 & 2016											
2015 - 2016	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
	Non-Event Weekend June 2016	6/03/16-6/06/16	3,796	1,925	50.71%	\$77	\$147,734	\$321,118	\$1,011,001	\$24,125	\$1,503,978
	LACROSSE - JUNE 2016	6/13-6/16/2016	3,837	2,147	55.96%	\$80	\$171,709	\$316,316	\$972,699	\$17,616	\$1,478,339
	Multi-Year Variance		41	222	5.24%	\$3.23	\$23,975	(\$4,802)	(\$38,302)	(\$6,509)	(\$25,639)
	TOTAL 4% TAX*						959	(192)	(\$1,532)	(\$260)	(\$1,026)

* Assume 100% attributable to LACROSSE; LACROSSE is Monday through Thursday
 SOURCE: MUNIREVS

COMMENT: Lacrosse tournaments are held valley-wide utilizing fields in Vail, Avon, Eagle-Vail and Edwards. The events are organized by two organizations: 1) Colorado Lacrosse representing high school age boys and girls; and, 2) Vail Lacrosse Shootout which is typically held in the ten days surrounding the July 4th holiday, and is comprised of elite men’s and women’s categories and high school age boys and girls.

1. There were no arrests or off-site impacts or complaints
2. All parking was accommodated on Town streets and lots

The above table represents only the Colorado Lacrosse (Warrior) Tournament organized event.

1. The non-event weekend days of collection are Friday through Monday while Lacrosse days of collection are Monday through Thursday; there is not a week day data collection period

SECTION 5: EXHIBIT C
OUTLAWS AND LEGENDS MUSIC FESTIVAL

PRODUCER OF EVENT: BACKPORCH PRODUCTIONS

DESCRIPTION OF THE EVENT: Music Festival

DATES: Friday, July 29, 2016
 Saturday, July 30, 2016

TIMES: 2:00 p.m. to 10:00 p.m.
 2:00 p.m. to 10:00 p.m.

NUMBER OF EVENT DAYS: Two (2)

TOWN FUNDING: \$ 72,000

TOWN IN-KIND: \$ 10,000

2016 ESTIMATED ATTENDANCE PER DAY: 4,000

ACTUAL ATTENDANCE: 871

OUTLAWS AND LEGENDS 2-day LODGING, RESTAURANT, RETAIL TAX REVENUE 2016											
	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
2016	Outlaws & Legends	7/28/2016-7/31/2016	3,827	2,326	61%	\$104	\$241,617	\$488,235	\$1,201,777	\$18,196	\$1,949,825
	TOTAL 4% TAX*						<u>\$9,664.68</u>	<u>\$19,529</u>	<u>\$48,071</u>	<u>\$728</u>	<u>\$77,993</u>
* Non-Event Weekend Comparable Data Not Available Yet; Assume 100% attributable to O&L											
SOURCE: MUNIREVS											

COMMENTS – The Outlaws & Legends Music Festival was well marketed regionally and production was of a high quality. The festival attendee seemed to enjoy the band selections and genre of music. The Town worked with the producer to:

1. Increase the complimentary (free from \$3 Admission Fee) single day admissions from 50 to 320 single day tickets for sole purpose of marketing the festival; and,
2. Decrease the need for Avon Police staffing levels due to ticket sales projections and anticipated crowd behavior
3. There were no arrests or off-site impacts or complaints
4. All parking was accommodated on Town streets and lots, and in private contracted lots
5. Non-event weekend comparable data not yet available

The producer would like the Town to:

1. Operate all aspects of parking and transportation including license agreements necessary for use of private parking lots
2. Remove requirement for weekly/daily reporting of sold tickets and comp tickets needed for operational purposes
3. Consider providing a set fence with pre-determined main entrances, blow-out gates and exits
4. Engage with the business community to facilitate discussions regarding their financial support of festivals
5. Consider Town of Avon providing a ticketing page on the Town’s website for all ticketed festivals

SECTION 5: EXHIBIT D
REDS, WHITES & BREWS FESTIVAL

PRODUCER OF THE EVENT: RADIATE LIVE EVENTS; MR. PETE BENEDITTI

DESCRIPTION OF THE EVENT: Beer & Wine Tasting Festival

DATES: Friday, June 17, 2016

TIMES: 6:00 p.m. to 8:00 p.m.

Saturday, June 18, 2016

TIMES: 2:00 p.m. to 7:00 p.m.

NUMBER OF EVENT DAYS: 1.5

TOWN FUNDING: \$ 8,500

TOWN IN-KIND: \$ 4,000

2016 ESTIMATED ATTENDANCE: 1,500

ACTUAL ATTENDANCE: 900

NON-EVENT WEEKEND COMPARED TO EVENT: REDS, WHITES & BREWS WEEKEND 1.5-day LODGING, RESTAURANT, RETAIL TAX REVENUE 2015 & 2016											
	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
2016	Non-Event Weekend June 2016	6/03/16-6/06/16	3,796	1,925	50.71%	\$77	\$147,734	\$321,118	\$1,011,001	\$24,125	\$1,503,978
	RWB 2016	6/17/16-6/19/16	3,190	2,148	67.34%	\$101	\$216,548	\$334,127	\$844,924	\$20,098	\$1,415,697
	Event vs. Non Event Variance		(606)	223	16.62%		\$68,814	\$13,009	(\$166,077)	(\$4,027)	(\$88,281)
	TOTAL 4% TAX*						\$2,753	\$520	(\$6,643)	(\$161)	(\$3,531)
2015	Non-Event Weekend June 2015	6/5/15-6/7/15	2,812	1,053	37.45%	\$78	\$82,312	\$203,371	\$553,335	\$8,063	\$847,081
	RWB 2015	6/19/15-6/21/15	2,804	1,462	52.14%	\$101	\$155,287	\$326,372	\$680,229	\$16,788	\$1,178,676
	Event vs. Non Event Variance		-8	409	14.69%		\$72,974	\$123,001	\$126,894	\$8,725	\$331,594
	TOTAL 4% TAX*						2,919	4,920	5,076	349	13,264

* Assume 100% attributable to RWB

SOURCE: MUNIREVS

COMMENTS: The Reds, Whites & Brews Festival was a high quality production with the production team attentive and on-time with agreement requirements. The festival attendee seemed to enjoy the beer and wine selection and singer-songwriter music as a backdrop. This was the first year for the Friday evening event "Writer in the Round" which experienced low attendance and is believed to need more outreach, education and better marketing to familiarize consumers on the event. This was the fifth year of the festival with funding provided by the Town.

The Town worked with the producer to reduce Avon Police staffing due to limited ticket sales and crowd demographic.

1. There were no arrests or off-site impacts or complaints
2. All parking was accommodated on Town streets and lots, and in bank contracted lots

The producer would like the Town to:

1. Operate all aspects of parking and transportation including license agreements necessary for use of private parking lots
2. Remove requirement for weekly/daily reporting of sold tickets and comp tickets needed for operational purpose
3. Consider Town of Avon staff having access granted by the producer to monitor ticket and comps versus counting wristbands

SECTION 5: EXHIBIT E
SALUTE TO THE USA

PRODUCER OF EVENT: TOWN OF AVON

DESCRIPTION OF THE EVENT: FIREWORKS DISPLAY AND FAMILY FESTIVAL

DATES: Sunday, July 3, 2016

TIMES: 5:00 p.m. to 10:30 p.m.

NUMBER OF EVENT DAYS: One (1)

TOWN FUNDING: \$ 112,950

TOWN IN-KIND: All Operations

2016 ESTIMATED ATTENDANCE: 19,500

ACTUAL ATTENDANCE: 17,500

MULTI-YEAR EVENT COMPARISON SALUTE TO THE USA 1-DAY LODGING, RESTAURANT, RETAIL TAX REVENUE 2015 & 2016											
2015 - 2016	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
	Salute: July 3, 2015	7/3/2015	1,028	888	86.38%	\$140	\$125,057	\$147,666	\$409,865	\$9,054	\$691,641
	Salute: July 3, 2015	7/3/2016	1,048	744	70.99%	\$155	\$115,047	\$140,288	\$435,851	\$8,792	\$699,978
	Multi-Year Event Variance		20	(144)	-15.39%		(\$10,010)	(\$7,378)	\$25,986	(\$262)	\$8,336
	TOTAL 4% TAX*						(400)	(295)	\$1,039	(\$10)	\$333

* Non-Event Comparable Data Not Yet Available; Assume 100% attributable to SALUTE

SOURCE: MUNIREVS

COMMENT: All Town staff works this event to assure a seamless community event hosting approximately 17,500 persons. The 2016 production of *Salute to the USA* was the 30th annual event and is the Town's signature event attracting visitors and locals alike. The primary goal of the event is to welcome the community to Avon and create vibrancy.

1. There was one medical transport for intoxication and no arrests or off-site impacts or complaints.
2. All parking was accommodated on Town streets and lots and in private lots, which are managed by the property owners.
3. The comparison provided above is for 2015 and 2016; non-event comparable data is not available.

SECTION 5: EXHIBIT F
TRIPLE BYPASS

PRODUCER OF EVENT: TEAM EVERGREEN; MS. JENNIFER ANDERSON
DESCRIPTION OF THE EVENT: 120-Mile Bicycle Ride Finish Celebration

DATES: Saturday, July 9, 2016
Sunday, July 10, 2016

TIMES: 12:00 p.m. to 8:00 p.m.
TIMES: 5:00 a.m. to 8:00 a.m.

NUMBER OF EVENT DAYS: 1.5

TOWN FUNDING: \$ 2,500

TOWN IN-KIND: \$ 2,500

2016 ESTIMATED ATTENDANCE PER DAY: 5,500

ACTUAL ATTENDANCE: 5,500

NON-EVENT WEEKEND COMPARED TO EVENT: TRIPLE BYPASS 1.5-day LODGING, RESTAURANT, RETAIL TAX REVENUE 2015 & 2016											
	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
2016	Non-Event Weekend June 2016	6/03/16-6/06/16	3,796	1,925	50.71%	\$77	\$147,734	\$321,118	\$1,011,001	\$24,125	\$1,503,978
	TRIPLE 2016	7/08/16-7/10/16	3,159	2,069	65.50%	\$123	\$254,419	\$333,700	\$999,551	\$24,170	\$1,611,840
	Event vs. Non Event Variance		(637)	144	14.78%	\$46	\$106,685	\$12,583	(\$11,450)	\$45	\$107,863
	TOTAL 4% TAX*						\$4,267	\$503	(\$458)	\$2	\$4,315
2015	Non-Event Weekend August 2015	8/21/15-8/24/15	3,712	1,819	49.00%	\$110	\$200,507	\$362,448	\$974,419	\$15,532	\$1,552,907
	TRIPLE 2015	7/10/15-7/12/15	2,788	1,997	71.63%	\$116	\$230,909	\$333,959	\$742,186	\$18,964	\$1,326,018
	Event vs. Non Event Variance		(924)	178	22.63%	\$5	\$30,401	(\$28,489)	(\$232,233)	\$3,432	(\$226,889)
	TOTAL 4% TAX*						1,216	(1,140)	(9,289)	137	(9,076)

* Assume 100% attributable to TRIPLE

SOURCE: MUNIREVS

COMMENT: The Town has been hosting the finish celebration and “double” start the next morning for the Triple Bypass for at least the past 11-years. The first several years the finish was held at the lower athletic fields, and then more recently, the finish was moved to the main athletic field. The event is safe and enjoyable for participants, well-organized and brings notoriety to Avon and the surrounding communities as “bike friendly”. The Triple Bypass benefits from significant in-kind services from the Town of Avon to provide a high level of safety for cyclist, vehicular and pedestrians traffic. Some police service cost is covered directly by the promoter. The Town works closely with the producer to assure communications with participants, support vehicles, residents, business and stakeholders is timely and accurate.

1. There were no arrests or off-site impacts or complaints
2. All parking was accommodated on Town streets and lots, and in private contracted lots

SECTION 5: EXHIBIT G
WINTERWONDERGRASS MUSIC FESTIVAL

PRODUCER OF EVENT: WONDERGRASS, LLC; MR. SCOTTY STOUGHTON

DESCRIPTION OF THE EVENT: Music Festival

DATES: Friday, February 19, 2016
 Saturday, February 20, 2016
 Sunday, February 12, 2016

TIMES: 2:00 p.m. to 10:00 p.m.
TIMES: 2:00 p.m. to 10:00 p.m.
TIMES: 2:00 p.m. to 9:30 p.m.

NUMBER OF EVENT DAYS: Three (3)

TOWN FUNDING: \$ 40,000

TOWN IN-KIND: \$ 25,000

2016 ESTIMATED ATTENDANCE PER DAY: 5,000

ACTUAL ATTENDANCE: 8,807

NON-EVENT WEEKEND COMPARED TO EVENT: WINTERWONDERGRASS WEEKEND 3-day LODGING, RESTAURANT, RETAIL TAX REVENUE 2015 & 2016											
	Event Compared to Baseline	Collection Dates	Available Rooms	Occupied Rooms	% Occupied	Roomnight Average	Total Lodging Revenue	Total Restaurant Revenue	Total Retail Revenue	Other Revenue	Totals
2016	Non-Event Weekend February 2016	2/26/16-2/28/16	2,676	2,024	75.64%	\$207	\$418,077	\$368,931	\$952,509	\$24,180	\$1,763,697
	WWG 2016	2/19/16-2/21/16	2,751	2,405	87.42%	\$239	\$575,342	\$435,540	\$981,900	\$23,030	\$2,015,812
	Event vs. Non Event Variance		75	381	11.79%		\$157,265	\$66,609	\$29,391	(\$1,150)	\$252,115
	TOTAL 4% TAX*						\$6,291	\$2,664	\$1,176	(\$46)	\$10,085
2015	Non-Event Weekend February 2015	2/27/15-3/1/15	3,000	2,178	72.60%	\$230	\$501,259	\$388,747	\$1,097,206	\$30,295	\$2,017,508
	WWG 2015	2/20/15 - 2/22/15	2,848	2,195	77.07%	\$233	\$510,450	\$446,245	\$1,071,696	\$26,298	\$2,054,689
	Event vs. Non Event Variance		-152	17	4.47%		\$9,191	\$57,498	(\$25,510)	(\$3,997)	\$37,181
	TOTAL 4% TAX*						368	2,300	(1,020)	-160	1,487

* Assume 100% attributable to WWG

SOURCE: MUNIREVS

COMMENTS – The WinterWonderGrass Music Festival was a very well marketed event with high production quality. The festival attendee seemed to enjoy the band selection, genre of music, Soap Box Lounge and both beer tasting halls. The producer was attentive to the details, communicated well with the Town and was timely in contractual obligations. The Town worked with the producer to:

1. Increase the complimentary (free from \$3 Admission Fee) single day admissions from 50 to 150 single day tickets for sole purpose of marketing the festival
2. There was one medical transport for extreme intoxication, there were several warnings for open container violations, no arrests or off-site impacts or complaints
3. A pre-windscreen was constructed after the Thursday evening curtain was blown off on the stage; curtain repaired prior to the start of the event
4. All parking was accommodated on Town streets and lots, and in private contracted lots
5. Reached profitability and name brand recognition for WWG

SECTION 5: EXHIBIT G
WINTERWONDERGRASS MUSIC FESTIVAL

The producer would like the Town to:

1. Operate all aspects of parking and transportation including license agreements necessary for use of private parking lots
2. Remove requirement for weekly/daily reporting of sold tickets and comp tickets needed for operational purposes
3. Consider Town of Avon staff having access granted by the producer to monitor ticket and comps versus counting wristbands
4. Replace the stage curtain with a fixed door to fully address wind concerns

2017 WWG Funding & In-kind Request – Town of Avon Funding & In-kind Offer

Wondergrass LLC – 2017 Funding Request

- \$65,000 in cash (up from 45, 000 in year 3 funding (2015))
- \$25,000 in-kind (same as previous years)
- Unlimited comp tickets without the \$3.00 Admission Fee for marketing
- Guarantee of stage condition comparable to mobile stage (60 mph gusts)
- Challenges cited was loss of hotel rooms, excessive Town process, need for resort integrations, marketing and parking

Town Offer

Town Council met in two successive Executive Sessions and provided direction for 2017 WWG funding and in-kind support.

Wondergrass LLC Response

Scotty Stoughton noticed the Town Council that WWG would not be returning to Avon, choosing to find a more suitable long term home for the event. In coverage in the *Vail Daily*, WWG shared that they desired to be producing the event in a setting that incorporates on mountain activities, an assortment of affordable lodging within walking distance to the event and a ski mountain which would allow WWG to raise the bar each and every year. Constraints on lodging were cited as playing heavily into the decision, with February being a successful lodging month for skiers.

**SECTION 8: EXHIBIT 1
2016 AVON AGREEMENT**



2016 AVON AGREEMENT

THIS AGREEMENT (“**Agreement**”) is made and entered into on DATE, by and between the Town of Avon (“**AVON**”), a home rule municipality of the State of Colorado, with its principal offices at One Lake Street, Avon, Colorado, 81620 and PRIVATE COMPANY (“**PRODUCER**”), ADDRESS.

In consideration of the mutual promises and agreements herein contained and for other good and valuable consideration, and on behalf of themselves, their successors and assigns, the parties hereto agree as follows:

RECITALS

WHEREAS, the parties recognize the mutual benefits of PRODUCER producing and AVON hosting the Outlaws & Legends Music Festival (“**FESTIVAL**”) on DATE(S). It is the parties’ intention that this Agreement define the duties, obligations and conditions with respect to the production of the FESTIVAL so that it is conducted in a manner and direction to be established by both parties, and so that this Agreement is consistent with and governed by the provisions of the Avon Municipal Code, as may be applicable; and,

WHEREAS, the parties desire to set forth the terms and conditions of a Special Event Permit to use a portion of Nottingham Park as defined below in paragraph 1 as the PREMISES.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is acknowledged and accepted by the parties, the parties agree as follows:

TERMS AND CONDITIONS

1. **PREMISES & RIGHTS OF USE** - Execution of this Agreement shall constitute issuance of a Special Event Permit. Avon waives the \$100 application fee pursuant to Avon Municipal Code Section 9.40. This Permit grants PRODUCER the right, and imposes the duty, to use the PREMISES as defined in this Agreement for the purpose of producing the FESTIVAL on DATES, subject to compliance with the terms and conditions of this Agreement.
 - 1.1 The site of the FESTIVAL on DATE(S), (herein referred to as the "PREMISES") is defined as a portion of Harry A. Nottingham Park (as depicted on Attachment “A”), including the Pavilion (stage deck, event terrace, viewing plaza, green room, scissor lift room, basement), all paths of access leading to and from the Pavilion, but not including the Avon Recreation Center, Picnic Shelter, Lower Athletic Field, Basketball Courts, Sand Volleyball Courts, Tennis or Pickleball Courts.
 - 1.2 PRODUCER is granted an exclusive right of use of the PREMISES from DATES. PRODUCER shall also have non-exclusive rights to access the PREMISES on DATES, for the sole purpose of FESTIVAL break-down and site clean-up. PRODUCER may request, as a result of weather or catastrophic events, an extension or delay of the aforementioned timelines, after which the Town may approve the request in writing. Approval of the request from PRODUCER for an extension or delay of the agreed upon timelines will not be unduly withheld by the Town.
2. **PERFORMANCE HOURS** - AVON and PRODUCER agree that FESTIVAL stage acts may be performed only on the Main Stage of the PREMISES on DATES. PRODUCER shall complete and submit a Sound Permit Application pursuant to Avon Municipal Code 5.24 by not later than DATE(S). Avon agrees to waive the \$25

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

Sound Permit Application Fee.

- 2.1 PRODUCER may allow each performer up to a three-song sound check lasting no more than 20 consecutive minutes. PRODUCER agrees that each performer's sound check includes front of house and individual artist checks and that 20 minutes is a satisfactory amount time. Sound checks shall take place DATES. PRODUCER may request, as a result of weather or catastrophic events, an extension or delay of the aforementioned timelines, after which the Town may approve the request in writing. Approval of the request from PRODUCER for an extension or delay of the agreed upon timelines will not be unduly withheld by the Town. PRODUCER agrees the volume for any sound check will be moderated to achieve the sound check quality and shall be considerate of the surrounding neighborhoods.
- 2.2 PRODUCER acknowledges and agrees that strict adherence to the performance and sound check times is a material term of this Agreement. PRODUCER shall pay a penalty of one hundred dollars (\$100.00) per minute for music, public address announcements, sound check, or any other amplified sound that occurs before or after any time period in which amplified sound is permitted.

3. TARGET CROWD SIZE & WRISTBAND PROGRAM

- 3.1 Crowd Size - PRODUCER agrees the daily number of admissions shall not exceed XXX thousand (XXXX) on any day of the FESTIVAL. This includes children age 13 and older. Children age twelve and under shall not be counted as part of the admissions.
 - 3.1.1 PRODUCER shall provide for those services described in Section 5 below for each day's admissions. Should PRODUCER be unable to provide those services in Section 5 for all admissions, PRODUCER shall limit sales and complimentary admissions to the number of people able to be accommodated by the services provided. Should PRODUCER, at any time, estimate that greater than the daily admissions are likely, services described in Section 5, AVON shall be promptly noticed, and PRODUCER will be responsible to meet any new demands prior to the start of the FESTIVAL.
 - 3.1.2 PRODUCER shall provide to AVON a total of 14 VIP Weekend Passes to be distributed to the Avon Town Council in pairs to each Councilor, Mayor and Mayor Pro Tem.
- 3.2 Wristband Program – PRODUCER agrees that all admissions require a wristband. PRODUCER shall provide to the Town Manager by not later than DATE(S), a Wristband Program detailing the following elements:
 - 3.2.1 The various types of admissions to include, but not limited to: Paid Admissions, including single or multi-day VIP, single or multi-day General Admission; and Exempt Admissions including, staff, crew, performer, artist, volunteer, complimentary and any other type of admission not aforementioned. Included in the crew admissions shall be one VIP All Access Weekend Pass wristband and credential for the Director of Festivals and Special Events and Town Manager.
 - 3.2.2 The script for each type of admission, number ordered and color of each wristband type.
 - 3.2.3 A distinct wristband for those admissions that are 21 years old and older shall also be described by number ordered, color and script.
 - 3.2.4 Within ten (10) business days of receipt, the Town Manager shall approve the elements or state any changes, which need to be made.
 - 3.2.5 Wristband Reporting & Accounting - PRODUCER acknowledges and understands that all rules outlined in Resolution 15-08 and attached hereto as Attachment "B", shall apply to the 2016

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

FESTIVAL, including the payment of Admission Ticket Fees. Any wristbands lost, stolen or missing as a result of negligence by PRODUCER shall be considered as sold for the purposes of computing the Admission Ticket Fee. PRODUCER shall provide reporting and accounting of all admissions which documents the following:

- 3.2.5.1 The pre-FESTIVAL, during FESTIVAL and post- FESTIVAL control and custody of the wristbands to include responsible party, location and security measures.
- 3.2.5.2 Scanning system, procedures and data collections to be in place to ensure that wristbands are distributed and accounted for strictly by type, to ensure that wristbands are not intermixed among admission types and to determine the Avon Admission Ticket Fee. The Town Manager or designee may view the scanned data for each day during non-peak times throughout the FESTIVAL.
- 3.2.5.3 The Admission Ticket Fee shall not be payable for the following Exempt Admissions, if admitted to the FESTIVAL without charge. The Town Manager may limit the number of each type of admissions admitted without charge.
 - 3.2.5.3.1 A bona fide officer or employee of the Vendor of the special event;
 - 3.2.5.3.2 Any federal, state, city, county or Town official employee attending the event on official business;
 - 3.2.5.3.3 Any person whose admission to such special event is required for the performance of some duty or work for the operator of such special event;
 - 3.2.5.3.4 Any newspaper reporter, photographer, telegrapher, radio announcer or person performing a similar vocation who is admitted for the performance of special duties in connection with the special event and whose special duties are the sole reason for his or her presence; and/or
 - 3.2.5.3.5 A child under thirteen (13) years of age, who is admitted without charge.
 - 3.2.5.3.6 Up to XXX (XXX) complimentary single-day admissions for PRODUCER guests.
- 3.2.5.4 PRODUCER shall provide to the Town Manager or designee a report for Exempt Admissions and Paid Admissions thirty (30) days prior the FESTIVAL and once per week thereafter until DATE(S), after which point the report shall be provided daily.
- 3.2.5.5 All final FESTIVAL accounting of all admissions including the unused and/or broken wristbands shall be provided to the Town Manager by 1:00 p.m. on DATE(S), in order to evidence the Admission Ticket Fee to be paid by PRODUCER by not later than DATE(S).

4. PRODUCER RESPONSIBILITIES

- 4.1 Festival Talent, Marketing, Success Metrics and Avon Information Booth – PRODUCER shall provide the following services to the FESTIVAL during the Term of this Agreement for the successful production of the FESTIVAL:

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

- 4.1.1 **Talent** - PRODUCER to secure artists, bands, music performers and any other vendors needed for the successful implementation of the FESTIVAL. Bands and music performers will be approved by Town Manager prior to booking.
- 4.1.2 **Marketing** - A Detailed Marketing Plan and Timeline shall be delivered to the Town Manager for approval by not later than DATE(S) and shall include the following:
- 4.1.2.1 PRODUCER shall include in the name of the XXXX Festival that it is "Sponsored by the Town of Avon".
 - 4.1.2.2 PRODUCER shall develop and implement a comprehensive FESTIVAL marketing plan including print, radio, social, digital, video, broadcast and/or any other marketing platforms and promotions that may be available to assure a successful event and secure sponsorship of the FESTIVAL.
 - 4.1.2.3 PRODUCER in its marketing and advertising shall notify attendees about alcohol and recreational marijuana restrictions, resource recovery priorities, parking and transportation systems, no dogs allowed and all other matters deemed necessary by the Town Manager or designee for the advanced informational needs of FESTIVAL attendees.
 - 4.1.2.4 AVON shall receive, based upon its total cash contribution of \$XXXX and in-kind services valued at \$XXXX, for a total sponsorship of \$XXXX, all benefits, including but not limited to tickets, logo placement, etc. commensurate with the PRODUCER sponsorship package offered to all other sponsors at the \$82,000 level. The PRODUCER sponsorship package shall be provided to the Town Manager or designee not later than DATE(S).
- 4.1.3 **Success Metrics - Event Intercept Survey/Post-Event Survey** - PRODUCER to conduct a post-event survey via email within nine days of the last date of the FESTIVAL. The survey instrument questions, number of participants to be surveyed and dates of use, as well as the date for providing AVON a draft and final report, shall be provided to AVON by not later than DATE(S), for approval.
- 4.1.4 **Town of Avon Information Booth** - PRODUCER shall provide to AVON a site to locate a 10 x 10 tent for use by AVON for other event promotion and general Town information. Staffing for the booth shall be provided by AVON.
- 4.2 **PREMISES SET-UP & TEAR DOWN PLAN** - PRODUCER shall provide a PREMISES set-up and tear down plan to the Town Manager or designee by DATE(S). The plan shall include a schedule for installation/removal and a map of all proposed structures including but not limited to gates (entrance/exit and emergency blow-out), fences, tents, portable facilities, stage and lighting/sound systems, ADA areas, addition of a plywood road for heavy trucks, vendor spaces, adequately sized boneyard (i.e. storage and staging area), crowd management areas and designated smoking area.
- 4.3 **VENDOR LICENSING** - PRODUCER shall provide a list of vendors to the Town Manager or designee by DATE(S). The list shall include all vendors, sponsors, non-profits, etc. engaged in selling food, beverage, merchandise, admissions, etc. during PRODUCER and will include the business names/dba, physical address, mailing address, phone number, email address, contact, and type of activity. The list of vendors will also include how the Avon Special Event Vendor License payment will be received, and if the business is an existing Avon business.

In selecting vendors and sponsors, PRODUCER acknowledges and shall abide by AVON's restrictions to Marijuana Businesses as outlined on Attachment "C".

- 4.3.1 PRODUCER shall provide the following sales tax filing instructions to all selling vendors:

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

- 4.3.1.1 Go to www.avon.org and click on the “Online Payments” button located at the bottom of the home page;
 - 4.3.1.2 Vendors who have not been on MuniRevs before will need to register by clicking “New User” to apply for an account; then follow the online steps provided. If a vendor needs assistance they should contact support@muniревs.com or call 888-751-1911.
 - 4.3.1.3 Vendors that are currently registered, will access by clicking “Existing Users”; they will login to their account and access “Manage Your Business” to register for a Special Event Vendor License account. If a vendor needs assistance, they should contact support@muniревs.com or call 888-751-1911.
- 4.4 **PARKING & TRANSPORTATION PLAN** – PRODUCER shall provide to the Town Manager or designee a plan which details what transit services are required to be provided by AVON, including hours of service and estimated frequency of trips. The transportation plan shall specifically address the following by not later than DATE(S):
- 4.4.1 Agreements with ECO Transit to accommodate FESTIVAL goers going to/from the Vail Transportation Center and those traveling east bound from Eagle, Gypsum, etc., during the FESTIVAL.
 - 4.4.2 Identification of all parking lots to be utilized for general public parking and all vendors, sponsors, musicians and staff including load-in procedures and a detailed map showing parking lot locations.
 - 4.4.3 All general public parking lots shall have “No Open Containers Allowed in the Town of Avon” signage posted at the lot during all hours of the FESTIVAL.
 - 4.4.4 Location of taxi line and communication procedure to taxi/limo services and pre-FESTIVAL information plan for attendees.
 - 4.4.5 Identify parking lot for overnight camping with management plan which includes security, medical, water refuse management and lighting, if applicable.
 - 4.4.6 A directional signage plan detailing the direction provided to vehicular traffic. This plan shall include types of signage used, quantity, location and installation/removal dates.
 - 4.4.7 Agreements with property owners for the use of parking lots shall be provided to the Town Manager by not later than DATE(S).
- 4.5 **PEDESTRIAN TRAFFIC PLAN** - PRODUCER shall provide to the Town Manager a map which details pedestrian ingress and egress from all parking lots utilized for the FESTIVAL by DATE(S). The plan shall provide for the signage at the main point of entry and/or paths of ingress/egress stating “No Loitering”, “No Open Containers” and “FESTIVAL Entrance”.
- 4.6 **SECURITY PLAN** – PRODUCER shall provide to the Town Manager a plan which details the security and law enforcement needs for the FESTIVAL by DATE(S). The plan shall include, but not be limited to, audience profile, security needs for alcohol sales, enforcement of marijuana restrictions, crowd management, lost children protocol, lost and found protocol, entry gate security checks, communication plan for law enforcement and emergency response agencies, chain of command, and external support from AVON and/or Eagle County Sheriff’s office. Contracts for services with security agencies shall be presented or a date to have such contracts shall be provided.

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

- 4.6.1 Based upon the plan, the Town Manager shall determine in her sole discretion the number of law enforcement officers Avon shall provide for the FESTIVAL. PRODUCER shall provide all security, as approved by the Town Manager, for the FESTIVAL, including requirements for communication radios for AVON staff and PRODUCER security personnel to be identified by shirts or hats, if needed, to fully implement the security needs of the FESTIVAL.
- 4.6.2 PRODUCER shall provide adequate proof to the Town Manager that the PREMISES are protected from damage through fencing, crowd management measures, signage, plywood for heavy trucks, or other sufficient means.
- 4.6.3 Pre-FESTIVAL information shall sufficiently and frequently communicate to attendees through all media outlets, creating signage to be placed at FESTIVAL entrance/exit, Avon Transportation Center, pedestrians paths of ingress/egress, FESTIVAL general public parking and by working with restaurants/bars to ensure signage and enforcement; the following, that: (1) no open containers are allowed within Avon; (2) there is no vending without a Town license; (3) there is no parking on private property without permission of the property owner; (4) no loitering; (5) it is illegal to smoke marijuana out-of-doors in the Town of Avon, including the PREMISES; and, (6) all parking and transportation information.
- 4.7 **MEDICAL AND EMERGENCY RESPONSE PLAN** – PRODUCER shall provide to the Town Manager a plan which details the medical response and emergency response agencies and protocols for the FESTIVAL by DATE(S). The plan shall include a management protocol for people who are experiencing heat exhaustion, dehydration, severely intoxicated or under the influence of illegal drugs and not able to walk to public transportation or parking lots. Contracts for services with emergency response agencies shall be presented or a date to have such contracts shall be provided.
- 4.8 **SANITATION & RESOURCE RECOVERY** - PRODUCER shall provide to the Town Manager a plan that details the sanitation facilities, resource recovery (composting and recycling) and cleaning program for the by DATE(S). The plan shall cover the PREMISES, parking lots, pedestrian pathways to and from parking lots and the Pavilion (stage deck, event terrace, viewing plaza, green room, scissor lift room and basement). The number and location of portable sanitation facilities, dumpsters, trash cans, recycling bins and grey water disposal shall be provided as well as the timeframes detailed. Avon shall require copies of all contracts for services by not later than DATE(S).
- 4.9 **INTERNET ACCESS** - Avon contracts with Comcast for all wireless services related to Town business. PRODUCER may use Comcast provided internet service for lawful purposes only. Any transmission or re-transmission of material in violation of any federal or state laws or regulations is expressly prohibited. This extends to and includes, but is not limited to, any copyrighted materials, content communications deemed to be abusive, threatening or obscene, or any content or communications prohibited by trade secrets.
- Through Comcast, AVON shall provide access to the internet for the PREMISES only, through TOA-Public secured with a FESTIVAL password for the express use of PRODUCER's box office/ticket sales, FESTIVAL merchandise sales, vendor booth sales and media only. TOA-Public bandwidth is 100 megabits down/20 megabits up. Under no circumstances shall PRODUCER share the passcode with the general public.
- 4.10 **PAVILION USAGE & PREMISES INSPECTION** – PRODUCER and Avon shall jointly perform and document a pre-FESTIVAL inspection of the PREMISES not later than DATE(S), before the PREMISES are released to PRODUCER and returned to Avon. PRODUCER shall notify Avon Town Manager or designee of any problems or damage that may have occurred during the FESTIVAL during the post-FESTIVAL inspection.
- 4.10.1 PRODUCER agrees to abide by the guidelines detailed in the Avon Performance Pavilion Technical Specifications and attached as Attachment "D".

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

4.10.2 The following guidelines shall be observed for usage of the Pavilion:

- 4.10.2.1 Use the Pavilion only in the manner permitted by this Agreement and shall not use or permit the use of the Pavilion for any other purpose or any other reasonably objectionable or unlawful act.
- 4.10.2.2 PRODUCER shall not install, place, inscribe, paint or otherwise attach and shall not permit any banner, sign, advertisement, notice, marquis, or awning on or within the Pavilion, without the prior review and consent of Avon in each instance. PRODUCER shall, at its own expense, provide and maintain in first-class condition all permitted signs and shall, upon the expiration of this Agreement, at its own expense, remove all such permitted signs and repair any damage caused by such installation and/or removal. Avon shall have the right to remove all non-permitted signs without notice to PRODUCER, at the expense of the PRODUCER.
- 4.10.2.3 By Order of the Eagle River Fire Protection District, PRODUCER will ensure that NO THEATRICAL SMOKE without approval is blown on the Pavilion and NO PYROTECHNICS OF ANY SORT are to be detonated. Decorative open flame, fire pits, patio style heaters and/or fire performers are only permissible if permitted through, and approved by Eagle River Fire Protection District. Cooking of any sort by hot plate, open flame, grill, etc. is not allowed in the Green Room (including restroom).
- 4.10.2.4 PRODUCER acknowledges and agrees that Avon is permitting PRODUCER to use the Pavilion in its "as is" condition and the Avon shall be under no obligation to replace, upgrade or otherwise modify the facility.
- 4.10.2.5 PRODUCER shall not make alterations, additions or improvements on or to the Pavilion without the prior written consent of Avon, to include, but not limited to tenting, catering equipment and portable facilities. All such work shall be performed in a good and workmanlike manner. All alterations, additions or improvements upon the Pavilion shall be removed from the Pavilion by DATE(S). PRODUCER shall be liable for any damage to the Pavilion or adjacent Town Property caused by the installation or removal of any alteration, addition or improvement. Town may take action to repair and restore any damage caused by PRODUCER and PRODUCER shall be liable for such costs, including reasonable attorneys' fees and costs to enforce this Agreement.

4.11 INSURANCE & INDEMNIFICATION

- 4.11.1 PRODUCER agrees to indemnify the Town of Avon, its officers, agents and employees, and to hold them harmless against any and all claims, actions, demands or liabilities, including attorney fees and court costs, for injury, death, damage or loss to person(s) or property arising out of or directly or indirectly resulting from PRODUCER's actions or omissions in connection with the conduct of the FESTIVAL.
- 4.11.2 PRODUCER shall obtain general liability insurance coverage within the minimum limits set below naming AVON as an additional insured and insuring AVON and its officers, agents and employees against any and all liability and damages which may arise out of or directly or indirectly result from the conduct of the FESTIVAL. The policy dates shall include the entire range of dates for which Town property is used. The minimum limits and requirements of the coverage shall include: \$1,000,000 per occurrence primary coverage, and \$5,000,000 annual aggregate; 30 days' written notice of cancellation; host and general liquor liability insurance in the same amounts listed above; \$5,000,000 personal and advertising injury coverage; and \$50,000 fire damage.

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

- 4.11.3 PRODUCER shall provide to AVON proof of Comprehensive Automobile Liability insurance for any private motor vehicles owned by PRODUCER or its officers, agents, or employees that are used as part of the FESTIVAL. The insurance policy shall provide that it is primary insurance and that its coverage will apply prior to utilization of AVON's general liability coverage.
- 4.11.4 PRODUCER shall provide written evidence of all insurance coverage required in this paragraph 4.7 to the Town Manager no later than DATE(S). All required insurance policies shall be non-cancellable without thirty (30) days prior written notice to AVON.
- 4.11.5 The parties hereto understand and agree that AVON is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$350,000 per individual claim and \$990,000 for multiple claims arising from a single incident) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to AVON, its officers, agents, or employees.
- 4.11.6 PRODUCER shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to paragraph 8.1 of this Agreement by reason of its failure to procure or maintain insurance or by reason of its failure to procure or maintain insurance in sufficient amounts, duration, or types.
- 4.11.7 All subcontractors of PRODUCER shall be required to list the Town of Avon, its elected officials, officers and employees as additional insureds and provide the appropriate certificate of insurance to Avon upon request.

4.12 MISCELLANEOUS

- 4.12.1 **LIQUOR LICENSE:** PRODUCER shall be solely responsible for identifying a local nonprofit to acquire a liquor license for the FESTIVAL. AVON shall provide to PRODUCER a list of local nonprofits, which positively benefit the lives of local residents and/or the larger community of AVON. AVON encourages PRODUCER to consider one or more of the local non-profits as the liquor license applicant. Application for the license and all insurance and indemnification requirements pursuant to AVON Municipal Code 5.08.170 shall be the responsibility of PRODUCER and its nonprofit. PRODUCER shall submit to the Town Clerk a Special Event Liquor Application by not later than DATE(S).
- 4.12.2 PRODUCER shall ensure there is lighting on the perimeter fence, along the recreational path to backstage, behind concessions, to vendor/sponsor/VIP tents, portable restrooms, public pathways to/from parking lots, parking lots and to the Box Office.
- 4.12.3 PRODUCER shall provide signs at the entrance to the FESTIVAL stating the FESTIVAL guidelines from DATE(S). Signage for FESTIVAL rules and attendee information shall be reviewed by AVON prior to posting.
- 4.12.4 Stakes are not to be driven into the ground along any pathways, athletic fields, parking lots or grassy areas with underground sprinkler systems without prior permission from the Town Manager or designee.
- 4.12.5 PRODUCER in its marketing and advertising shall notify attendees about alcohol restrictions, marijuana restrictions, resource recovery priorities, parking and transportation systems, no dogs allowed and all other matters deemed necessary by the Town Manager or designee for the advanced informational needs of FESTIVAL attendees.

SECTION 8: EXHIBIT 1
2016 AVON AGREEMENT

4.12.6 To the extent licensed personnel, such as electricians, medical, emergency response or health official, are required to conduct certain services or inspections, PRODUCER shall abide by these local and State requirements.

4.12.7 PRODUCER agrees to make every effort to retain volunteers and paid staff from qualified persons residing in the Town of Avon or Eagle County.

4.12.8 **BOND** – PRODUCER shall deposit a bond or other security instrument in a form acceptable to the Town Manager and payable to the Town of Avon in the amount of \$xxxx. The bond is intended to secure payment of actual admissions’ fees, damages, repairs, clean-up , or any other payment or penalty due AVON under the terms of this Agreement. The bond is due at the Town of Avon Finance office no later than DATE(S). The bond, less any appropriate funds for payment, if any, shall be refunded to PRODUCER by DATE(S).

4.12.9 All references to the Town Manager in this Agreement shall also include the Town Manager’s designee.

5. AVON RESPONSIBILITIES

5.1 Avon will deliver a prepared PREMISES with clean facilities, and include the Pavilion (stage deck, event terrace, viewing plaza, green room, and scissor lift room), all paths of access leading to and from the Pavilion, council chambers, log cabin, main athletic field, recreational path adjacent to the PREMISES.

5.2 AVON shall provide financial support in the amount of \$xxxx to PRODUCER. Payment shall be made as follows:

5.2.1 Payment #1: Payment of \$xxxx, representing 25% of the total, shall be made within ten (10) business days after execution of the Agreement.

5.2.2 Payment #2: Payment of \$xxxx, representing 65% of the total, shall be made within ten (10) business days of finalization of all talent being booked for the FESTIVAL.

5.2.3 Payment 3#: Final payment of \$xxxx, representing 10% of the total, shall be made within ten (10) business days upon final submission and acceptance of all responsibilities stated above in Sections 4.2 – 4.9.

5.3 AVON shall provide in-kind support to PRODUCER in the amount not to exceed \$xxxx. In-kind support includes, but is not limited to staff staging assistance, police, transit operations, traffic control, and banner installation/removal.

5.4 AVON shall cooperate with the marketing of the FESTIVAL by supporting the use of the Town of Avon name and logo brands.

5.5 AVON shall to the greatest extent possible assist PRODUCER with leveraging existing Town sponsorships and relationships in helping PRODUCER find hotel room at discounted rates and opportunities with the Beaver Creek Resort.

5.6 If PRODUCER produces banners for promotional purposes, AVON shall install/remove them in the following locations: Avon Road Bridge Banner (up to 2 banners), Avon Road Round-a-bouts (up to 12 banners) and Post Blvd. (up to 12 banners) after DATE(S), based on availability. PRODUCER and Avon may mutually agree to the number, location and installation and removal of additional banners. Avon agrees to waive the \$100 temporary sign application fee.

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

- 5.7 AVON shall provide portable fence materials (stadium barricade – approximately 900 linear feet), not already in use, located in Town Park for use by PRODUCER.
- 5.8 AVON will ensure that by DATE(S), the electrical stubs and outlets on the Pavilion, on the north side of Town Hall, and on the south side of the restroom building, are in good working order for the concessionaires. AVON shall provide 3-phase power at the Pavilion.
- 5.9 AVON agrees to provide transportation services to/from designated parking lots within Town limits during the FESTIVAL, including identification of FESTIVAL shuttle service at Special Event Parking venues, if warranted.
- 6. EVENT/FESTIVAL CANCELLATION** – Either party may cancel the FESTIVAL in whole or in part, for any substantial reason beyond either party's control. In the event of cancellation, neither party shall be liable to the other for any lost profits, lost revenues or consequential damages.
- 6.1 The FESTIVAL may be canceled by the Town Manager if the terms of this Agreement are not substantially fulfilled in a timely manner or in the event of an unforeseen catastrophic event, subject to a right to cure. Should AVON deem any term or terms of this Agreement unfulfilled and wish to base cancellation thereon, AVON shall give PRODUCER written notice and PRODUCER shall have five (5) business days to cure the term or such longer time as mutually agreed by the parties. Should PRODUCER cure, this Agreement shall continue in full force and effect.
- 6.2 In the event of cancellation, AVON shall remit to PRODUCER all bonds less any FESTIVAL related expenditure incurred by AVON. If PRODUCER cancels the FESTIVAL after AVON has dedicated resources toward production and notice of such cancellation is not given prior to DATE(S), PRODUCER shall pay AVON five thousand dollars (\$5,000) as liquidated damages within 30 days of the previously scheduled production date.
- 7. RELEASE OF LIABILITY**
- 7.1 AVON assumes no responsibility whatsoever for any non-municipal property placed in said PREMISES. PRODUCER hereby expressly releases discharges Avon from any and all liabilities for any loss, injury or damages to any person or property of PRODUCER, its employees, agents, concessionaires, performer, attendee, spectator or other invitee that may be sustained by reason of the occupancy of the PREMISES under this Agreement, except for the negligent acts of AVON or its officers, agents, employees. To the fullest extent permitted by law, PRODUCER shall indemnify, defend and hold harmless Avon, its members, affiliates, officers, directors, partners, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising out of the performance of this Agreement, provided that any such claim, damage, loss or expense is caused by any negligent act or omission of PRODUCER, anyone directly or indirectly employed by PRODUCER or anyone for whose acts PRODUCER may be liable, except to the extent any portion is caused in part by a party indemnified hereunder.
- 7.2 In the event the PREMISES or any part thereof is damaged by fire or other natural causes or if for any other reason, including strikes, failure of utilities, which results in cancellation of the FESTIVAL, or which in the judgment of the Town Manager and Mayor, renders the fulfillment of this Agreement by AVON impossible, PRODUCER hereby expressly releases and discharges AVON and its officers, agents and employees from any and all demands, claims, liabilities, and causes of actions arising from any of the causes aforesaid.
- 8. NOTICES** - Any notice to either party under this Agreement shall be in writing to the following addresses:
PRODUCER

SECTION 8: EXHIBIT 1 2016 AVON AGREEMENT

NAME & CONTACT INFORMATION

AVON

Town Manager, Town of Avon

P. O. Box 975

Avon, CO 81620

Via Email: vegger@avon.org

COPY TO: Director of Festival & Special Events, Town of Avon, P.O. Box 975, Avon, CO 81620

Via Email: ddempsey@avon.org

9. **No Third Party Beneficiaries** - Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or sub-contractor of PRODUCER. Absolutely no third party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
10. **Article X, Section 20/TABOR** - The parties understand and acknowledge that the Avon is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Avon are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Avon's current fiscal period ending upon the next succeeding December 31. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Town of Avon, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.
11. **Governing Law, Venue, and Enforcement** - This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Eagle County, Colorado. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the parties hereby waive any and all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. The Parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.
12. **Survival of Terms and Conditions** - The parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
13. **Assignment and Release** - All or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement shall not be assigned by PRODUCER without the express written consent of Avon. Any written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities, or benefits so assigned, and shall not be effective unless approved by Avon. No assignment shall release the Applicant from performance of any duty, obligation, or responsibility unless such release is clearly expressed in such written document of assignment.
14. **Severability** - Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

SECTION 8: EXHIBIT 1
2016 AVON AGREEMENT

15. **Incorporation of Exhibits** - Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes. In the event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.
16. **Employment of or Contracts with Illegal Aliens** - PRODUCER shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. PRODUCER shall not contract with a subcontractor that fails to certify that the subcontractor does not knowingly employ or contract with any illegal aliens. By entering into this Agreement, PRODUCER certifies as of the date of this Agreement it does not knowingly employ or contract with an illegal alien who will perform work under the public contract for services and that the PRODUCER will participate in the e-verify program or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. The PRODUCER is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed. If the PRODUCER obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the PRODUCER shall be required to notify the subcontractor and the Town within three (3) days that the PRODUCER has actual knowledge that a subcontractor is employing or contracting with an illegal alien. The PRODUCER shall terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three (3) days of receiving the notice regarding PRODUCER's actual knowledge. The PRODUCER shall not terminate the subcontract if, during such three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The PRODUCER is required to comply with any reasonable request made by the Department of Labor and Employment made in the course of an investigation undertaken to determine compliance with this provision and applicable state law. If the PRODUCER violates this provision, Avon may terminate this Agreement, and the PRODUCER may be liable for actual and/or consequential damages incurred by Avon, notwithstanding any limitation on such damages provided by such Agreement.
17. **Non-Liability of Town for Indirect or Consequential Damages or Lost Profits** - The parties agree that Avon shall not be liable for indirect or consequential damages, including lost profits that result from Avon's declaration that the PRODUCER is in default of the Agreement, so long as Avon acts in good faith.

SIGNATURES



**AMENDMENT TO THE
2016 AVON AGREEMENT**

**Avon Pavilion Stage Curtain
Wind Management Agreement**

THIS AMENDMENT (“Amendment”) to 2016 XX Agreement, originally dated May 27, 2016, is made and entered into the XX day of XX, 2016, by and between the Town of Avon (“AVON”), a home rule municipality of the State of Colorado, with its principal offices at One Lake Street, Avon, Colorado, 81620, and XX (XX), which is producing the XX (“EVENTS”), a Colorado Corporation with its principal offices at XX.

AMENDMENT

Pursuant to the above referenced Agreement, AVON and XX agree to amend the 2016 XX Agreement as set forth herein. All other terms of the Agreement shall remain in full force and effect, including but not limited to provisions concerning insurance and indemnification.

RECITALS

WHEREAS, XX shall be using the Avon Pavilion, which has retractable stage curtain, which may be opened or closed during the EVENTS; and,

WHEREAS, the parties desire to set forth the terms and conditions of how the stage curtain shall be managed and used during the EVENTS.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises contained herein, the sufficiency of which is acknowledged and accepted by the parties, the parties agree as follows:

TERMS AND CONDITIONS

1. XX and AVON have agreed that: (Check one box)
 - XX will not require AVON Wind Management Protocol described in Section 2 below for the Pavilion stage curtain and will accept the stage curtain in an as is condition under the terms of Paragraph 1 Premises & Rights of Use. XX agrees that the opening and closing of the curtain will be done in the sole discretion of the Producer, using not less than two persons at all times for opening and/or closing of the stage curtain.
 - AVON shall participate in the Wind Management Protocol as described in Section 2 below for the stage curtain for XX as described below, but no PWW shall be installed.
 - AVON shall install a PWW for the EVENTS for each day XX has the exclusive or nonexclusive use of the PREMISES and shall participate in the Wind Management Protocol as described in Section 2 below. The location of the PWW is depicted in the attached EXHIBIT. Once the PWW is constructed, the stage curtain shall be closed and remain closed, unless wind speeds mandate the curtain be open, as described in Section 2.7 below.

2. Wind Management Protocol

- 2.1 AVON has designated the Town Engineer or his designee(s) as the on-site Avon Wind Monitor (AWM).
- 2.2 EVENTS shall designate the stage manager (SM) or other representative to be solely responsible to the AWM by not later than XX, 2016.
- 2.3 If a PWW has not been installed, XX will provide to the AWM the daily schedule for the curtain to be open or closed by not later than 48 hours prior the each CONCERT date. The AWM will be responsible for the implementation of the curtain plan, subject to the conditions in Sections 2.5 – 2.7.
- 2.4 The AWM shall place an anemometer on the Pavilion not later than 48 hours before each CONCERT date, and review its working condition with the SM.
- 2.5 The AWM shall review the wind speed forecasts as produced by the National Weather Service (NWS) for each day XX has the exclusive or nonexclusive use of the PREMISES, and provide to the SM the 24-hour wind speed (“24HWS”) forecast for each day of Pavilion use, by not later than 9:00 a.m. of the use day.
- 2.6 If the 24HWS forecasts wind speeds of 15 mph or less and/or wind gusts of less than 20 mph, the stage curtain shall remain open, unless the plan presented in Section 2.3 requests that the curtain is to be closed at any time. AWM shall review the 24HWS forecast periodically, but take no action to close the curtain for wind speeds, should the forecast remain the same.
- 2.7 If the 24HWS NWS forecasts wind speeds of 15 mph or higher; or wind gusts greater than 20 mph the AWM shall provide to the SP a curtain management plan for the day, which may include the opening of the curtain by AVON. As a general practice, while the manufacturer has stated the curtain, when closed, can be expected to withstand a wind speed of 45 mph, AVON has determined, at this time, that the curtain shall always be opened when the forecast is for sustained wind or gusts of wind at or above 30 mph.

3. SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

TOWN OF AVON

XX

By:

By:

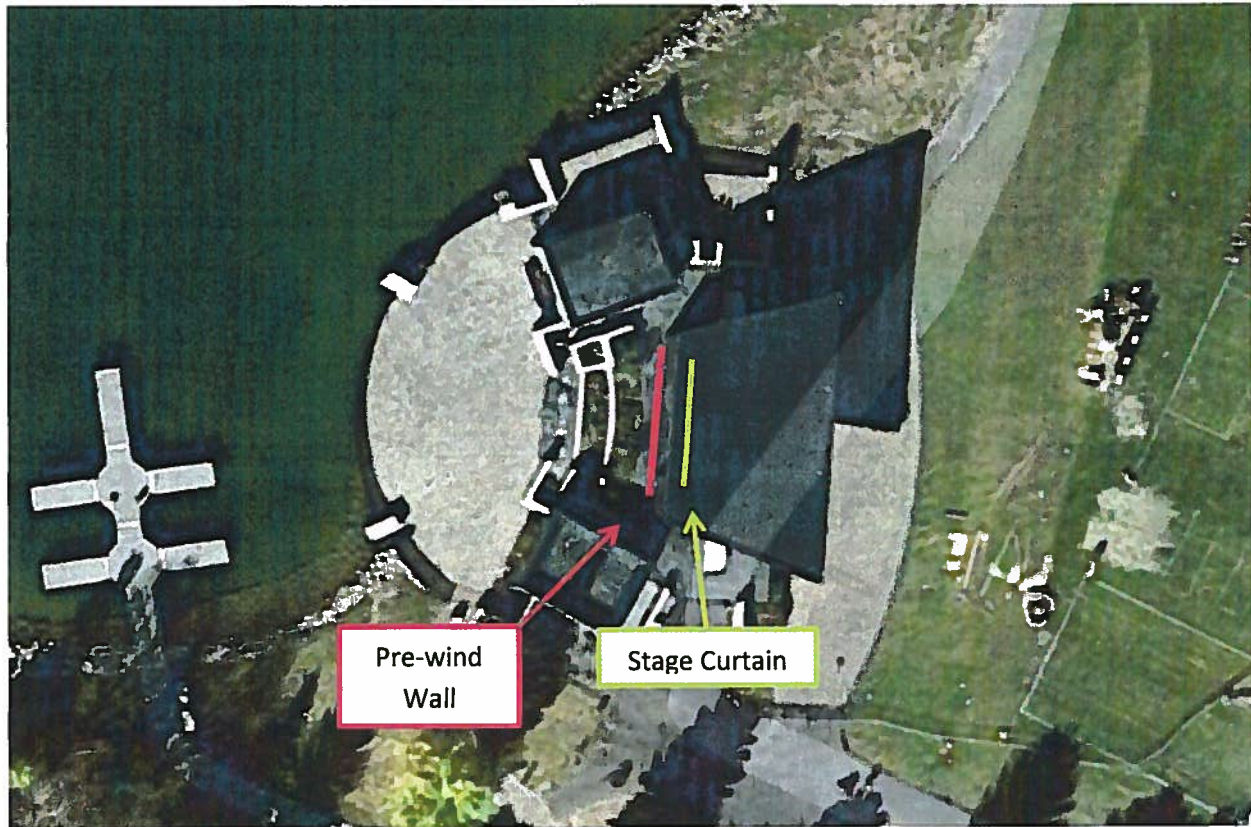
Virginia C. Egger, Town Manager

XX

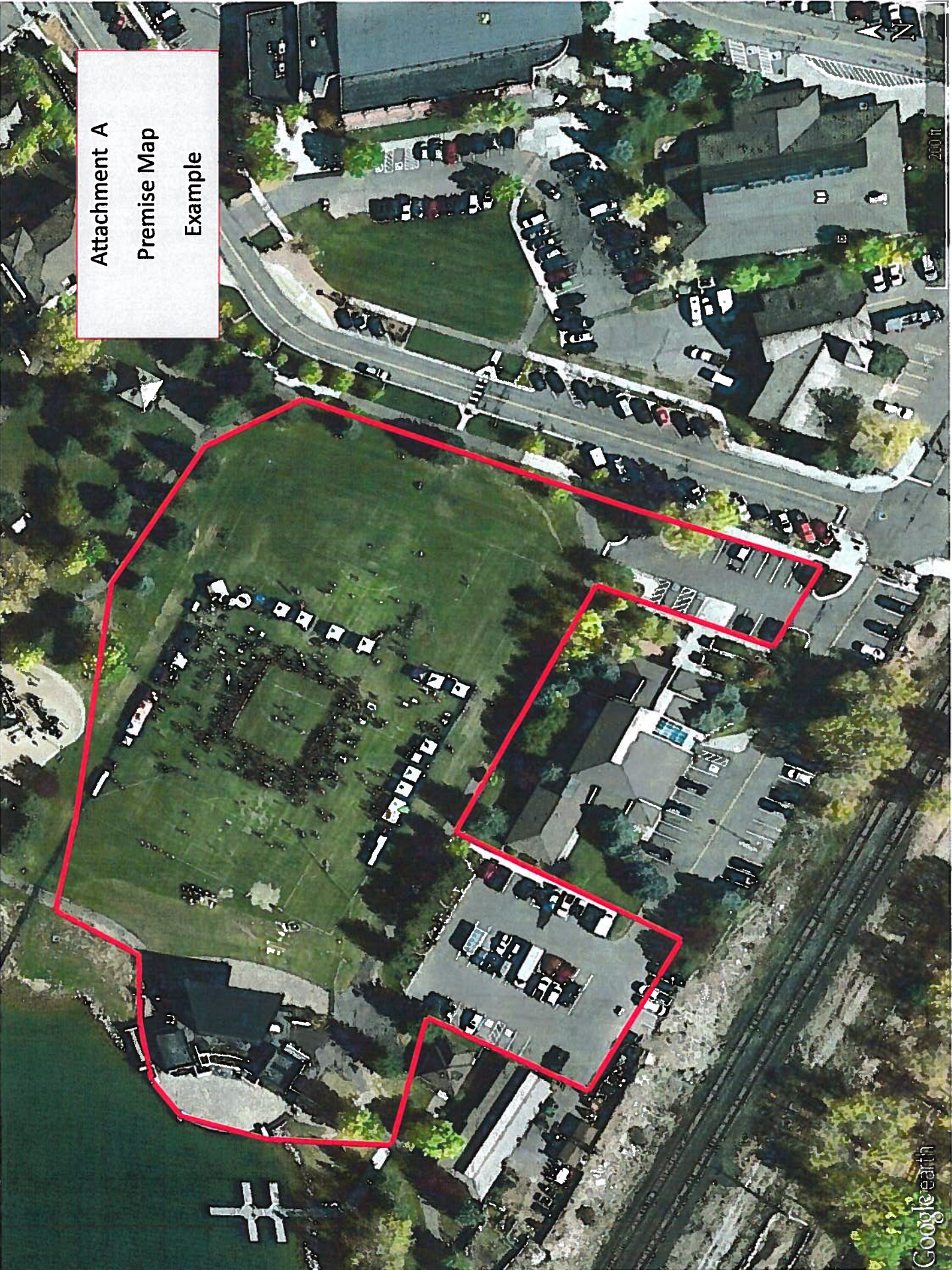
DATE: _____, 2016

DATE: _____, 2016

**EXHIBIT
LOCATION OF PRE-WIND WALL**



Attachment A
Premise Map
Example



**ATTACHMENT B
TOWN OF AVON, COLORADO
RESOLUTION NO. 15-18
SERIES OF 2015**

A RESOLUTION INCREASING AN ADMISSION TICKET FEE ON TICKETS FOR EVENTS HELD ON TOWN PROPERTY AND AMENDING THE USE OF FEES COLLECTED FOR CERTAIN IMPROVEMENTS AND USES TO INCLUDE THE ADDITION OF PAVILION MAINTENANCE AND RESTATING ALL SECTIONS OF ADOPTED RESOLUTION 13-26, SERIES 2013, TO ENSURE FULL COMPLIANCE IN THE ADMINISTRATION, COLLECTION AND USE OF THE ADMISSION TICKET FEE

WHEREAS, the Avon Town Council has identified "Special Events" as a strategic priority to improve the Town of Avon's economic condition and to add to the quality of life for Avon residents and tourists; and,

WHEREAS, the Town may regulate the use of Town parks, special event areas and other Town owned property in accordance with the Town's home rule authority, state statute and Chapter 9.40 of the Avon Municipal Code;

WHEREAS, the Avon Town Council passed *Resolution 13-26 A Resolution Imposing an Admission Ticket Fee on Tickets for Events Held on Town Property and Dedicating the Use of Fees Collected for Certain Improvements and Uses* on September 24, 2013, and has identified the need to increase the fee and amend allowable uses.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO, the following:

Section 1 - Admissions Fee Established. An "Admission Ticket Fee" is hereby established which shall be levied on every ticket for admission to a special event held on Town property for which a charge for admission is imposed by the holder of the special event permit ("Vendor"). Any person who purchases or accepts an admission to a special event on Town property, including but not limited to Nottingham Park, other Town parks, public right-of-ways, or parking lots, is exercising a privilege of admission. Every special event Vendor who charges a price for admission to such special event to the general public shall collect the Admission Ticket Fee imposed by this Resolution in the manner set forth herein. The Town Manager may waive all or a portion of the Admission Ticket Fee for a specific special event if the Town Manager finds in the Town Manager's discretion that such waiver (1) will promote the viability of the special event, (2) will promote accessibility of Avon community to the special event, (3) is appropriate in that the impacts of the special event do not warrant the Admission Ticket Fee, or (4) the Vendor proposes such other terms, payments or benefits which equal or exceed the benefit of the Admission Ticket Fee.

Beginning on the date of this Resolution, the following Admission Ticket Fee shall be levied person per ticket sold or provided as a complimentary admission:

- Ticket for single day admission = \$3.00
- Ticket for two-day admission = \$6.00
- Ticket for three-day admission = \$9.00

Section 2 - Collection and Remittance of Admission Ticket Fee.

(a) The Vendor of a special event who imposes and collects a charge for admission to attendees, or any portion of attendees, shall impose and collect the Admission Ticket Fee on every ticket for admission to the special event, including any tickets or privilege of admission that are provided on a complimentary to a special event for which a charge is imposed on other attendees. The Admission Ticket Fee shall be deemed to be held in trust by the Vendor required to collect the Admission Ticket Fee until remitted to the Finance Director according to the provisions of this Resolution. The Admission Ticket Fee shall be collected at the time the admission charge is paid or at the time a complimentary ticket or privilege of admission is granted to an attendee.

(b) Every Vendor collecting an Admission Ticket Fee shall file with the Finance Director within thirty (30) days following the last day of the special event for which an Admission Ticket Fee is levied a statement indicating the total

number of tickets and privilege of admission to the special event issued to attendees, the total amount of the Admission Ticket Fees collected by ticket type during the admissions sale period and such further information as the Finance Director may deem necessary to determine the amount of the Admission Ticket Fees collected and payable. The Vendor shall remit the entire amount of the Admission Ticket Fee collected with the statement.

Section 3 – Exclusions. The Admission Ticket Fee shall not be payable by the following attendees if admitted to any festival/special event without charge. The Town Manager may limit the numbers of each type of attendee admitted without charge.

- (a) A bona fide officer or employee of the Vendor of the special event;
- (b) Any federal, state, city, county or Town official employee attending the event on official business;
- (c) Any person whose admission to such special event is required for the performance of some duty or work for the operator of such special event;
- (d) Any newspaper reporter, photographer, telegrapher, radio announcer or person performing a similar vocation who is admitted for the performance of special duties in connection with the special event and whose special duties are the sole reason for his or her presence; and/or
- (e) A child under thirteen (13) years of age, who is admitted without charge.

Section 4 - Failure to Remit; Penalties for Non-Payment. Every Vendor required to collect an Admission Ticket Fee who fails to collect the applicable Admission Ticket Fee or any portion thereof shall be liable to the Town for the amount of the Admission Ticket Fee plus a penalty of fifteen percent (15%) of the total amount due plus interest on the amount due and penalty at the rate set forth in Chapter 3.32 of the Avon Municipal Code plus any costs of collection incurred by the Town.

Section 5 – No Assumption of Admission Ticket Fee. The Vendor of special events shall agree that the Vendor shall not represent that the Admission Ticket Fee will be assumed or absorbed by the Vendor, that Admission Ticket Fee will not be added to the selling price of the admission sold or, if added, that it or any part thereof will be refunded.

Section 6 - Printing of Admission Ticket Fee on Ticket. On each admission ticket, wristband or card sold, the following words or their equivalent identifying the amount of Admission Ticket Fee levied shall be conspicuously and indelibly printed, written or stamped on the face or back of that part of the ticket which is sold by the Vendor: "Town of Avon Admission Ticket Fee \$3 per Day."

Section 7 - Determination of Fee Due. If any Vendor required to collect and remit the Admission Ticket Fee fails to file a statement and a remittance, or if the Town Manager has reasonable cause to believe that an erroneous statement has been filed, the Town Manager may proceed to determine the amount due to the Town and, in connection therewith, shall make such investigations and take such testimony and other evidence as may be necessary. The Town shall provide at least six (6) days prior written notice to the Vendor before conducting an administrative hearing and shall provide an opportunity for the Vendor to provide testimony and evidence before the Town Manager renders a final decision.

Section 8 - Right of Inspection and Audit. It shall be the duty of every Vendor to keep and preserve suitable records of all ticket types sold and such other books or accounts as may be necessary to determine the amount of the Admission Ticket Fee for the collection or payment of which the Vendor is liable. The Town Manager may make, or cause to be made the examination, inspection or audit of books, invoices, accounts and other records so kept or maintained by such Vendor.

Section 9 - Collection and Payment of Disputed Fee. Should a dispute arise between the purchaser and the Vendor or between Vendor and the Town Manager as to whether the sale of admission is exempt under this Resolution, the Vendor, shall collect and the purchaser shall pay the Admission Ticket Fee, and the Vendor or purchaser shall thereupon

issue a receipt or certificate, showing the names of the purchaser and Vendor, the date, price and amount of Admission Ticket Fee paid, and a brief statement of the claim of exemption. The purchaser or Vendor may apply to the Town Manager for a refund of such fees, and it shall be the duty of the Town Manager to thereupon determine the question of exemption and to provide for a refund if necessary.

Section 10 – Incorporation into Special Events Permit or Contract. The terms of this Resolution shall be referenced and incorporated into any special events permit or contract for special events along with such other terms as may be deemed appropriate and necessary for the administration and enforcement of the Admission Ticket Fee.

Section 11 - Town of Avon use of Admission Ticket Fees.

- (a) All Admission Ticket Fee revenues collected shall be utilized for special event related capital facilities, maintenance, equipment and infrastructure improvements, including but not limited to:
 - (i) Acquisition of assets for special events such as tenting, fencing, cord channels, staging, resource recovery, directional signage, or generators/turtle box.
 - (ii) Improvement in park and Town-owned facility infrastructure such as type and location of power, resource recovery, warm water access, grey water and grease disposal receptacles, materials for conversion of facilities for various event types, and field and trail improvements.
 - (iii) Maintenance of the Park Pavilion and Nottingham Park Upper Field attributable to special event and festival use.

- (b) The Admission Ticket Fee revenues, with Town Manager approval, may be used to defray police, public transportation and traffic control costs when provided by the Town as an in-kind benefit for the special event.

ADOPTED THIS 22ND DAY OF SEPTEMBER, 2015.

TOWN COUNCIL:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk



ATTACHMENT C TOWN OF AVON

PROHIBITION OF MARIJUANA BUSINESSES AT TOWN-OWNED VENUES FOR TOWN OF AVON PERMITTED AND/OR SPONSORED FESTIVALS & SPECIAL EVENTS

The Town of Avon adopted its Avon Brand Platform in 2014. Developed with broad and diverse community outreach, the Avon Brand is utilized as a guideline in making decisions for special events and festivals, which are permitted and/or sponsored on Town-owned property (Events). The Avon Brand touts Avon as “community-minded and family-oriented” while recognizing Avon’s “enriched and diverse collection of experiences” that includes “family-inspired events and activities at Nottingham Park...”

In 2014, the Town Council, through an extensive public process, decided that it would not allow retail recreational marijuana sales in Avon. Grow and manufacturing facilities are also not allowed in the Town’s boundaries. Previously, the Town Council denied the sales of medical marijuana.

With the legalization of recreational and medical marijuana (Marijuana Business), in Colorado, the question has arisen whether Events may bring a Marijuana Business, as a sponsor or vendor; or, as an informational vendor, into Town venues. The answer is no. Any Marijuana Business, including placement of informational booths, and any level of sponsorship, including but not limited to title, and presenting, are not allowed. As such, festivals and special events shall not include any Marijuana Business in its marketing and/or marketing collateral, website, etc. and shall not approve any booth space or collateral in the venue for a Marijuana Business or for the promotion of education of the legality of marijuana sale and use in Avon.

By: Virginia C. Egger, Town Manager

Date: February 15, 2016



ATTACHMENT D
Avon Performance Pavilion
Technical Specifications

The Avon Performance Pavilion at Harry A. Nottingham Park was completed in January, 2015, and is a signature outdoor venue in the Vail Valley. The Pavilion is designed to host music festivals, orchestral performances, concert series, dance and theater performances, art exhibits/festivals, educational events, social engagements (both public and private), and an array of potential cultural events.

Located on Nottingham Lake, the Pavilion joins the Main Street Mall, Library, Recreation Center, Avon Elementary School and Destination Jump, Splash Learn (a new playground planned for integration into the lake-side environment), in Avon's developing creative arts zone in the core of west Avon.

Contacts:

Director of Festivals & Special Events
Danita Dempsey
970-748-4032
ddempsey@avon.org

Pavilion Location:

Town of Avon
Harry A. Nottingham Park
One Lake Street
Avon, CO 81620



Technical Specifications of Pavilion

Stage Deck/Canopy

- 88' x 28' x 26' performance stage
- Upstage the canopy is 21' 9" feet tall from the stage deck
- Downstage the canopy is 29' 8" feet tall from the stage deck
- Canopy pitch 2:12 (every 12" the canopy rises 2")
- See Figure 3, 6 & 7 for specific stage dimensions
- Material: Polished concrete
- Accessible via stairs, loading dock and ADA lift

Event Terrace

- 48' 10" x 108' event terrace
- Material: pavers
- Seven (7) Duplex outlets on 20-amp Edison GFI circuits

Deck Power Specifications

- South Column: 200-amp; 208-Volt; 3-Phase
- North Column: 400-amp; 208-Volt; 3-Phase
- Eleven (11) Duplex outlets on three (3) 20-amp circuits
- 50-amp circuit at the south building
- See Figures 1-2 for complete details

Audio System

- Advanced by production

Stage Lighting Systems

The lighting system is composed of a permanently installed array of ETC D40XTI LED "Vivid Wash" light fixtures spaced evenly across the stage area.

- 26x ETC D40 XTI Vivid LED fixtures.
- See Figure 7 for detailed lighting plot
- 24x independently dimmable 20-amp stage circuits are provided at circuit outlet boxes located on the underside of the stage roof at regular intervals
- 6x 20-amp relay circuits within the "E-boxes"
- 12x isolated DMX output distribution points

- Houselights as well as landscape lighting is controlled through the Installed lighting system - See Figure 3
- A permanent ETC Paradigm LCD control station is located in the Green Room back stage left
- All circuits may be controlled thru the Paradigm LCD system, or via a production supplied DMX capable control console
- A DMX input point for 1 (one) universe of control interface is provided at a plug in point on the upstage side of the stage left mid-stage sandstone column
- House DMX addresses occupy the first 350 addresses. User provided DMX devices must start above address 351

Green Room

- Located stage left
- 432 square feet
- Private unisex bathroom
- No showers
- Accessible via stairs from stage, event terrace or ground level front of house

Stage ADA Lift

- 750lb load limit
- See Figure 2

Scissor Lift Room/ Located stage left

- See Figure 4
- Model - Genie GS-3246
- Working height – 38 feet
- Platform height – 32 feet
- 700 lbs. capacity
- Two person capacity; must be operated by Town staff

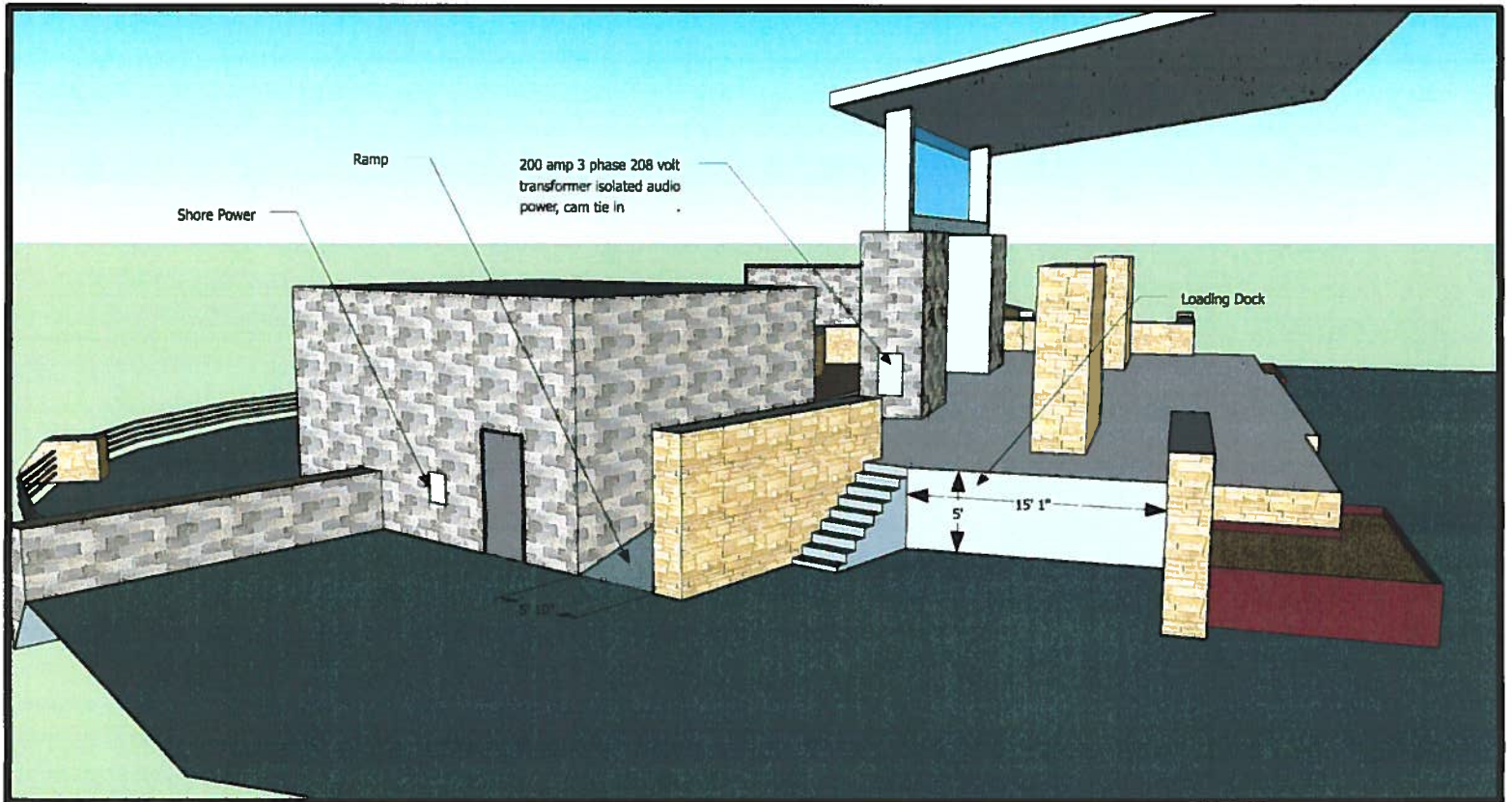
Upstage Wind Curtain

- Size: 2 panels 14' tall x 15' wide with vertical battens every 30"
- Fabric: Sunbrella fire resistant black
- Wind rating : 50mph
- Fabric wall should be retracted into the closet if sustained winds over 40mph are expected
- Back drop banners may not be affixed to the upstage wind curtain

Stage Specifications

Stage right approach – Figure 1

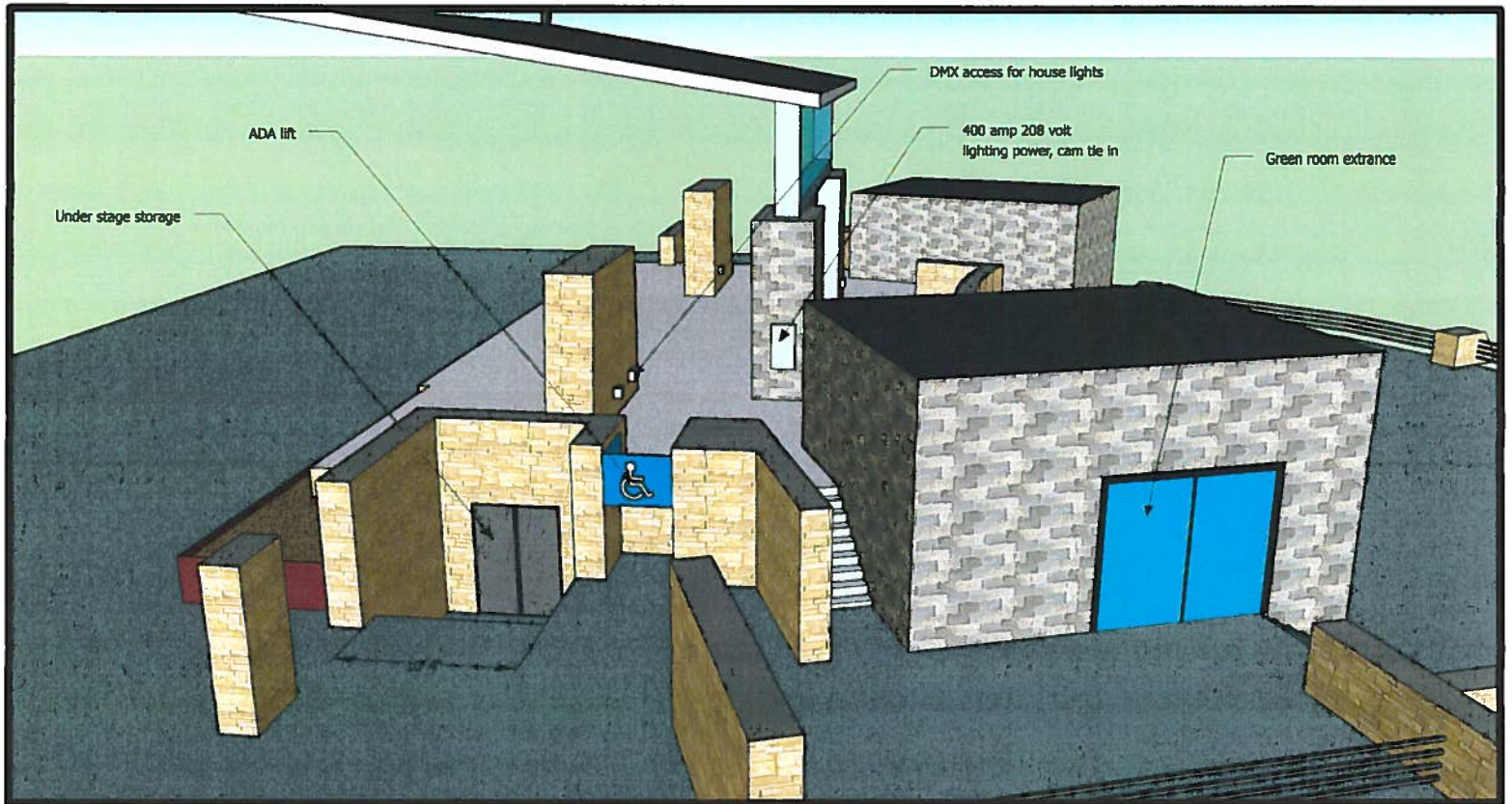
- Loading dock, loading ramp, power and pump house



Stage Specifications Continued

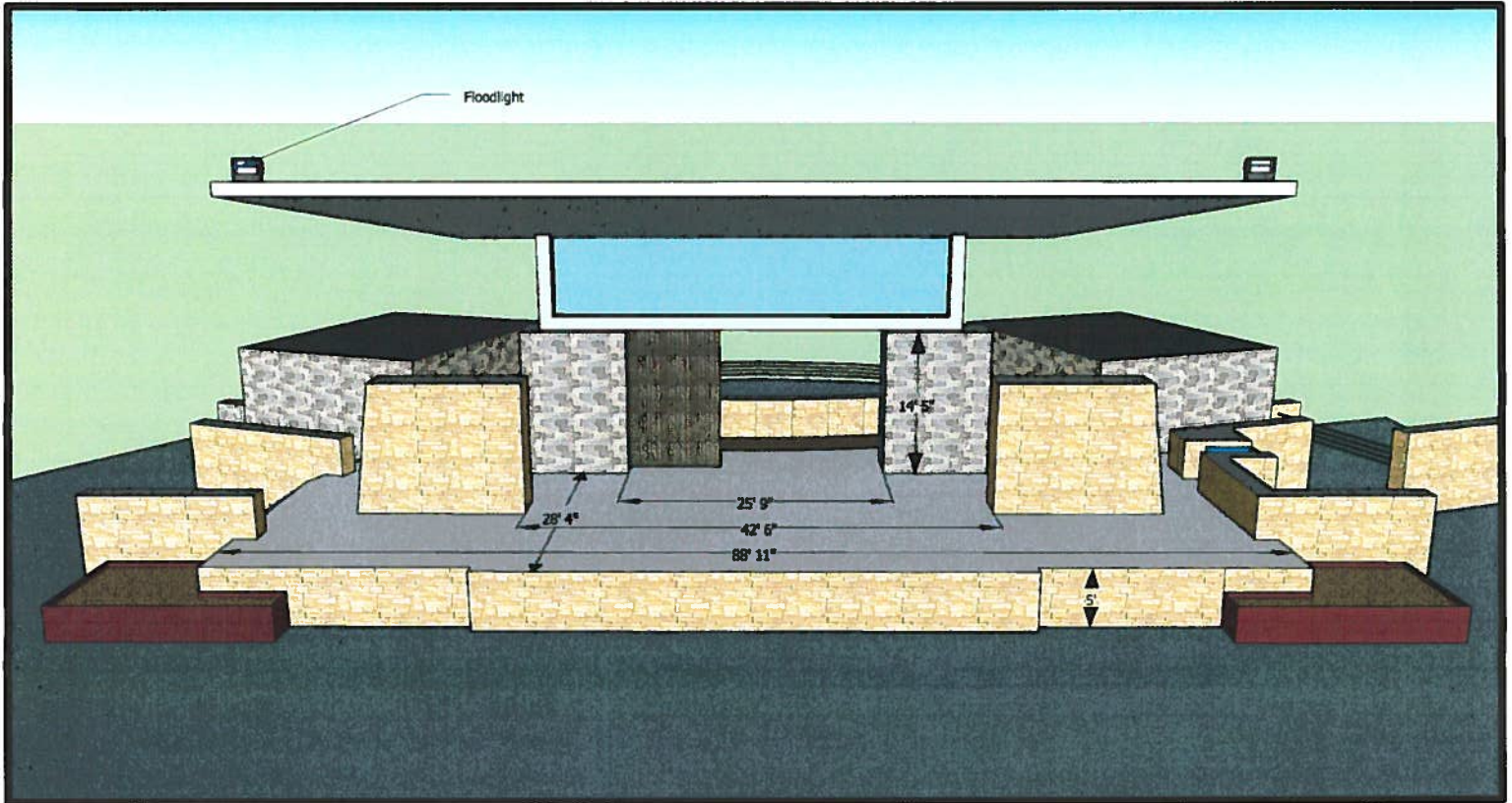
Stage Left – Figure 2

- Power, ADA lift, storage, artist entrance, green room



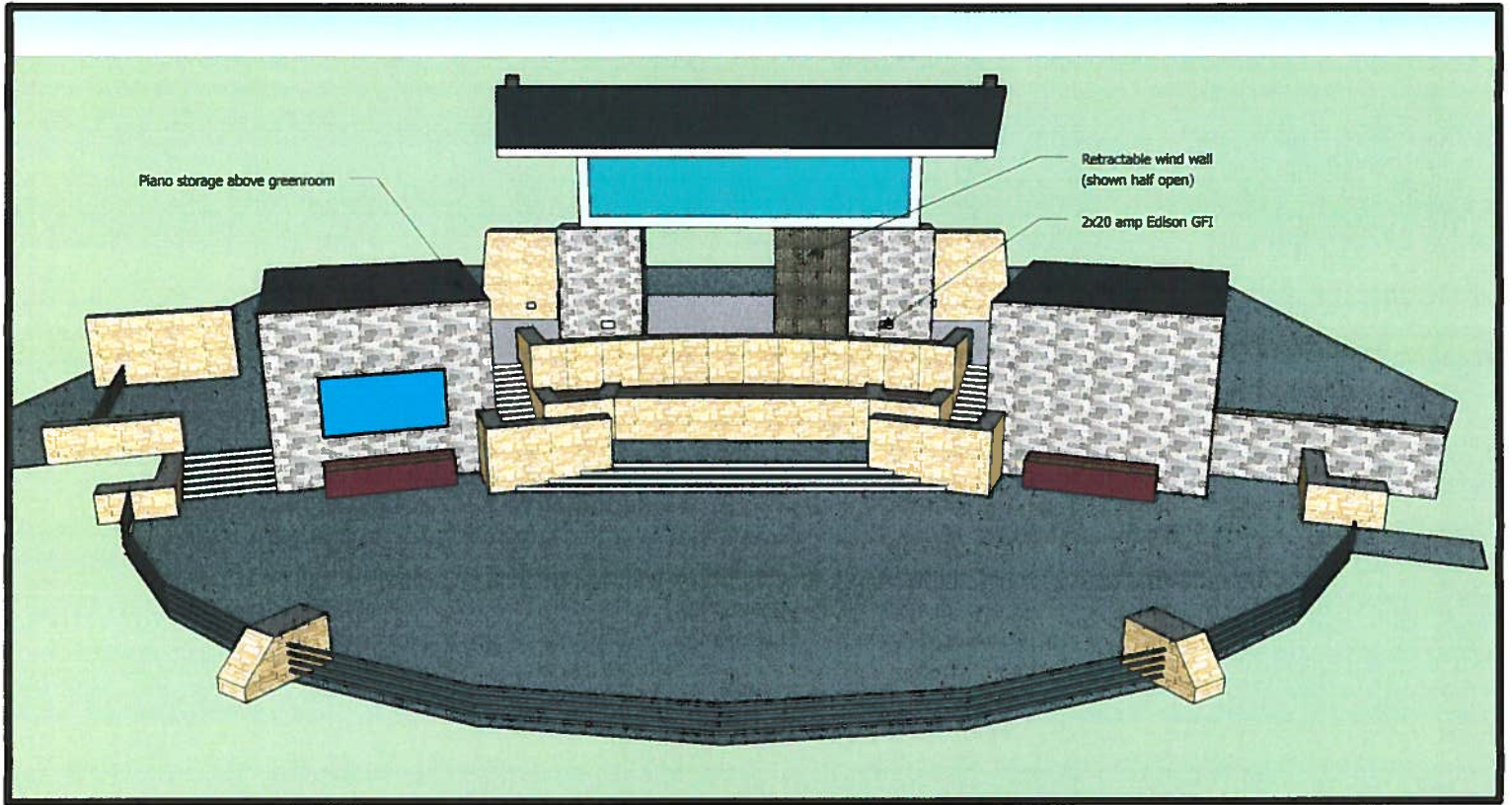
Stage Specifications Continued

- Front Stage View – Figure 3



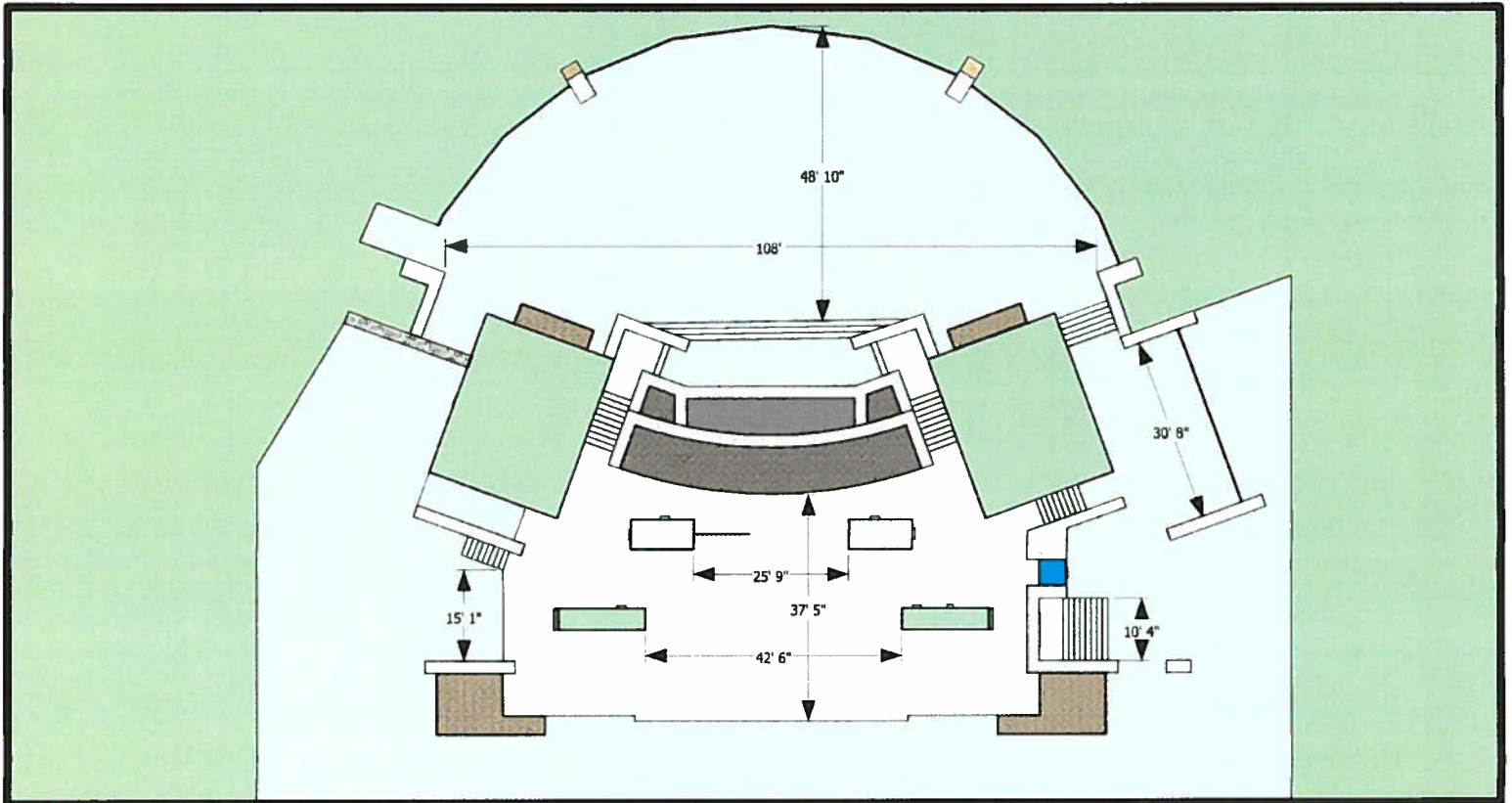
Stage Specifications Continued

- Backstage & Event Terrace View – Figure 4



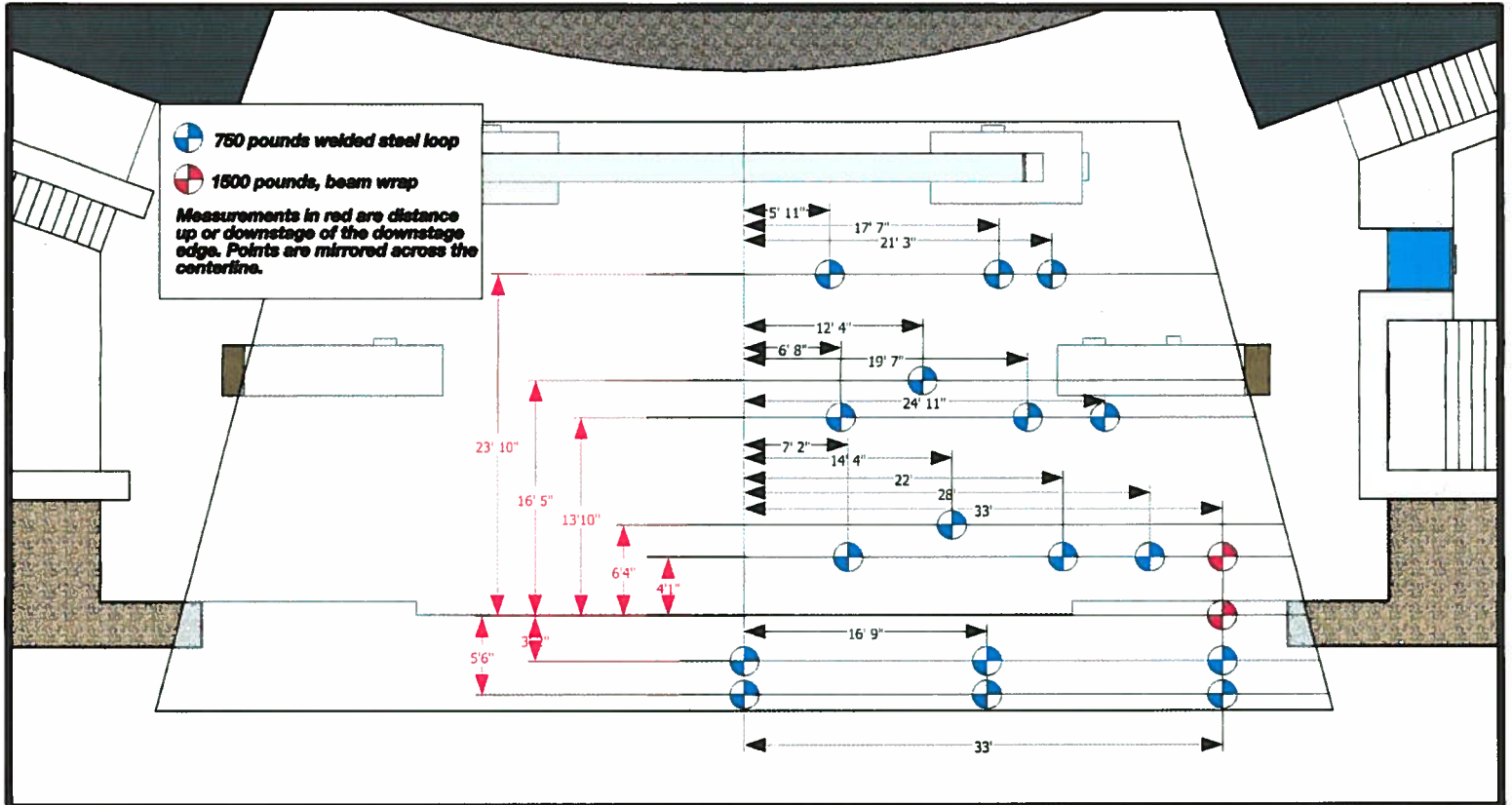
Stage Specifications Continued

- Plain View – Figure 5



Stage Specifications Continued

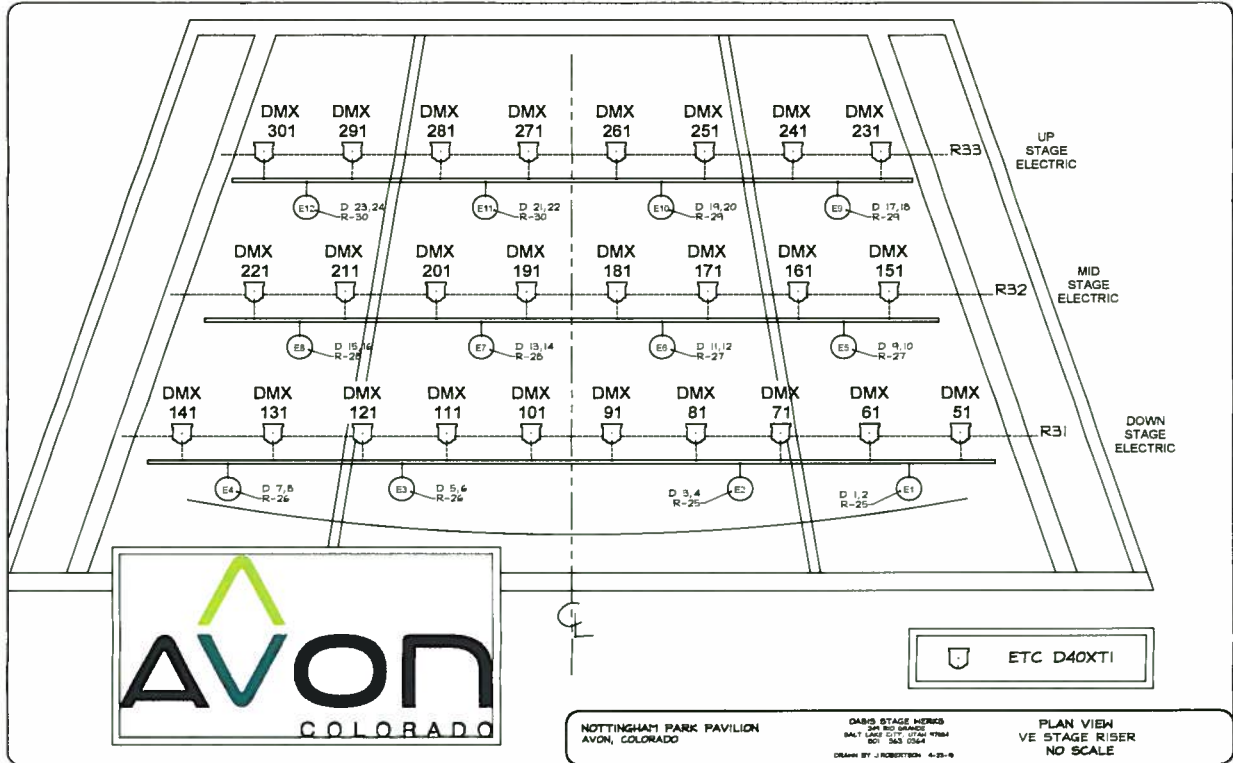
- Ariel View Rigging Plot – Figure 6



Stage Specifications Continued

- Lighting Plot – Figure 7

Upstage



Stage Specifications Continued

- **House/Stage Lighting Narrative Guide**
 - **The stage lighting fixtures are a permanently installed set of ETC Selador D60XTI LED fixtures mounted under the canopy. These fixtures are supplied power via three (3) relay circuits from the dimmer cabinets in the located in the basement. The DMX control is supplied via a Pathway DMX splitter via hard wired data lines to each row of fixtures.**
 - **There are 24 dimmable stage pin circuits in boxes at grid level, which also contain six (6) relay circuits; all 20 Amp.**
 - **There are 12 DMX “out “plugs in those same grid boxes, allowing users to utilize the DMX input and distribution.**
 - **Control of both landscape and stage fixtures is via a DMX input at mid-stage left on the upstage side of the sandstone pillar, or via an ETC Paradigm touchscreen located in the green room off stage left.**
 - **There are 24 dimmable stage circuits located in the left hand DR 12 dimming cabinet located in the basement; and, 24 dimmer/relay circuits in the right hand cabinet. The Pathway DMX splitter is to the right of the dimming cabinets.**
 - **DMX input signal is configured for a highest takes precedence function over the paradigm control system.**
 - **The paradigm system has an embedded Astro Event that triggers certain fixtures and landscape circuits to turn on at sunset and off at sunrise. This event runs automatically, but can be cancelled via a button on the LCD control station in the green room.**
 - **Specific circuit numbering, and DMX start addresses for the stage is provided for the user in this document (Fig. 7).**

In an emergency, please call Carmel Alston of Oasis Stage Werks at 303-330-6098

Pavilion & Nottingham Park – General Advance

Audience Venues

- **Event Terrace - Seating capacity 200 persons**
- **Viewing Plaza - Suitable for VIP seating or general public**
 - **Standing capacity is 200 persons**
- **Nottingham Park- Standing capacity 5,000 persons including:**
 - **Vendors booths**
 - **Portable restrooms**
 - **Additional membrane/tented structures**
 - **Open-air venue – not covered**
 - **Ticketed events will require producer advanced fencing**

SECTION 8: EXHIBIT 2

2013 TELLURIDE BLUEGRASS FESTIVAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the Town of Telluride ("TELLURIDE"), a home rule municipality of the State of Colorado, and the Telluride Bluegrass Festival, Inc., a Colorado Corporation with its principal offices at 500 West Main, Post Office Box 769, Lyons, Colorado, 80540, (hereinafter referred to as "BLUEGRASS").

In consideration of the mutual promises and agreements herein contained and for other good and valuable consideration, and on behalf of themselves, their successors and assigns, the parties hereto agree as follows:

1. Recitals

1.1 The parties recognize the mutual benefits of BLUEGRASS producing and TELLURIDE hosting the "40th Annual Telluride Bluegrass Festival" in the year 2013 (hereafter "FESTIVAL"). It is the parties' intention that this Agreement define the duties, obligations and conditions with respect to the production of the FESTIVAL so that it is conducted in a manner and direction generally established by previous Telluride Bluegrass Festivals, and so that this Agreement is consistent with and governed by the provisions of the Telluride Municipal Code, including Chapter 11-4, "Major Festival Events in Town Park" (see Attachment C), and Chapter 6-3, "Admissions Fee" (see Attachment B).

1.2 Execution of this Agreement shall constitute issuance of a major festival event permit to BLUEGRASS pursuant to Telluride Municipal Code Section 11-4-60. This permit grants BLUEGRASS the right, and imposes the duty, to use the premises defined in this Agreement for the purpose of producing the FESTIVAL on June 20-23, 2013, subject to compliance with the terms and conditions of this Agreement.

2. Maximum Crowd Size

2.1 BLUEGRASS agrees to limit the maximum daily crowd size for the FESTIVAL to no more than twelve thousand (12,000) persons (see Attachment C, Section 11-4-30). Of this total, persons paying for admission shall not exceed ten thousand four hundred (10,400) persons on any day of the FESTIVAL. This maximum number of 12,000 shall include persons paying for admission and may include persons admitted with complimentary tickets, including TELLURIDE and BLUEGRASS staff, agents, concessionaires, crowd management, stage crew, and performers.

2.2 Of this 12,000 total, up to sixteen hundred (1,600) complimentary or free admissions for staff, performers, guests, concessionaires, and children ages five through eleven shall be allowed on any one day of the FESTIVAL. Children ages five through eleven shall be issued a wristband but shall not be counted as part of the crowd size.

2.3 Should BLUEGRASS be unable to provide for adequate sanitation, resource recovery services, transportation services, security, parking or camping and lodging facilities for a maximum crowd size of 12,000 persons, BLUEGRASS shall limit ticket sales to the number of people able to be accommodated by the services and facilities available, or under contract to BLUEGRASS. BLUEGRASS shall submit evidence to the Parks and Recreation Director of available facilities and services available for the number of tickets allowed. BLUEGRASS may

be required to limit complimentary tickets and admissions and/or ticket sales to adjust for any disparity. (See Attachment C, Section 11-4-60.)

3. Premises

3.1 The site of the FESTIVAL (herein referred to as the "PREMISE") shall be Elks' Park (Attachment E) and the Telluride Town Park (see Attachment A), including the Town Campground, but not the Town Park Pool, Pavilion, or Tennis Courts. BLUEGRASS is granted an exclusive right of use of the PREMISE from June 20, 2013, at 7:00 a.m., through 12:00 midnight, June 23, 2013. BLUEGRASS is also granted an exclusive right of use of the Town Campground from June 15, at 7:00 a.m. through 12:00 noon, June 24, 2013. If BLUEGRASS desires to use the Town Park Pavilion during the FESTIVAL, the Parks & Recreation Director shall receive a completed reservation application (see Attachment D) by 5:00 p.m., April 26, 2013 and an additional fee will be charged according the Pavilion Management Plan.

3.2 TELLURIDE pledges its cooperation to accommodate any reasonable activities related to the staging of the FESTIVAL as determined and approved by the Parks and Recreation Director. Activities include but are not limited to the operation of the stage, lighting, mixing tower, and all sound equipment and systems, and field seating. BLUEGRASS shall provide a park set-up plan to the Parks & Recreation Director by 5:00 p.m., April 26, 2013. The plan shall include a schedule and a map of all proposed structures, gates, fences, and crowd management areas.

3.3 From 9:00 a.m., June 18, 2013, to 5:00 p.m., June 23, 2013, no vehicles shall be allowed in Town Park except for medical equipment, police vehicles, security vehicles, backstage and video recording vehicles, the concessionaire vehicles as outlined in Paragraph 5.7. and parks maintenance vehicles as necessary. All FESTIVAL vehicles shall stay on designated access roads. FESTIVAL vehicles that drive off designated roads without prior approval of the Parks & Recreation Director shall be fined \$100, plus damages, per occurrence.

3.4 BLUEGRASS agrees to clean all Town Park bathroom (including the Town Park Pavilion if use is approved) and shower facilities and to stock all sanitation facilities beginning Saturday, June 15, 2013, at 7:00 a.m. and the Elks Building restrooms beginning Thursday, June 20, 2013, and to provide all supplies needed for this purpose. BLUEGRASS shall assign paid staff to be responsible for conducting periodic checks of these facilities to ensure proper cleaning and adequacy of supplies. After a final cleaning and stocking by BLUEGRASS, and inspection by TELLURIDE, BLUEGRASS will return possession of the bathroom and shower facilities to Town Park staff no earlier than 12:00 noon, on Monday, June 24, 2013.

3.5 BLUEGRASS agrees to keep the tennis courts and swimming pool accessible to the public during the FESTIVAL. Town Campground fees collected and retained by BLUEGRASS do not include use of the Town Park Pool or Tennis Courts. TELLURIDE will collect and retain all fees collected for use of the tennis courts, showers and pool. The pool shall be staffed by TELLURIDE during the hours the pool is open.

3.6 TELLURIDE and BLUEGRASS agree that FESTIVAL stage acts may be performed only on Thursday, June 20 from 10:00 a.m. to 12:00 midnight, Friday, June 21 from 10:00 a.m. to 1:00 a.m., Saturday, June 22, from 10:00 a.m. to 1:00 a.m., and on Sunday,

June 23 from 10:00 a.m. to 11:00 p.m. It is further agreed that the dates and times are to be strictly adhered to. BLUEGRASS shall pay a penalty of one hundred dollars (\$100.00) per minute for music, public address announcements, or sound checks that occur before or after any time period in which such music or announcements are permitted.

3.7 A professional electrician, who is licensed in the State of Colorado, shall be employed by BLUEGRASS to aid in set-up and monitor activities. BLUEGRASS shall submit an electrical permit application by June 10, 2013 and schedule an electrical inspection by June 18, 2013.

4. Equipment and Services Provided by TELLURIDE

4.1 TELLURIDE shall provide all portable fence materials, not already in use, located in Town Park for use by BLUEGRASS.

4.2 TELLURIDE shall provide the picnic tables now located in the Park for use during the FESTIVAL. All picnic tables in the campground and pool area shall remain in place throughout the FESTIVAL period.

4.3 TELLURIDE will ensure that by June 15, 2013, the electrical stubs and concession wash station in the Park are in good working order for the concessionaires.

4.4 TELLURIDE will pay for and distribute access passes to allow qualified FESTIVAL guests and Telluride residents through the Colorado Avenue barricade. BLUEGRASS will distribute temporary passes on an as-needed basis at the Colorado Avenue barricade. FESTIVAL access passes shall adhere to the inside of a vehicle windshield and temporary access passes shall be a primary color. All FESTIVAL access passes shall state the Town of Telluride is not responsible if the pass is damaged, lost, or stolen. TELLURIDE shall determine the number and type of passes to be distributed.

4.5 TELLURIDE shall respond in writing to any and all BLUEGRASS submittals and requirements within three (3) working days of submittal deadline, or date of receipt, whichever is later.

5. BLUEGRASS Obligations

BLUEGRASS shall provide and pay for the following:

5.1 Crowd Management.

BLUEGRASS shall provide for the efficient management of pedestrian, bicycle, and vehicular traffic at all FESTIVAL activity locations, including the PREMISES, campgrounds, parking areas, and transportation routes (see Attachment C, Section 11-4-60).

5.1.1 A Crowd Management Plan must be provided by 5:00 p.m., April 26, 2013, to the Parks & Recreation Director and Town Marshal for their approval.

5.1.2. The Crowd Management Plan shall include identification of key management personnel, references (if requested by TELLURIDE), and contractor agreements. A chain of command and schedule shall be provided for all personnel and contractors.

5.1.3 All crowd management personnel shall wear, during their shift, a hat or T-shirt that must be visible at all times, identifying them as staff for the Telluride Bluegrass Festival.

5.1.4 BLUEGRASS shall make periodic security checks at the Town Park Pool during the hours of 7:00 p.m. - 8:00 a.m. each day BLUEGRASS has assumed possession of the PREMISES subject to the terms of this Agreement. During these hours, BLUEGRASS shall ensure no person has entered or is currently occupying the pool or pool area and that no property damage occurs to the pool or pool area.

5.1.5 BLUEGRASS shall set up crowd management systems by Wednesday, June 19, 2013, at 7:00 p.m.

5.1.6 All crowd management personnel, plans and measures within the Town of Telluride shall be, at the option of TELLURIDE, subject to the direction and control of the Telluride Town Marshal. TELLURIDE reserves the right to reject the crowd management plan and/or contract, and/or require additional deposits to ensure the PREMISES is adequately secured throughout the term of the permit. The crowd management contractor shall provide references and supplemental information and attend meetings and site walks as required by the Town Marshal or Parks & Recreation Director. BLUEGRASS shall coordinate with the Town Marshal's Department to ensure adequate security is provided within the Park and Town limits before, during and after the FESTIVAL period (see Attachment C, Section 11-4-60). BLUEGRASS crowd management personnel shall attempt no custodial arrest. If at any time the Parks and Recreation Director, or Town Marshal determines that the health, safety or welfare of festival participants, citizens or visitors, is in jeopardy, they shall have the right to enact appropriate measures, or provide necessary services.

5.1.7 BLUEGRASS shall provide adequate proof to the Town Parks & Recreation Director that through fencing, crowd management measures, or other means, the ball fields and other improvements in Town Park are protected from damage and/or destruction (see Attachment C, Section 11-4-60, paragraph 10).

5.1.8 BLUEGRASS shall ensure there is lighting on the perimeter fence along the road to backstage, and behind concessions to the Warming Hut, and to the Pedestrian Bridge and Box Office.

5.1.9 BLUEGRASS shall provide signs at the entrance to Tomboy Road, stating the rules for use of the road, from Wednesday, June 19, 2013, at 8:00 a.m., to Sunday June 23, 2013, at 8:00 p.m.

5.1.10 Signs shall be posted for official hacky-sack, juggling, and dancing areas. BLUEGRASS shall ensure that the ball fields are protected from damage due to hacky-sack, juggling, and dancing activities. There shall be no Frisbee playing allowed within the PREMISES.

5.1.11 Stakes are not to be driven into the ground along any pathways, ball fields, or grassy areas with underground sprinkler systems without prior permission from the Parks & Recreation Director.

5.1.12 BLUEGRASS shall not erect tents or attach banners, flags, or ropes to public or private property without prior approval.

5.1.13 BLUEGRASS shall provide the Parks & Recreation Director with a copy of a written agreement with the San Miguel County Sheriff, which shall provide for any additional security necessitated by the FESTIVAL to meet the needs of San Miguel County or proof that San Miguel County has provided for such security as part of its Special Use Permit. The agreement or Special Use Permit shall be delivered to TELLURIDE no later than 5:00 p.m., on April 26, 2013 (see Attachment C, Section 11-4-60 paragraph 2).

5.1.14 BLUEGRASS will provide TELLURIDE two (2) communication radios able to reach BLUEGRASS crowd management personnel, for use during the FESTIVAL, by 10:00 a.m., June 19, 2013.

5.1.15 BLUEGRASS shall make reasonable efforts to mitigate noise impacts on the Town of Telluride.

5.1.16 BLUEGRASS shall provide signs at the entrances to town neighborhoods informing attendees there is no camping in vehicles. BLUEGRASS shall also provide twenty-four hour security patrols around town to inform and enforce town regulations.

5.2 Camping.

5.2.1 By April 26, 2013, at 5:00 p.m., BLUEGRASS shall provide the Parks & Recreation Director with written agreements with public and private landowners for camping by FESTIVAL patrons and a camping plan. The camping plan shall include, but not be limited to, fees, a map of all areas to be used, camper capacity, and special provisions such as sanitation, security, and so forth. If BLUEGRASS is unable to provide written documentation for adequate camping facilities for the estimated crowd size, then BLUEGRASS and TELLURIDE shall meet by May 13, 2013, to determine the new maximum crowd size.

5.2.2 BLUEGRASS shall order and pay for and TELLURIDE shall receive from manufacturer, the necessary number of camping wristbands for Town Park. BLUEGRASS shall provide, for TELLURIDE'S review and approval, a list of the number, color, and types of wristbands necessary no later than 5:00 p.m., April 5, 2013. The wristbands shall be received by TELLURIDE and made available to BLUEGRASS by June 10, 2013.

5.2.3 BLUEGRASS shall make periodic announcements stating that it is illegal to camp on private or public land without the owner's consent (see Attachment C, Section 11-4-60).

5.2.4 Only charcoal or approved camp stove cooking fires are permitted, and only in metal containers designed for that purpose. Wood fires are not allowed. BLUEGRASS shall post notices in the Town Park Campground to this effect, and include the same notice in advertising brochures and other appropriate printed material. Any damage to the plant life or facilities within the campground shall become the responsibility of BLUEGRASS for replacement.

5.2.5 BLUEGRASS agrees that the Town Park Campground and Zone 1 of the Bear Creek Preserve shall be limited to 1,200 persons, (no more than 600 in Zone 1), 35 vehicles (including trailers), and ten (10) recreational vehicles. Warner Field camping shall be limited to 400 persons per day from 8:00 a.m. Wednesday, June 19 to noon, Monday, June 24. Motorized vehicles, trailers, and so forth are not allowed in Zone 1 or on Warner Field.

5.2.6 BLUEGRASS shall provide, for TELLURIDE's review and approval, a camping plan for Town Park Lot A, beginning no earlier than Wednesday, June 19 at 8:00 a.m. and the backstage/vending area (southwest of stage) no later than 5:00 p.m., April 26, 2013. The camping plan shall include, but not be limited to, camper and vehicle capacity and identification, vehicle types, fees, user rules, a map of all areas to be used, fencing, security, and sanitation.

5.2.7 Overnight camping shall only be allowed by BLUEGRASS at designated facilities, and more specifically, shall not be allowed at the secondary gate or anywhere on the festival premises. BLUEGRASS shall ensure an orderly conduct throughout the night and when the gates are open for the morning performance. BLUEGRASS shall submit a plan and policy by April 26, 2013 for organizing and supervising overnight festival lines.

5.3 Sanitation

5.3.1 BLUEGRASS shall provide and maintain adequate portable sanitation facilities within the PREMISE, at all designated parking areas within the Town limits, and at strategic locations within and around town.

5.3.2 All portable sanitation facilities shall be placed by BLUEGRASS pursuant to requirements reasonably set forth by the Parks & Recreation Director (see Attachment C, 11-4-60). A copy of an adequate sanitation service contract and plan for placement of facilities shall be provided to TELLURIDE by 5:00 p.m., April 26, 2013. All sanitation facilities shall be in place no later than 5:00 p.m. on June 19, 2013. BLUEGRASS shall remove all waste generated to a disposal location in accordance with applicable State laws. All sanitation facilities shall be removed no later than 5:00 p.m., June 25, 2013.

5.3.3 At the request of BLUEGRASS, TELLURIDE will allow the disposal of portable toilet waste by BLUEGRASS or its subcontractor at the Telluride Wastewater Treatment Plant. BLUEGRASS must notify TELLURIDE by April 26, 2013, at 5:00 p.m. to engage in this service. BLUEGRASS further agrees to distribute Town Park Campground admissions to all sanitation contractor employees.

5.4 Parking.

5.4.1 By no later than 5:00 p.m., April 26, 2013, BLUEGRASS shall provide to the Parks & Recreation Director a detailed written parking and traffic control plan which shall include a map designating parking areas for cars, motorcycles, bicycles, recreational vehicles, order in which parking lots will be utilized, number of staff at each location, location of lights and barricades, script of instructions for motorists, and so forth. The Parking Plan shall include transportation operations on Colorado Avenue from Town Park to the intersection with Highway 145 and Lawson Hill. The Parking Plan shall also include a management plan for the Post Office parking lot, located at the corner of Pacific Ave. and Willow St.

2013 Telluride Bluegrass Festival Agreement

5.4.2 The Parking Plan shall include a schedule of volunteer and paid staff shifts, locations and responsibilities.

5.4.3 BLUEGRASS shall include statements in informational brochures regarding TELLURIDE and FESTIVAL parking and towing policies.

5.4.4 By April 26, 2013, no later than 5:00 p.m., BLUEGRASS shall provide written agreements with public and private landowners on whose land cars will be parked. Each agreement shall include the total number of cars allowed to park at each location.

5.4.5 If TELLURIDE determines the total number of parking spaces acquired for Festival use are inadequate, then BLUEGRASS and TELLURIDE shall meet by May 13, 2013, to determine the new maximum crowd size.

5.4.6 BLUEGRASS shall provide lighting at all parking and campground entrances and at all barricades. At least one barricade shall be staffed continuously from no later than 10:00 a.m., June 19, 2013, to 2:00 a.m., June 24, 2013. A penalty of \$100 per hour will be assessed to BLUEGRASS for not complying with the stated hours of operation at the barricade. See Attachment F for barricade set-up plan.

5.4.7 TELLURIDE will reasonably cooperate and assist BLUEGRASS in its efforts to secure the use of private and public lands for camping and parking during the FESTIVAL.

5.4.8 BLUEGRASS shall include in brochures and posted notices that dogs and other pets are not allowed in Town camping areas during the FESTIVAL and that ticket and camping privileges will be taken away from violators.

5.4.9 BLUEGRASS agrees to provide a coordination meeting for parking personnel to discuss responsibilities, policies, temporary pass system, instructions and information given to motorists, and so forth.

5.5 Transportation.

5.5.1 BLUEGRASS agrees to contract for transportation services, including but not limited to bus service from all designated parking lots to the PREMISES, during the FESTIVAL. TELLURIDE agrees to provide in-town bus loop service to match the Gondola schedule June 20-23, 2013.

5.5.2 BLUEGRASS warrants that transportation services are an element of the special use permit required by San Miguel County for parking/camping areas in the unincorporated area of the County. The service level of all such transportation shall become the responsibility of BLUEGRASS under the San Miguel County Special Use Permit and proof of such service shall be as provided to TELLURIDE.

5.5.3 BLUEGRASS shall provide a detailed written plan including a traffic flow map, pick-up points (including Main Street stops), bus stop signs, staffing, number and type of vehicles, times of operation and insurance. The transportation plan and service provider contract, including those provided by the Town of Telluride, shall be submitted to the Parks & Recreation Director for approval no later than 5:00 p.m., April 26, 2013.

5.5.4 BLUEGRASS also agrees to make periodic announcements over the public address system explaining and encouraging use of the transit system.

5.5.5 BLUEGRASS shall ensure that adequate information is available regarding bus schedules, destination and stops.

5.6 Resource Recovery.

5.6.1 BLUEGRASS shall provide for the pick-up and removal of all trash, compost, and recyclable materials on all public and private lands including public rights-of-way, the PREMISES, and all designated camping and parking areas, which results from the production of the FESTIVAL (see Attachment C, Chapter 11-4-60). A professional trash, compost, and recycle contractor, who is licensed in the State of Colorado, shall be employed by BLUEGRASS to provide all trash, composting, and recycling services.

5.6.2 Copies of adequate contracts for container placement, trash removal, compost, and recycling services for the PREMISE, public lands and rights of way (including Colorado Avenue) shall be provided to the Parks & Recreation Director no later than 5:00 p.m., April 26, 2013. BLUEGRASS shall ensure that the person(s) responsible for the FESTIVAL and post-FESTIVAL clean-up will meet with the Parks & Recreation Director prior to 5:00 p.m., June 17, 2013, to discuss clean-up standards and procedures. Containers will be emptied as needed and removed by 5:00 p.m., on Tuesday, June 25, 2013.

5.6.3 All trash pickup and removal in the Town Park Campground shall be completed no later than 3:00 p.m., Monday, June 24, 2013. All other areas shall be completed by 5:00 p.m., Tuesday, June 25, 2013. All BLUEGRASS equipment, vehicles, and trailers shall be removed from Town Park, and public rights of way no later than 12:00 p.m., Wednesday, June 26, 2013. If BLUEGRASS fails to perform as required, TELLURIDE may provide for additional clean-up services and deduct the costs from any bond provided by BLUEGRASS and/or impose a one hundred dollar (\$100) per hour penalty for failure to meet the clean-up deadlines.

5.6.4 The resource recovery service plan shall include Elks' Park and a system for recycling cardboard behind the concession area in Town Park.

5.7 Concessions

5.7.1 Subject to approval by the Parks and Recreation Director, and pursuant to Telluride Municipal Code Chapter 6-4, "Transient Merchant License", BLUEGRASS shall determine the number, type and mix of concessionaires which may operate during the FESTIVAL period. At least 20% or more of all food booths and 30% or more of all non-food merchandise booths shall be offered to San Miguel County residents. BLUEGRASS shall use due diligence to ensure that adequate notice is given to San Miguel County residents regarding deadlines and procedures to apply for booth space. Should an inadequate number of San Miguel County residents, who are qualified to operate booths, apply for booth spaces, upon notice to the Parks & Recreation Director, those booth spaces may be returned to BLUEGRASS.

2013 Telluride Bluegrass Festival Agreement

5.7.2 A written list of all concessionaires, with contact information and Telluride Business License number (if applicable), shall be provided to TELLURIDE Parks and Recreation Director no later than 5:00 p.m., April 26, 2013.

5.7.3 BLUEGRASS shall submit completed applications for all food vendors and caterers (operating on Town property) to the San Miguel County Environmental Health Officer no later than 5:00 p.m., May 20, 2013.

5.7.4 All sales of alcoholic beverages shall cease at least one hour prior to scheduled ending times for music and announcements each day of the FESTIVAL. All patrons served shall be checked for proper proof of age.

5.7.5 BLUEGRASS shall ensure that all concessions are set up completely by 9:00 a.m., June 20, 2013.

5.7.6 BLUEGRASS shall provide the proper disposal or recycling of all food waste including fat, oil, and grease pursuant to Telluride Municipal Code Section 13-1-30 (Attachment G).

5.7.6.1 BLUEGRASS is responsible for notifying all concessionaires that any vendor dumping waste on the ground will be shut down immediately for the remainder of the FESTIVAL.

5.7.6.2 BLUEGRASS shall submit a written plan and contract for services for approval no later than 5:00 p.m., April 26, 2013, including the following: a secure central location where vendors can leave their used oil in a closed container for pickup by a Waste Grease Transporter, spill containment and response plan, and a contract with a Waste Grease Transporter that includes daily pickup at a specified time to minimize problems with wildlife and the cleaning out of grease traps at the vendor and backstage sinks at the end of the festival.

5.7.7 BLUEGRASS shall ensure that concession clean up is completed by 5:00 p.m., June 26, 2013. Any concessionaire that has not completely removed their concession structure and materials, and properly disposed of all food scraps, grease, and waste will be charged a fee of \$100 per hour or part thereof until all requirements are met. No concessionaire shall serve any item in glass, polystyrene, or hard plastic containers.

5.7.8 BLUEGRASS shall ensure that concessionaires not camp outside the perimeter fence. A written list of authorized concessionaires and vehicles BLUEGRASS proposes for camping behind the concessions area, and a map designating camping locations shall be provided to the Parks and Recreation Director by 5:00 p.m., April 26, 2013. There shall be no camping allowed in areas designated as wetlands.

5.7.9 That portion of the Town Park identified in any special event permit application, excepting the campground and pool, shall be designated as a licensed premise for the sale of alcohol under the liquor laws of the State of Colorado, subject to issuance of the permit by the State. BLUEGRASS shall ensure adequate security forces are provided at the entrance and secondary gates to curtail and restrict alcoholic beverages and glass containers from being transported into or out of the licensed area. BLUEGRASS shall not allow open containers of alcohol to be transported into or out of the area licensed for consumption.

2013 Telluride Bluegrass Festival Agreement

BLUEGRASS shall not allow liquor to be sold or transported into the area licensed for consumption. BLUEGRASS shall advise all FESTIVAL ticket holders, and concessionaires that no carry-in alcohol and no glass is allowed in the licensed premises and that violators will have their tickets confiscated. Just prior to, and during the FESTIVAL, advertisements shall be posted in visible places throughout the Town indicating the above-stated requirements. BLUEGRASS shall remove such posted notices no later than 5:00 p.m., on June 24, 2013.

5.7.10 BLUEGRASS shall adhere to all local and state requirements regarding business licenses, taxes, liquor licenses, vending, and special event permits and policies, unless otherwise approved by the Town Manager. ~~BLUEGRASS is required to ensure the collection, reporting and proper payment of all applicable State and local taxes.~~

5.7.11 BLUEGRASS is required to ensure the collection, reporting and proper payment of all applicable State and local taxes. BLUEGRASS shall provide a tax report and collect from vendors all applicable sales, excise, and lodging taxes. The report and taxes should be provided to the Town Finance Director by 5:00 p.m., on June 28, 2013.

5.7.12 BLUEGRASS shall require all food concessionaires and their employees (paid and volunteer) to attend a meeting with the San Miguel County Environmental Health Department Director for education regarding safe food handling procedures. BLUEGRASS agrees to obtain a letter, by June 13, 2013, from the San Miguel County Environmental Health Department stating approval of food handling procedures and sanitary facility management for the FESTIVAL.

5.7.13 Each food concessionaire shall be required to have a fully functional five-pound (5 lb.) fire extinguisher on site, and tie-downs for all propane tanks (must be approved by Telluride Fire Protection District).

5.7.14 BLUEGRASS agrees to staff the Concessions Area Wash Stand from 10:00 a.m. to 10:00 p.m. June 20-23, 2013 to ensure that proper management procedures, as determined by the San Miguel County Environmental Health Officer, are followed. BLUEGRASS will also provide adequate soap, towels, garbage bins for towel waste and proper labeling on the sinks at the concession washing station.

5.8 Medical Services.

BLUEGRASS shall provide for adequate medical and emergency services during the FESTIVAL period (see Attachment C, Chapter 11-4-60). A written medical plan and/or contract for services shall be presented to the Parks & Recreation Director for approval no later than 5:00 p.m., April 26, 2013.

5.9 Signs.

5.9.1 BLUEGRASS shall be responsible for providing adequate signs pertaining to parking, transit stops, vehicular access and flow, camping regulations, and so forth. All signs shall be completed and erected by 5:00 p.m., June 20, 2013, to the satisfaction of the Parks & Recreation Director.

2013 Telluride Bluegrass Festival Agreement

5.9.2 BLUEGRASS shall submit a signage plan to the Parks and Recreation Director by 5:00 p.m., April 26, 2013, including those placed on or off the premise, on both public and private property.

5.10 Town Equipment

All TELLURIDE equipment, including picnic tables, used by BLUEGRASS during the FESTIVAL period shall be returned in good repair to its pre-FESTIVAL location by BLUEGRASS by 5:00 p.m., June 25, 2013.

5.11 Town Staff Identification.

BLUEGRASS will provide the Mayor and Town Council with 4-day guest admissions (7 total), and 4-day all access admissions shall be provided to the Town Manager, Finance Director, two (2) for the Parks & Recreation Department, seven (7) for the Telluride Fire Protection District, one (1) Building Official, two (2) Environmental Health Inspector, one (1) Electrical Inspector. 4-day guest admissions shall be provided for sixteen (16) Park Aides and Public Works employees, and thirty-five (35) officers of the Town Marshal's Department. BLUEGRASS shall provide appropriate wristbands for all staff needing to access Town Park Campground, and the concessions area. BLUEGRASS shall provide the San Miguel County Sheriff with ten (10) daily guest admissions for each day of the festival.

5.12 Business License.

BLUEGRASS shall obtain a Telluride business license at such time as it establishes its Telluride office, and shall meet all requirements of Chapter 6-1-40 of the Telluride Municipal Code. BLUEGRASS agrees to either obtain a single Town of Telluride Business License that will cover any and all not already TELLURIDE licensed sub-contractors working for the festival or in attendance as a vendor. Business license fees are determined by the number of employees, subcontractors and vendors. provide a list of all sub-contractors (including contact information) and inform sub-contractors of Town of Telluride's business license requirements.

5.13 San Miguel County Special Use Permit.

BLUEGRASS and TELLURIDE acknowledge that in 2013 a special use permit shall be required by San Miguel County for BLUEGRASS to use certain private and public lands for parking and camping in the unincorporated area of the County.

5.13.1 BLUEGRASS and TELLURIDE agree that if there is any indication the permit will not be granted by April 26, 2013, or in a manner which will not support a maximum crowd size of 12,000 admissions, BLUEGRASS and TELLURIDE shall meet by May 13, 2013 to discuss the status of the permit application and/or any maximum crowd size limitation and determine what actions should be taken by BLUEGRASS and TELLURIDE, if any, to control admission to the FESTIVAL.

6. Admissions Fee

BLUEGRASS shall be responsible for collecting an admissions fee under the provisions of the Telluride Municipal Code, Chapter 6-3 (see Attachment B).

2013 Telluride Bluegrass Festival Agreement

6.1 BLUEGRASS, at its option, may distribute up to sixteen hundred (1,600) complimentary tickets per day (June 20, 21, 22, and 23) to persons identified in Telluride Municipal Code Section 11-4-30 which tickets will be exempt from the Two Dollar and Fifty cent (\$2.50) admissions fee (see Attachment B, Chapter 6-3-40).

6.2 Additional complimentary tickets and any discounted tickets distributed beyond the 1,600 per day limit shall be subject to the Two Dollar and Fifty-cent (\$2.50) admissions fee. Within this limit, the following classes of complimentary tickets shall be exempt from the admissions fee charge: BLUEGRASS guests, working TELLURIDE staff, concessionaires, crowd management, stage crew, production staff and performers.

6.3 BLUEGRASS shall be responsible to TELLURIDE for wristband security. All persons, ages five and up, including guests, staff, volunteers, etc., shall be required to wear a wristband in order to enter the FESTIVAL premises. All persons, including BLUEGRASS personnel, found inside the FESTIVAL premises without the proper wristband shall be immediately evicted. All children ages five through eleven must be accompanied by a paying adult to receive a wristband.

6.4 TELLURIDE shall approve the order and receive from manufacturer, and BLUEGRASS shall pay for the necessary number of wristbands. BLUEGRASS shall provide for TELLURIDE's review and approval a list of the number, color, and types of wristbands necessary no later than 5:00 p.m., April 5, 2013. The wristbands shall be received by TELLURIDE and made available to BLUEGRASS by June 10, 2013.

6.5 A written procedure for validating all counts and for replacing broken, lost or stolen wristbands, shall be delivered to TELLURIDE's Finance Director no later than April 26, 2013. Any tickets lost, stolen or missing as a result of negligence by BLUEGRASS shall be considered as sold for purposes of computing admissions. Complimentary admissions shall be properly documented and deducted separately by specific quantities from the reports of admissions.

6.6 No later than 5:00 p.m., Thursday, June 27, 2013, BLUEGRASS shall certify in writing to TELLURIDE a complete and accurate list of all wristbands distributed, sold, voided, collected or remaining after the FESTIVAL, together with any other evidence required by the Finance Director, to establish the actual number of admissions.

6.7 Each wristband distributed shall have the amount of fee levied printed on the face or back (see Attachment B, Section 6-3-80). Documentation and remittance of the entire fee amount due shall be paid to TELLURIDE within thirty (30) days and according to Section 6-3-50.

6.8 BLUEGRASS expressly understands that nothing in this Agreement shall be construed as a modification of the requirement that BLUEGRASS limit ticket sales to 10,400 persons per day and total admittance, including complimentary and free admissions, to 12,000 people.

7. Indemnification and Insurance

7.1 BLUEGRASS agrees to indemnify the Town of Telluride, its officers, agents and employees, and to hold them harmless against any and all claims, actions, demands or

2013 Telluride Bluegrass Festival Agreement

liabilities, including attorney fees and court costs, for injury, death, damage or loss to person(s) or property arising out of or directly or indirectly resulting from BLUEGRASS' actions or omissions in connection with the conduct of the FESTIVAL.

7.2. BLUEGRASS shall obtain general liability insurance coverage in an amount and form acceptable to the Parks and Recreation Director, naming TELLURIDE as an additional insured and TELLURIDE and its officers, agents and employees against any and all liability and damages which may arise out of or directly or indirectly result from the conduct of the FESTIVAL. The policy dates shall include the entire range of dates for which Town property is used. The minimum limits and requirements of the coverage shall include:

- * \$1,000,000 per occurrence primary coverage, and \$2,000,000 annual aggregate;
- * 30 days notice of cancellation;
- * host and general liquor liability insurance in the same amounts listed above;
- * \$1,000,000 personal and advertising injury coverage; and
- * \$50,000 fire damage.

BLUEGRASS shall provide to TELLURIDE proof of Comprehensive Automobile Liability insurance for any private motor vehicles owned by BLUEGRASS or its officers, agents, or employees that are used as part of the FESTIVAL.

The insurance policy shall provide that it is primary insurance and that its coverage will apply prior to utilization of TELLURIDE's general liability coverage (see Attachment C, Section 11-4-50).

7.3 In addition, BLUEGRASS shall ensure that any beer or wine concessionaire, prior to being allowed to operate in Town Park, shall have acquired an alcohol liability insurance policy providing coverage limits equivalent to that set forth above for general liability insurance, and also naming TELLURIDE and its officers, agents, and employees as additional insured (see Attachment C, Section 11-4-50).

7.4 Written evidence of such general liability and alcohol liability policies and coverage, shall be provided to the Parks & Recreation Director no later than April 26, 2013, at 5:00 p.m. All insurance policies shall be non-cancelable without thirty (30) days prior notice to TELLURIDE (see Attachment C, Chapter 11-4-50). TELLURIDE reserves the right to request and receive a certified copy of any policy and any endorsement thereto required by this Agreement.

7.5 The parties hereto understand and agree that TELLURIDE 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., 10 C.R.S., as from time to time amended, or otherwise available to TELLURIDE, its officers, agents, or employees.

7.6 BLUEGRASS shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to paragraph 7.1 of this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, duration, or types.

8. Cancellation of Festival

8.1 In the event the FESTIVAL is canceled, in whole or in part, for any reason beyond either party's control, neither party shall be liable to the other for any lost profits, lost revenues or consequential damages.

8.2 The FESTIVAL may be canceled by the Town Manager if the terms of this Agreement are not substantially fulfilled in a timely manner (see Attachment C, Chapter 11-4-60), or in the event of an unforeseen catastrophic event.

8.3 In the event of cancellation, TELLURIDE shall remit to BLUEGRASS all bonds minus any FESTIVAL related expenditure incurred by TELLURIDE. If BLUEGRASS cancels the FESTIVAL after TELLURIDE has dedicated resources toward production and notice of such cancellation is not given prior to May 23, 2013, BLUEGRASS shall pay TELLURIDE five thousand dollars (\$5,000) as liquidated damages within 30 days of the previously scheduled production date.

9. Release of Liability

9.1 TELLURIDE assumes no responsibility whatsoever for any non-municipal property placed in said PREMISES. TELLURIDE is hereby expressly released and discharged from any and all liabilities for any loss, injury or damages to any person or property of BLUEGRASS, its employees, agents, and concessionaires or of any performer or spectator, that may be sustained by reason of the occupancy of the PREMISES under this License Agreement, except for the sole negligence of TELLURIDE or its officers, agents, employees.

9.2 In the event the PREMISES or any part thereof is damaged by fire or other natural causes or if for any other reason, including strikes, failure of utilities, which results in cancellation of the FESTIVAL, or which, in the judgment of the Town Manager and Mayor, renders the fulfillment of this Agreement by TELLURIDE impossible, BLUEGRASS hereby expressly releases and discharges TELLURIDE and its officers, agents and employees from any and all demands, claims, liabilities, and causes of actions arising from any of the causes aforesaid.

10. Authority to Contract

TELLURIDE and BLUEGRASS represent that each has the power to enter into this Agreement and to grant or receive, as the case may be, the permits and obligations herein granted or assumed. Each represents that it does not require the consent of any other person or entity (governmental or otherwise), and that this Agreement constitutes a valid and binding obligation of TELLURIDE and BLUEGRASS, enforceable against the respective parties in accordance with the terms hereof.

11. Hiring of Local Labor

11.1 BLUEGRASS agrees to hire at least 50% of all its volunteers and paid staff from qualified persons residing in San Miguel County. Should BLUEGRASS not be able to hire or retain at least 50% of its labor force from San Miguel County residents, BLUEGRASS may petition the Parks and Recreation Director to reduce this percentage.

2013 Telluride Bluegrass Festival Agreement

11.2 BLUEGRASS shall provide for a local employment center acceptable to the Parks and Recreation Director to be located in the Town of Telluride by no later than May 23, 2013.

12. Bonding

BLUEGRASS shall deposit a bond or other security instrument, in a form acceptable to TELLURIDE and payable to the Town of Telluride, in the amount of \$100,000.00 (see Attachment C, Section 11-4-60.C). The bond, or other security instrument, is intended to secure payment of actual admissions taxes, damages, repairs, clean-up, rental fees, or any other payment or penalty due TELLURIDE under the terms of this Agreement. The bond is due at the Town of Telluride Finance Director's office no later than 5:00 p.m., May 23, 2013.

13. Notices

Any notice to either party under this Agreement shall be in writing, shall be effective on the earlier of (1) the date when received by such party, or (2) the date which is four (4) days after mailing, postage prepaid, by certified mail, return receipt requested, to the address of such party set forth herein, or to such other address as shall be specified by such party from time to time, or (3) acceptance of hand-delivery.

BLUEGRASS: Telluride Bluegrass Festival Inc.
Craig Ferguson, President
Post Office Box 769
Lyons, CO 80540

TELLURIDE: Town Manager
Town of Telluride
P. O. Box 397
Telluride, CO 81435

COPY TO: Parks & Recreation Director
Town of Telluride
P.O. Box 397
Telluride, CO 81435

14. Disputes

In the event that suit is brought (or arbitration instituted) or any attorney is retained or employed by any party to this Agreement to enforce the terms of this Agreement, to collect any money due hereunder, or to collect any money damages for breach thereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorney's fees or the reasonable value of salaried attorney's time incurred in connection therewith. Venue for any action of proceeding that arises out of any dispute under this agreement shall be in San Miguel County, Colorado.

15. Construction of this Agreement

The parties agree that this agreement was drafted by all the parties hereto and shall not, in the event of any vagueness or ambiguity in any provision hereof, be construed or interpreted against any party hereto.

16. Names

Both TELLURIDE and BLUEGRASS warrant that they will abide by all applicable federal and state law pertaining to use of names, trademarks, and copyrights in connection with the FESTIVAL. Both parties agree to refer to the FESTIVAL in official announcements and advertising. TELLURIDE does not claim any right or interest in the trade name "Telluride Bluegrass Festival".

17. Media Announcements

Announcements to the news media concerning cancellation of the FESTIVAL or termination of ticket sales, or announcements of similar impact, shall not be made by either party without prior consultation with the other party.

18. Additional Requirements

Except as otherwise provided for herein, the Parks and Recreation Director or his/her designee shall be the sole representative of TELLURIDE responsible for administering the provisions of this Agreement. Except as otherwise provided herein, the BLUEGRASS Festival Director or his/her designee shall be the sole representative of BLUEGRASS responsible for administering the provisions of this Agreement.

18.1 BLUEGRASS agrees that it will abide by any additional requirements as may be found necessary by the Parks and Recreation Director or his/her designee to ensure the health and safety of FESTIVAL visitors and the public.

18.2 BLUEGRASS agrees to pay for all damages to public or private property, arising out of or resulting from BLUEGRASS' actions or omissions in connection with the conduct of the FESTIVAL.

19. Conduct of the Festival

In determining whether or not BLUEGRASS has substantially fulfilled the requirements of this Agreement, The Town Manager, or designee, shall use the following criteria:

- staging, setup, breakdown and transport of FESTIVAL equipment;
- sanitation waste and trash, compost, and recyclable materials disposal, and clean-up;
- damage mitigation and timely payment of damage fees, penalty fees, and expenses;
- campground regulations;
- crowd management in the PREMISES;
- noise control;
- parking and traffic control management;
- transportation services;
- ticket sales and negative advertising;

2013 Telluride Bluegrass Festival Agreement

- concession management;
- restriction of alcohol and glass carry-in (and carry-out from) the licensed PREMISES;
- tax and fee collection, and timely payment of taxes and fees;
- availability of medical and emergency services;
- FESTIVAL cancellation (if required) by BLUEGRASS;
- compliance with this contract or additional requirements of the Town Manager.

20. Adequacy of Services

Approval by TELLURIDE of camping, resource recovery, sanitation, medical emergency, or other service contracts shall not be construed to relieve BLUEGRASS from its responsibility to TELLURIDE to comply with such contracts or this Agreement to the extent that the contracted services are inadequate to meet BLUEGRASS' obligations under this Agreement.

21. Approval of Plans

21.1 Approval by TELLURIDE or its agents of BLUEGRASS plans or agreements for parking, transportation, resource recovery, sanitation, emergency medical services, and other items required by this Agreement shall not constitute an admission of sufficiency of such plans for FESTIVAL crowds in excess of 12,000 persons per day, nor shall TELLURIDE approval relieve BLUEGRASS of any liability for costs necessarily incurred.

21.2 Whenever approval of such plans is required by this Agreement, the plans shall be evaluated with regard to their sufficiency in reducing or avoiding impacts to TELLURIDE resulting from the production of the FESTIVAL. Any such approval shall not be unreasonably withheld, and non-approval by the Parks and Recreation Director shall be subject to immediate appeal to the Town Manager.

22. Entire Agreement

This Agreement constitutes the sole and entire Agreement between the parties hereto. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the parties hereto with the same formality as this Agreement. No subsequent oral agreement shall have any validity whatsoever.

2013 Telluride Bluegrass Festival Agreement


23. Facsimile Transmission

It is agreed that signature by facsimile transmission shall be valid and binding. Both parties shall complete original signatures within five (5) working days.

24. Signatures

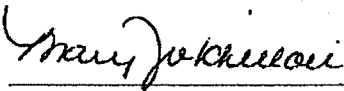
TOWN OF TELLURIDE :

ATTEST:



Greg Clifton
Town Manager

11/28/13
Date

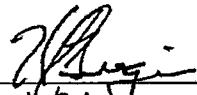


Mary Jo Schillaci
Town Clerk

11/28/13
Date

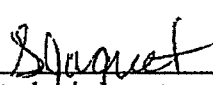
APPROVED AS TO FORM:

APPROVED:



Kevin Geiger
Town Attorney

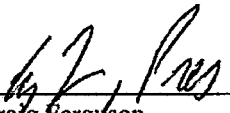
12/17/2012
Date



Stephanie Jaquet
Parks & Recreation Director

1/28/13
Date

TELLURIDE BLUEGRASS FESTIVAL, INC.



Craig Ferguson,
President

1/22/13
Date



TOWN COUNCIL REPORT

To: Honorable Mayor and Town Council
From: Preston Neill, Executive Assistant to the Town Manager
Date: September 21, 2016
Agenda Topic: Town Code Requirement for Gift Reporting and Disclosure Report

The Town Code of Ethics requires disclosure of any gifts received which exceed \$50 in value. "Gifts" includes any present, or offer of future, individual gift, favor, loan, service or thing of value in excess of \$50.00 and such gift is offered due to such person's status as a Town Officer then such Officer shall report such gift and the estimated value to the Town Clerk. The Avon Municipal Code requires the Town Clerk to disclose through a report any gifts offered to any Town Officer per Section 2.30.170 of the Town Code of Ethics.

Please find attached the Town Clerk Gift Reporting Disclosure Report for September 2016, which lists seven (7) day passes to the Lake Street Union Yoga Festival.

Town Council is not required to take any action; however, any Town Council member may request Council consideration of a reported gift to determine whether such gift constitutes a conflict of interest.

Town of Avon
Town Clerk Disclosure Report



In accordance with §7, Article XXIX of the Colorado Constitution and Section 2.30.170, Chapter 2.30 Avon Town Code of Ethics of the Avon Municipal Code, and any other applicable Avon Home Rule Charter provision, ordinance or resolution adopted by the Town of Avon, I, Debbie Hoppe, Town Clerk for Town of Avon, submit the following list of such gifts reported to be received by officers of the Town of Avon:

1. Lake Street Union Yoga Festival Day Passes – The Town Council received seven (7) day passes to the Lake Street Union Yoga Festival on September 17th. Each member of the Council received one (1) pass for the purpose of reviewing the event for production and for any future funding request. Each pass is valued at \$50.00.

Submitted to the Avon Town Council on September 21, 2016.

Debbie Hoppe, Town Clerk