

**ORDINANCE NO. 2017-02**

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO APPROVING A MAJOR PUD AMENDMENT TO THE SEE FOREVER PLAZA  
III PLANNED UNIT DEVELOPMENT TO ALLOW FOR: (A) THE CONVERSION OF THE  
PRESCRIBED RESTAURANT SPACE TO RESIDENTIAL CONDOMINIUM; (B) THE  
INCORPORATION OF A PORTION OF LOTS OS3J AND OS3L INTO THE PUD; AND (C) A  
DENSITY TRANSFER TO ACCOMPLISH THE FOREGOING ON LOT 105R1; AND THE  
REZONING OF A PORTION OF LOTS OS3J AND OS3L FROM FULL USE ACTIVE OPEN  
SPACE TO VILLAGE CENTER**

**RECITALS**

- A. SFV Mountain View, LLC, (“**Owner**”) has submitted to the Town a detailed major Planned Unit Development amendment development application (“**Application**”) pursuant to the requirements of the Community Development Code (“**CDC**”).
- B. The Town owns certain real property described as Lots OS3J and OS3L that are collectively referred to as the “**Town Property**”.
- C. The Owner purchased (1) the COM-1 Unit area, See Forever at the Peaks as shown on the recorded plat at Reception Number 379984 (“**COM-1 Space**”) and (2) Special Declarant rights (collectively “**Development Rights**”) as provided for in the Declaration of See Forever Village at the Peaks as amended (collectively “**Declaration**”) and the Condominium Map of the See Forever Village at the Peaks as amended (collectively the “**Map**”). The COM-1 space and the Development Rights are collectively referred to as the “**Owner Property**”.
- D. The Town Property and Owner Property are collectively referred to as the “**Property**”.
- E. On July 21, 2016 the Town Council authorized staff to initiate the Major PUD Amendment per Section 17.4.12 (N) 3.a.iii of the CDC to allow the Owner to apply for an amendment to the Lot 105R PUD.
- F. On May 14, 2002 the Town Council approved the rezone, replat and density transfer for Lots 83R, 84R, 85R and 86R and 105R1 by Resolution No. 2002-0514-12 recorded at Reception No. 350619 in the records of the San Miguel County Clerk and Recorder (“**Public Records**”). The collective action had the effect of re-subdividing Lots 83R, 84R, 85R and 86R into new Lots OS3J, OS3K and OS3L and zoning them as Active Open Space; and rezoning Lot 105R1 to contain 4,066 square feet of commercial space (collectively, the “**Original Replat and Rezone**”).
- G. The Final PUD for See Forever Plaza III was approved by Resolution No. 2002-0514-11 as recorded at Reception No. 350630 in the Public Records and wherein required a restaurant restricted by deed on Lot 105R1 (“**Final PUD**”).
- H. The Town and See Forever Ventures, LLC entered into that certain Development Agreement for See Forever Plaza Phase III Planned Unit Development Agreement, recorded on August 1, 2002 at Reception No. 350631 in the Public Records and wherein required certain Community

Purposes including the provision of a restaurant within Lot 105R1 (“**Agreement**”).

- I. The First Amendment to the Agreement was recorded in the Public Records on December 1, 2004 at Reception No. 370720 (“**First Amendment to the Agreement**”).
- J. The public hearings referred to below were preceded by notice as required by the CDC Public Hearing Noticing Requirements, including but not limited to notification of all property owners within 400 feet of the Property, posting of a sign and posting on the applicable agendas.
- K. The DRB considered the Application, testimony and public comment and recommended to the Town Council that the Application be approved with conditions pursuant to the requirement of the CDC at a public hearing held on October 6, 2016.
- L. The Town Council considered the Application, testimony and public comment and approved the Application with conditions pursuant to the requirement of the CDC at a public meetings held on October 20, 2016, November 17, 2016 and December 8, 2016 and at a public hearing held on February 16, 2017.
- M. The Application approval and the Second Amended and Restated PUD Development Agreement attached hereto as Exhibit A (“**PUD Development Agreement**”) permits the conversion of the required restaurant space and the garden level lobby space to residential condominium; incorporates a portion of Lots OS3J and OS3L described as the “Deck Expansion Area” per the approved replat of Lot 105R2, which are hereby rezoned from Full Use Active Open Space to Village Center; removes the commercial zoning from the Com-1 Space and amends the Community Purposes of the Agreement with Replacement Community Benefits.
- N. The Application approval also removes the deed restriction which is Exhibit E of the Agreement, which requires at least 4,000 square feet of restaurant space to be included in the community.
- O. The PUD Development Agreement requires a density transfer of one condominium unit of density to be transferred to Lot 105R2 replat. Owner shall provide a bill of sale acquiring a density bank certificate to the Town showing its ownership of one (1) condominium unit with three (3) person equivalents of density unit prior to executing the PUD Development Agreement.
- P. The Application rezones a portion of Tracts OS3L and OS3J located directly below the deck of Unit A101, and as described on the proposed See Forever Plaza III – Replat No. 3 attached hereto as Exhibit B (“**Proposed Replat**”) from Full Use Active Open Space to Village Center.
- Q. The use of the COM-1 space shall be limited to a general common element for use by the HOA as an amenity space for social gatherings and a concierge or similar uses. No commercial uses shall be allowed.
- R. On February 16, 2017 a resolution was approved by the See Forever Village at the Peaks Homeowners Association, Inc, (“**Association**”) approving the Application and setting forth the conditions of an agreement between the Owner and Association on the development and use of the Property.
- S. The Town Council approved the Application with the following findings:

1. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan because, without limitation:
  - a. The additional condominium will be included into the See Forever rental pool creating an additional hotbed to the Village Center.
  - b. The additional unit will replace vacant space and will infuse vibrancy into the Mountain Village Center.
  - c. Required community benefits will provide for additional signage, wayfinding and improvements to the plaza.
2. The proposed PUD is consistent with the underlying zone district and zoning designations on the site or to be applied to the site because, without limitation:
  - a. The uses are permitted in the Village Center Zone District.
  - b. The proposed rezoning complies with the zoning designations on the property; the density limitation; platted open space requirements and lot coverage requirements outlined in the Zoning Regulations.
3. The development proposed for the PUD represents a creative approach to the development, use of land and related facilities to produce a better development than would otherwise be possible and will provide amenities for residents of the PUD and the public in general because, without limitation:
  - a. The proposed restaurant is not economically viable due to its location and land use changes that have occurred since its requirement.
  - b. The new replacement community benefits may provide additional amenities for residents.
  - c. The PUD will continue to provide for the community benefits for the general public as outlined in the PUD Agreement.
4. The proposed PUD is consistent with and furthers the PUD purposes and intent because, without limitation:
  - a. It will allow for flexibility, creativity and innovation in land use planning and project design.
  - b. The original PUD community benefits will continue to be provided.
  - c. The amendment furthers the land use principles of the Comprehensive Plan.
  - d. Efficient land use is being recognized with the addition of a feasible residential land use.
5. The proposed PUD amendment meets the PUD general standards contained in CDC section 17.4.12(I), including but not limited to the authority to initiate a PUD amendment, landscaping and buffering and adequate infrastructure.
6. The PUD provides adequate community benefits including the funding of landscape maintenance, signage or additional amenities for the plaza; hotbed benefit and the reduction of maintenance responsibilities for the Town.
7. Adequate public facilities and services are available to serve the intended land uses because, without limitation:
  - a. Police protection and water and sewer services will be provided by the Town.
  - b. Fire protection will be provided by the Telluride Fire Protection District.
8. The proposed rezoning will not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion as adequate vehicular and pedestrian improvements are in place.

9. The proposed PUD meets all applicable Town regulations and standards except for the variation noted herein.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council approves the Application and the draft PUD development agreement as set forth in Exhibit A, subject to the conditions set forth in Section 1 below.

### **Section 1. Conditions of Approval**

1. The Mayor is authorized to review and approve the final PUD Development Agreement and other legal instruments as set forth in the final PUD Development Agreement which may be required to be amended concurrently with the PUD.
2. Owner shall provide a certificate to the Town of ownership of the density unit prior to executing the PUD Development Agreement.
3. The Town consents to and the Owner shall implement the conditions of the resolution of the Association, approved on February 16, 2017 and effectuate any of the approvals set forth herein and to execute any of the legal instruments which are contemplated to be amended by the PUD Development Agreement.
4. Once the deed restriction termination for Exhibit E of the Agreement is executed by the Town, Owner shall provide a fully executed deed restriction termination by TSG, which is also a party to the deed restriction set forth in Exhibit E of the Agreement, to the Town prior to recordation in the Official Records.
5. Owner shall provide for staff approval an easement in a form acceptable to the Town Attorney's office, for the exclusive use of the upper Observation Area as described per Reception No. 346331; and relocate the telescope to the public plaza as approved by staff. Such easement shall include the obligation of the Owner to pay for all maintenance of the upper Observation Area including but not limited to snowmelt and related costs.
6. The condominium map amendment required herein, shall designate the four parking spaces currently designated as commercial general common elements as follows: one parking space designated for the new residential unit, one parking spaces designated as general common elements for the HOA's benefit and two individual parking units.
7. The Owner shall be responsible for obtaining an agreement in a form acceptable to the Town Attorney's office requiring the owner of Lot 114 to pay for all costs associated with the 442 square feet of snow melted walkway leading to Lot 114.

### **Section 2. Ordinance Effect**

- A. This Ordinance shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- B. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

### **Section 3. Severability**

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Ordinance.

**Section 4. Effective Date**

This Ordinance shall become effective on March 18, 2017.

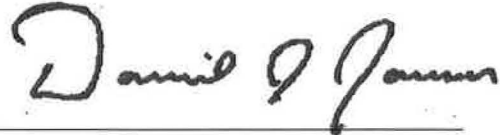
**Section 5. Public Hearing**

A public hearing on this Ordinance was held on the 16<sup>th</sup> day of February, 2017 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

**INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 8th day of December, 2016.**


**TOWN OF MOUNTAIN VILLAGE**

**TOWN OF MOUNTAIN VILLAGE,  
COLORADO, A HOME-RULE  
MUNICIPALITY**



By: \_\_\_\_\_  
Dan Jansen, Mayor

ATTEST:

  
\_\_\_\_\_  
Jackie Kennefick, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village,  
Colorado this 16<sup>th</sup> day of February, 2017.**


**TOWN OF MOUNTAIN VILLAGE**

**TOWN OF MOUNTAIN VILLAGE,  
COLORADO, A HOME-RULE  
MUNICIPALITY**



By: \_\_\_\_\_  
Dan Jansen, Mayor

ATTEST:

  
\_\_\_\_\_  
Jackie Kennefick, Town Clerk

Approved As To Form:

  
\_\_\_\_\_  
Jim Mahoney, Assistant Town Attorney

I, Jackie Kennefick, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No.2017-02 ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on December 8, 2016, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor			X	
Cath Jett			X	
Laila Benitez		X		
Dan Caton	X			
Michelle Sherry	X			
Martin McKinley, Mayor Pro Tem	X			
Bruce MacIntire	X			

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on December 18, 2016 in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on February 16, 2017. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

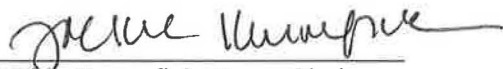
Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor	X			
Cath Jett			X	
Laila Benitez	X			
Dan Caton	X			
Michelle Sherry	X			
Martin McKinley, Mayor Pro Tem	X			
Bruce MacIntire	X			

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 30<sup>th</sup> day of March, 2017.



(SEAL)

  
 Jackie Kennefick, Town Clerk

**Exhibit A: PUD Agreement**



**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR SEE FOREVER  
PLAZA PHASE III PLANNED UNIT DEVELOPMENT**

This Second Amendment to the Development Agreement for See Forever Plaza Phase III Planned Unit Development (“**Second Amendment to the Agreement**”) is entered into and made effective this \_\_\_\_ day of March, 2017 by the Town of Mountain Village, a home rule municipality and political subdivision of the State of Colorado (“**Town**”) and SFV Mountain View, LLC, a Colorado limited liability company (“**Owner**”). The Town and the Owner are collectively referred to as the “**Parties**”.

**1. RECITALS**

- 1.1.** The Town and See Forever Ventures, LLC entered into that certain Development Agreement for See Forever Plaza Phase III Planned Unit Development Agreement, recorded in the office of the Clerk and Recorder of San Miguel County (the “**Official Records**”) on August 1, 2002 at Reception No. 350631 (“**Agreement**”).
- 1.2.** The First Amendment to the Agreement was recorded in the Official Records on December 1, 2004 at Reception No. 370720 (“**First Amendment to the Agreement**”).
- 1.3.** The Owner is the owner of certain real property and, by assignment, certain Declarant Rights described as follows:
  - 1.3.1.** Unit COM1, See Forever Village at the Peaks according to the See Forever Village at the Peaks Condominium Map recorded at Reception No. 379984, as amended and recorded at Reception No. 388699, as amended and recorded at Reception No. 401602 (“**Third Amendment to Map**”) (collectively, the “**Map**”).
  - 1.3.2.** Any and all development rights and special declarant rights relating to the See Forever Village at the Peaks that were held by SFV/CRG Ventures II, LLC, a Colorado limited liability company (collectively, “**Declarant Rights**”), pertaining to, relating to or in connection with the See Forever Village at the Peaks Condominiums per the Map and as defined and described in the Declaration of See Forever Village at the Peaks recorded at Reception No. 379983, and as amended in instruments recorded at Reception No. 380087, Reception No. 388700, Reception No. 398941, Reception No. 401601, Reception No. 424468 (collectively, the “**Declaration**”).
    - 1.3.2.1.** The Declarant Rights include without limitation all such rights referenced or described in the Map and Declaration pertaining to, relating to or in connection with Lot 105R1; and include those rights described in Article VIII of the Declaration as they relate to, be affected by or are referenced in or depicted on the following:
      - 1.3.2.1.1.** Section 9.3 and Exhibit E of the Agreement;
      - 1.3.2.1.2.** Section 2.5 and Exhibit B of the First Amendment to the Agreement;

- 1.3.2.1.3. Deed Restriction as recorded in the Official Records at Reception Nos. 350633 and 350662 (collectively, the “**Deed Restriction**”);
- 1.3.2.1.4. The depiction of “Garden Level” and Note #2 on pages 6 and 10 of the Third Amendment to the Map;
- 1.3.2.1.5. Note #2 on pages 6 and 10 of the Third Amendment to the Map as such pertains to Lobby-1 G.C.E. and Lobby-2 G.C.E. and the reference to the broader Declarant Rights;
- 1.3.2.1.6. The four (4) commercial parking spaces as depicted as “Commercial Parking Space G.C.E.” in Building A Garage referenced on page 4 of the Third Amendment to the Condo Map (“**Commercial Parking Spaces**”); and
- 1.3.2.1.7. The “Garden Level Lobby G.C.E.” and the “Service Elevator G.C.E. depicted on page 6 of the Third Amendment to the Map.

(Unit COM1 and The Declarant Rights are hereinafter collectively referred to as the “**Owner Property**”).

- 1.4. The Agreement, the First Amendment to the Agreement and the Deed Restriction required a restaurant with bar as a public or community benefit with an associated deed restriction in the areas known as the COM1 space, unplatted Garden Level shell space, Garden Level Lobby (“**Restaurant and Bar Space**”).
- 1.5. The Town is the Owner of Lots OS3J and OS3L (“**Town Property**”).
- 1.6. Subject to the terms of this Second Amendment to the Agreement, the Owner intends to construct a new residential unit within the Garden Level area in a portion of the Restaurant and Bar Space and to expand this unit under the deck of Unit A101, on the Town Property (“**Deck Expansion Area**”) and new residential unit (“**New Residential Unit**”), as described and depicted and attached hereto in Exhibit A and to re-allocate the Commercial Parking Spaces as further described herein (“**Owner Development**”).
- 1.7. The Owner Development necessitates the following development applications pursuant to the Mountain Village Community Development Code (“**CDC**”):
  - 1.7.1. A major PUD amendment to remove the restaurant community benefit and the associated deed restriction and provide Replacement Community Benefits as provided for herein;
  - 1.7.2. A major PUD amendment to allow for one (1) new residential condominium unit of density and remove permitted commercial uses (restaurant and bar) from the PUD;
  - 1.7.3. A PUD amendment to expand the boundary of the PUD to include a portion of the Town Property, which is the Deck Expansion Area;
  - 1.7.4. A rezoning of part of the Deck Expansion Area from Full Use Active Open Space to the Village Center Zone District; and

- 1.7.5. A rezoning and density transfer to transfer one condominium unit of density (three (3) person equivalents) from the density bank to the Owner Property.

(collectively, the “**Applications**”).

- 1.8. The Owner submitted materials and conducted two conceptual work sessions on May 19 and July 21, 2016.
- 1.9. On July 21, 2016, the Town Council unanimously passed a motion to authorize Town staff to initiate a major PUD amendment, with the Town being a joint applicant to accomplish the Owner Development.
- 1.10. The Town provided a written consent for the Applications subject to certain conditions, including but not limited to the Applications being reviewed and approved pursuant to the CDC.
- 1.11. The Owner submitted the Applications on August 12, 2016.
- 1.12. The Town of Mountain Village Design Review Board (“**DRB**”) conducted a public hearing on the Applications on October 6, 2016 and recommended approval to the Town Council by a vote of 3 to 1.
- 1.13. The Town of Mountain Village Town Council conducted the first reading of an ordinance approving the Applications on December 8, 2016.
- 1.14. The Town of Mountain Village Town Council conducted the second reading and public hearing approving the Applications on January 19, 2017 and approved Ordinance Number 2017-02 by a vote of 5 to 1 (“**Approving Ordinance**”).
- 1.15. The Town of Mountain Village conducted a public hearing on the resubdivision of Lot 105R1 on January 19, 2017 to include, among other things, the Deck Expansion Area within the new Lot 105R2 and approved the replat for new Lot 105R2 by Resolution No. 2017-0216-05, which Resolution was recorded in the Official Records on March \_\_, 2017 at Reception No. \_\_\_\_\_ (“**Lot 105R2 Replat**”).
- 1.16. Public notice of the public hearings referred to above was provided for in accordance with the Public Hearing Noticing Requirements set forth in the CDC, including without limitation posting of the property 15 days prior to the hearings on both Sunny Ridge Place and Mountain Village Boulevard; mailing to all property owners within Lot 105R1 and within 400 feet of Lot 105R1, OS3J and OS3L; and listing the Applications on the DRB and Town Council agendas.
- 1.17. The See Forever Village at the Peaks Homeowners Association, Inc. (“**Association**”) Executive Board adopted a resolution dated January 27, 2017 to allow for the Owner Development and implementation of the Applications with a 77% approval of the membership of the Association, subject to conditions contained therein (“**Association Resolution**”) that must be met prior to the Approving Ordinance, this Second Amendment to the Development Agreement and other legal instruments required by such agreement are recorded. The Association Resolution is on file with

the Association. The Owner is responsible for complying with the Association Resolution and the Association Resolution is not binding on the Town.

**1.18.** Owner has met all requirements, findings and conditions of approval.

**NOW THEREFORE**, the Town and the Owner desire to amend the Agreement in accordance with the terms set forth in this Second Amendment to the Agreement. For and in the consideration set forth in the Agreement, the First Amendment to the Agreement, and the premises, the mutual covenants and agreements set forth herein, the Parties agree as follows:

**2. RECITALS INCORPORATED**

**2.1.** The Recitals set forth above are incorporated herein as essential terms of this Second Amendment to the Agreement.

**3. AMENDMENTS**

**3.1. Removal of Restaurant and Bar Requirement.** The PUD community benefit to provide a restaurant and bar is hereby terminated, extinguished and removed from the Agreement and the First Amendment, subject to the Replacement Community Benefits set forth herein:

**3.1.1.** Section 3.1 of the Agreement is hereby amended to remove the provision of a restaurant restricted by deed on Lot 105R1 as defined in the Agreement. Accordingly, Section 3.1(E) of the Agreement is hereby deleted in its entirety.

**3.1.2.** The Deed Restriction, as recorded pursuant to Section 9.3 of the Agreement, and as reflected in Exhibit E to the Agreement, and as subsequently recorded in the Official Records pursuant to the Agreement is hereby terminated, released, and of no further force and effect pursuant to the Deed Restriction Termination (defined below) recorded in the Official Records at Reception No. \_\_\_\_\_.

**3.1.3.** Section 2.5 of the First Amendment is hereby deleted in its entirety.

**3.1.4.** Exhibit B of the First Amendment is hereby deleted in its entirety.

**3.1.5.** Other references to a restaurant and/or bar are hereby deleted from the Agreement and the First Amendment.

**3.1.6.** The Town shall terminate and release the Deed Restriction by executing and delivering a Deed Restriction Termination and Release in a form that is reviewed and approved by the Town Attorney.

**3.1.7.** Telluride Ski & Golf, LLC (“TSG”) has agreed to terminate and release the Deed Restriction by execution and delivery of the Deed Restriction Termination.

**3.2. Resubdivision.** The Town Council has approved a resubdivision of Lot 105R1 to include the Deck Expansion Area as set forth in the Recitals.

3.2.1. The Lot 105R2 Replat shall be recorded concurrent with but prior to this Second Amendment to the Agreement.

3.2.2. The size of Lot 105R1 prior to inclusion of the Deck Expansion Area was 0.383 acres. The size of Lot 105R1 under the Expanded See Forever III Property is 0.395 acres. Accordingly, the expansion of Lot 105R in the Deck Expansion Area added approximately 522.72 square feet. The Owner is providing the Town consideration for the conveyance of the Deck Expansion Area as set forth in the Replacement Community Benefits section herein.

3.3. **Density Transfer.** The density permitted within the New Residential Unit is hereby increased by one residential condominium unit. The Agreement is also amended to prohibit commercial land uses.

3.3.1. Exhibit B of the Agreement is hereby amended to permit the density within the Lot 105R2 Replat as set forth in the following table:

<b>Platted Density</b>				
<b>Lot No</b>	<b>Acre</b>	<b>Actual Units</b>	<b>Person Equivalent Units</b>	<b>Zoning Designation</b>
105R1	0.383	15	45	Condominium
<b>Proposed Density</b>				
105R1	0.395	16	48	Condominium

3.3.2. The Owner provided proof of purchasing Density Bank Certificate No. 036 in the form of a bill of sale to show proof of one (1) condominium unit of density being transferred to the Lot 105R2 Replat prior to the Town executing this Second Amendment to the Agreement.

3.4. **Rezoning.** The Town shall amend the Official Zoning Map to depict all of the Lot 105R2 Replat to be within the Village Center Zone District consistent with the Approving Ordinance.

3.5. **Parking.** The Owner Property includes the right to re-allocate four (4) commercial parking spaces that were to be used for the restaurant and bar space previously mandated by the Deed Restriction.

3.5.1. The Owner will allocate two (2) of the commercial spaces as Limited Common Elements (“LCE”) appurtenant to the New Residential Unit. The CDC requires one (1) parking space for a condominium unit in the Village Center Zone District.

3.5.1.1. The Owner reserves the future right to convert one (1) of the residential condominium LCE parking spaces to a fee simple parking unit that can be sold consistent with CDC Section 17.5.8(B)(2)(c)(ii) because such parking exceeds the one-parking space requirement for the New Residential Unit. Such a conversion shall require a new condominium map amendment that is processed in accordance with the CDC.

- 3.5.2.** The Owner will allocate one (1) parking space to the Association as a General Common Element for shared parking in the community.
- 3.5.3.** The Owner will allocate one (1) of the commercial parking spaces to a fee simple parking unit that can be sold to a purchaser consistent with CDC Section 17.5.8(B)(2)(c)(ii) because such parking exceeds the one-parking space required for the New Residential Unit.
- 3.6. Ground Floor Occupancy.** The Agreement approved a ground floor residential occupancy variation to former Land Use Ordinance (“LUO”) Section 3-207-6 to allow for residential occupancy on the first floor instead of the former LUO required retail or restaurant uses. This variation was a blanket approval of Lot 105R1. Accordingly, the ground floor occupancy variation applies to the Garden Level, and no additional variations are needed for the planned residential use.
- 3.7. Design Review Process.** The Owner improvements to be made in connection with the New Residential Unit will cause alterations to the exterior of the See Forever building on Lot 105R1. The Owner shall submit a Class 1 Design Review Process development application prior to submitting for a building permit for the Owner improvements.
- 3.8. Condominium Map and Declaration Amendment.** The Owner shall process a staff subdivision to amend the Map and Declaration as a part of the Owner Development.
- 3.8.1.** Owner shall cause to be prepared two (2) condominium map amendments by a Colorado licensed surveyor that completes the following tasks:
- 3.8.1.1.** Under the first condominium map amendment, Owner shall:
- 3.8.1.1.1.** Create the New Residential Unit designated as Unit GL101 in accordance with Exhibit A..
  - 3.8.1.1.2.** Re-allocate the four (4) commercial parking spaces as outlined in Section 3.5 above.
  - 3.8.1.1.3.** Convey the COM1 condominium unit to the Association and reflect the conversion of such unit to a General Common Element (“GCE”) to be used as a lobby and amenity area for residents and guests of the community.
  - 3.8.1.1.4.** Provide other changes to the condominium community as may be required or advisable to accomplish and complete the Owner Development, the Association Resolution and the requirements of this Second Amendment to the Development Agreement.
- 3.8.1.2.** Under the second condominium map amendment, Owner shall:

**3.8.1.2.1.** Reflect the as-built conditions of the New Residential Unit once it has been constructed to a point that allows for the survey work to be completed, along with any adjustments to the New Residential Unit boundary that may be needed.

**3.8.1.2.2.** Provide other changes to the condominium community as may be required or advisable to accomplish and complete the Owner Development, the Association Resolution and the requirements of this Second Amendment to the Development Agreement.

#### **4. REPLACEMENT COMMUNITY BENEFITS**

**4.1. Cash Contribution.** The Parties agree that the Owner will provide a cash contribution in the amount of Sixty Thousand Dollars (\$60,000.00) to the Town as a replacement community benefit and in consideration of the conveyance of the approximate 522 square feet under and around the deck of Unit A101.

**4.1.1.** The Owner will pay the cash contribution prior to the Town executing this Second Amendment to the Agreement.

**4.1.2.** The Town may use the cash contribution for landscaping or snowmelt maintenance or improvement costs at the See Forever community, or any other capital project as desired by the Town.

**4.2. Short-Term Lodging Restriction.** Owner shall cause the New Residential Unit to be placed in the short-term rental program for See Forever Plaza Phase III currently managed by Telluride Resort and Spa (Peaks) to contribute to the Town's short-term lodging bed base. Owner shall, prior to the Town issuing a Certificate of Occupancy, execute a See Forever Village Unit Management Agreement ("UMA") substantially in the form as attached hereto as Exhibit B.

**4.2.1.** The UMA shall include rental management, check-in/check-out services, housekeeping services, and marketing services and use of The Peaks facilities for a daily fee, if The Peaks is involved in the UMA agreement. The UMA shall provide incentives if an owner makes a unit available during peak rental periods.

**4.2.2.** The Owner may propose to enter into a short-term rental agreement with a different property manager, with the Town Manager approval if the new agreement (a) ensures the new residential unit will be rented on a short-term basis and will provide hotbed lodging in the Town; and (b) provides generally the same provisions and agreements as the UMA.

**4.2.3.** The short-term lodging restriction set forth in this section will be terminated and released by the Town if the Landscaping Mitigation Fee set forth below is removed due to the See Forever Village as the Peaks Homeowners Association, Inc. ("**Association**") and/or third party agreeing to take over and relieve the Town of the full cost of the landscaping maintenance costs for See Forever Plaza Phase III, as described in the Maintenance Agreement referenced below (the "**Landscape Maintenance Costs**").

4.2.3.1. The release and termination will be reviewed and approved by the Town as a minor PUD amendment process with staff review and approval, with the PUD amended by formal recorded agreement.

4.3. **Landscaping Mitigation Fee.** The Owner will pay one percent (1%) of the gross rental revenues attributable to the New Residential Unit under the UMA, excluding taxes and fees, to the Town to help offset the Landscape Maintenance Costs (the “**Landscaping Mitigation Fee**”). The Owner shall keep a detailed accounting of the rental revenues attributable to the new residential space under the UMA and shall provide such records to the Town for inspection upon forty-eight (48) hours written notice to the Owner. The Landscaping Mitigation Fee is not a substitute or replacement for paying lodging and other appropriately assessed taxes on the rental of the new residential space under the UMA and the Owner or property manager for the Owner shall obtain a business license and remit the appropriate lodging and other taxes and or fees on the new residential space.

4.3.1. The Town currently pays for 100% of the Landscape Maintenance Costs pursuant to the Agreement Regarding Maintenance Obligations recorded in the Official Records at Reception No. 401459 (“**Maintenance Agreement**”).

4.3.2. The Landscaping Mitigation Fee is intended to help offset a portion of these costs.

4.3.3. If the Landscaping Mitigation Fee is less than \$3,500 annually, then Owner shall pay the difference between \$3,500 and the Landscaping Mitigation Fee, such that the Town shall receive a minimum of \$3,500 annually as payment of the Landscaping Mitigation Fee.

4.3.4. The Landscaping Mitigation Fee shall be calculated on a calendar year basis and shall be due on or before February 1<sup>st</sup> of the following calendar year. The Landscaping Mitigation Fee shall be payable beginning in 2018 to allow for the completion of the New Residential Unit, with the fee due to the Town in February 2019.

4.3.5. The Landscaping Mitigation Fee will be terminated and released by the Town if the Landscaping Mitigation Fee is removed due to the Association and/or third party agreeing to fully take over and relieve the Town of the Landscape Maintenance Costs.

4.3.5.1. The release and termination of the Landscaping Mitigation Fee obligation will be reviewed and approved by the Town as a minor PUD amendment process with staff review and approval, with the PUD amended by formal recorded agreement.

4.3.5.2. The Parties agree to modify the Maintenance Agreement to remove Landscaping Mitigation Fee if the Association and/or a third party agree to fully take over the Landscape Maintenance Costs.

4.3.5.3. The Association must agree to the amendment of the Maintenance Agreement to relieve the Town of the Landscape Maintenance Costs.

4.4. **Snowmelt Area Reduction.** The following areas will be removed from Town’s snowmelt maintenance and operational costs:



**4.4.1. Old Restaurant Dining Area Patio.** Pursuant to a snowmelt maintenance agreement with the Town that is recorded in the Official Records at Reception No. \_\_\_\_\_, the Owner has agreed to pay to the Town for the snowmelt maintenance and operational costs of the patio space.

**4.4.1.1.** The Town shall grant to the Owner an exclusive easement for use and possession of the patio space as a private patio which will run with the ownership of the New Residential Unit.

**4.4.2. Private Sidewalk to Lot 114 Dwelling.** Pursuant to a snowmelt maintenance agreement with the Town that is recorded in the Official Records at Reception No. \_\_\_\_\_, the owner of Lot 114, Town of Mountain Village, has agreed to pay to the Town for the snowmelt costs of the sidewalk leading to the entrance of the single-family dwelling located on Lot 114. The Owner shall be responsible for obtaining an agreement between the Lot 114 owner and the Town in a form acceptable to the Town Attorney's office, for the Lot 114 owner to pay for the 420 square feet of snowmelt walkway serving Lot 114.

## **5. AMENDMENT OF EASEMENTS**

**5.1. Amendment of Easements.** To the extent necessary to achieve the approvals granted herein and to preserve the objectives of the following easements, the Owner and the Town agree to amend the following easements:

**5.1.1. Metro Services Perimeter Easement Agreement.** The Parties agree to amend the Metro Services Perimeter Easement recorded in the Official Records at Reception No. 350621, 379669 and 401598, with an amended easement to include the re-platted Lot 105R1 to be recorded concurrently with this Second Amendment to the Agreement.

**5.1.2. Telski Perimeter Easement Agreement.** The Town, as successor in interest from Telski, and Owner agree to amend the Telski Perimeter Easement recorded in the Official Records at Reception Nos. 350627, 379670, 398892 and 401599, with an amended easement to include the re-platted Lot 105R1 to be recorded concurrently with this Second Amendment to the Agreement.

**5.1.3. Blanket Utility Easement Agreement.** The Parties agree to amend the Blanket Utility Easement recorded in the Official Records at Reception No. 350628 as amended by the Easement Agreement Regarding As-Built Utilities and Improvements recorded in the Official Records at Reception No. 401600, with an amended easement to include Re-platted Lot 105R1 to be recorded concurrently with this Second Amendment to the Agreement.

**5.1.4. Telski Temporary Parking Easement Agreement.** The Parties agree to amend the Telski Temporary Parking Easement recorded in the Official Records at Reception No. 350629, with an amended easement to show the Lot 105R2 Replat to be recorded concurrently with this Second Amendment to the Agreement.

**5.2. Association Consent.** To the extent necessary as a Permittee under the above described easements, the Association may be required to consent to or be a signatory to such easements. To the extent the Association is required to consent or sign such easements, the Owner shall be responsible for obtaining such consent or signatures in a form reasonably acceptable to the Town Attorney's office.

## 6. MISCELLANEOUS

### 6.1. Remedies for Breach or Default.

6.1.1. In the event Owner, or its successor in interest, should fail to perform or adhere to its obligations as set forth herein, and such failure continues for a period of thirty (30) days after the Owner receives written notice by certified mail, return receipt requested from the Town describing the failure in reasonable detail, then the Town shall have the following remedies against the Owner, which remedies are cumulative and non-exclusive unless such failure is of a nature that it is not capable of being cured within 30 days, in which case it shall be commenced within the 30-day period and diligently pursued to completion:

6.1.1.1. Specific performance;

6.1.1.2. Injunctive relief, both mandatory and/or prohibitory;

6.1.1.3. Denial, withholding, or cancellation of any building permit or any other authorization authorizing or implementing the development of the PUD amendments and/or any structure or improvement to be constructed on the Owner Property;

6.1.1.4. In the event of a material breach of this Agreement or default hereunder, denial or withholding of any Certificate of Occupancy for any structure or improvement to be constructed on the Owner Property; and/or

6.1.1.5. Treat the default as a violation of the CDC and implement the remedies set forth therein.

6.1.2. In the event that the Town should fail to perform or adhere to its obligations as set forth herein, including but not limited to any rezoning, land use or other action or inaction, direct or indirect, or pursuant to an initiated measure, taken without the Owner's consent, which alters, impairs, prevents, diminishes, imposes a moratorium on development, delays or otherwise materially and adversely affects any development, use or other rights under this Agreement, then the Owner shall have the following remedies:

6.1.2.1. Specific performance;

6.1.2.2. Injunctive relief, both mandatory and/or prohibitory; and/or

6.1.2.3. Any other remedy available to it at law or equity.

6.2. **Indemnity.** Except as otherwise set forth herein, the Owner shall defend and hold the Town harmless from and against any and all claims, demands, liabilities, actions, costs and damages (including without limitation, reasonable attorney's fees) that may arise out of or result directly or indirectly from the Owner's breach of the terms and conditions of this Agreement, provided, however, that the provisions of this subsection shall not apply to loss, or damage or claims attributable to the intentional misconduct, or negligent acts or omissions, of the Town, Metro or their respective agents, employees or contractors.

6.3. **Attorney's Fees; Venue.** In the event of any action, proceeding or litigation between the Town and the Owner concerning this Agreement, the prevailing party shall be entitled to collect its reasonable legal fees and costs, including the reasonable value of salaried attorney's time. Any

state court litigation to enforce the terms of this Agreement shall be commenced in the District Court of San Miguel County, Colorado and venue shall be restricted to such forum.

- 6.4. Binding Effect.** This Second Amendment to the Agreement shall extend to, inure to the benefit of, and be binding upon the Town and its successors and assigns and, except as otherwise provided herein, upon the Owner, its successors (including subsequent owners of the Owner Property, or any part thereof), legal representatives and assigns. This Agreement shall constitute an agreement running with the Owner Property until modification or release by mutual agreement of the Town and the Owner or their successors and assigns. Upon the conveyance of the Owner Property by Owner to a different entity or person, and provided that the Owner is not in default hereunder at the time of conveyance, then upon the conveyance of the Owner Property the Owner shall have no liability under this Agreement for any act or omission occurring after the date of such conveyance; provided, that the third party transferee shall assume all liability for any act or omission arising under this Agreement.
- 6.5. Authorization.** The Parties hereto warrant they are fully authorized to execute this Second Amendment to the Agreement and have taken all actions necessary to obtain such authorization.
- 6.6. Waiver.** No waiver of one or more of the terms of this Second Amendment to the Agreement shall constitute a waiver of other terms. No waiver of any provision of this Second Amendment to the Agreement in any instance shall constitute a waiver of such provision in other instances.
- 6.7. Amendment of Agreement.** This Second Amendment to the Agreement may be amended or terminated only by mutual consent in writing of the Town and the Owner.
- 6.8. Good Faith of Parties.** In performance of this Second Amendment to the Agreement, the Parties agree that each will act in good faith and will not unreasonably withhold, delay or condition any approval or consent required or contemplated herein.
- 6.9. Further Assurances.** Each Party shall execute and deliver such documents or instruments and take such action as may be reasonably requested by the other Party to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof. If all or any portion of Second Amendment to the Agreement or any ancillary documents or agreements required hereunder are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties shall cooperate in the joint defense of such documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or replace such precluded items to assure, to the extent legally permissible, that the Owner and the Town receive the benefits that they would have received under this Second Amendment to the Agreement and such ancillary documents or agreements.
- 6.10. Certifications.** Each Party agrees to execute such documents or instruments as the other Party shall reasonably request to verify or confirm the status of this Second Amendment to the Agreement and of the performance of the obligations hereunder and such other matters as the requesting Party shall reasonably request.
- 6.11. Rights of Lenders and Interested Parties.** The Town is aware that financing for acquisition, development and/or construction of the Owner Property may be provided in whole or in part, from time to time, by one or more third parties, including, without limitation, lenders, major

tenants, hotel operators or managers and purchasers or developers of portions of the Owner Property. In the event of an Event of Default by the Owner, the Town shall provide notice of such Event of Default, at the same time notice is provided to Owner, to any such interested party previously identified in writing to the Town. If such interested Parties are permitted, under the terms of its agreement with the Owner to cure the Event of Default and/or to assume Owner's position with respect to this Second Amendment to the Agreement, the Town agrees to recognize such rights of interested parties and to otherwise permit such interested parties to assume all of the rights and obligations of Owner hereunder.

- 6.12. Notices.** All notices required hereunder shall be deemed delivered to the parties five (5) calendar days after posting the same postage prepaid by certified mail, return receipt requested, and addressed as follows:

<p>To the Town:</p> <p>Town of Mountain Village          Attn: Town Manager and Town Attorney          455 Mountain Village Blvd., Unit A          Mountain Village, Colorado 81435</p>	<p>To the Owner:</p> <p>SFV Mountain View, LLC          Dan Reedy          938 North Old Dixie Hwy.          Jupiter, FLA 33458</p>
---	---

- 6.13. Severability.** If any term or provision or Article of this Second Amendment to the Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the applications of such term or provision or Article to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof shall be valid and enforceable to the fullest extent permitted by law.
- 6.14. Defined Terms.** All undefined terms used in this Second Amendment to the Agreement shall have the meanings set forth in the CDC.
- 6.15. Titles of Sections.** Any titles of the several parts and sections of this Second Amendment to the Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.
- 6.16. Exhibits and Attachments.** All exhibits and attachments to this Second Amendment to the Agreement shall be incorporated herein and deemed a part hereof.
- 6.17. Minor Changes.** The Parties executing this Second Amendment to the Agreement are authorized to make insubstantial changes to this Second Amendment to the Agreement and attached exhibits with the approval of Town Staff as they mutually consider necessary, so long as such changes are consistent with the intent and understanding of the Parties at the time of approval of this Second Amendment to the Agreement by Town Council. The execution of this Second Amendment to the Agreement shall constitute the approval of such future changes by the respective Parties.
- 6.18. Town Approval.** Subject to the terms and conditions herein, Town does hereby finally approve this Second Amendment to the Agreement. This Second Amendment to the Agreement shall be

incorporated by reference on the concurrent Lot 105R2 Replat. These instruments shall constitute the complete and final approval for the Second Amendment to the Agreement. This Second Amendment to the Agreement shall be recorded, at the Owner's expense, in the Official Records and shall run with the Owner Property.

**IN WITNESS WHEREOF**, the Parties have executed this Second Amendment to the Agreement as of the date first written above.

**TOWN OF MOUNTAIN VILLAGE**, a Colorado Home Rule Municipality

By: \_\_\_\_\_ 

Title: MAYOR PRO TEM

STATE OF COLORADO )  
 ) ss.  
COUNTY OF SAN MIGUEL )

Subscribed to and acknowledged before me this 30<sup>th</sup> day of March, 2017, by  
\_\_\_\_\_ as MAYOR PRO TEM of the Town of Mountain Village, Colorado.  
MARTIN J. MCKIMLEY

Witness my hand and official seal.



  
\_\_\_\_\_  
Notary Public

SFV MOUNTAIN VIEW, LLC, a Colorado limited liability company

By: \_\_\_\_\_  
Dan Reedy, Manager

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

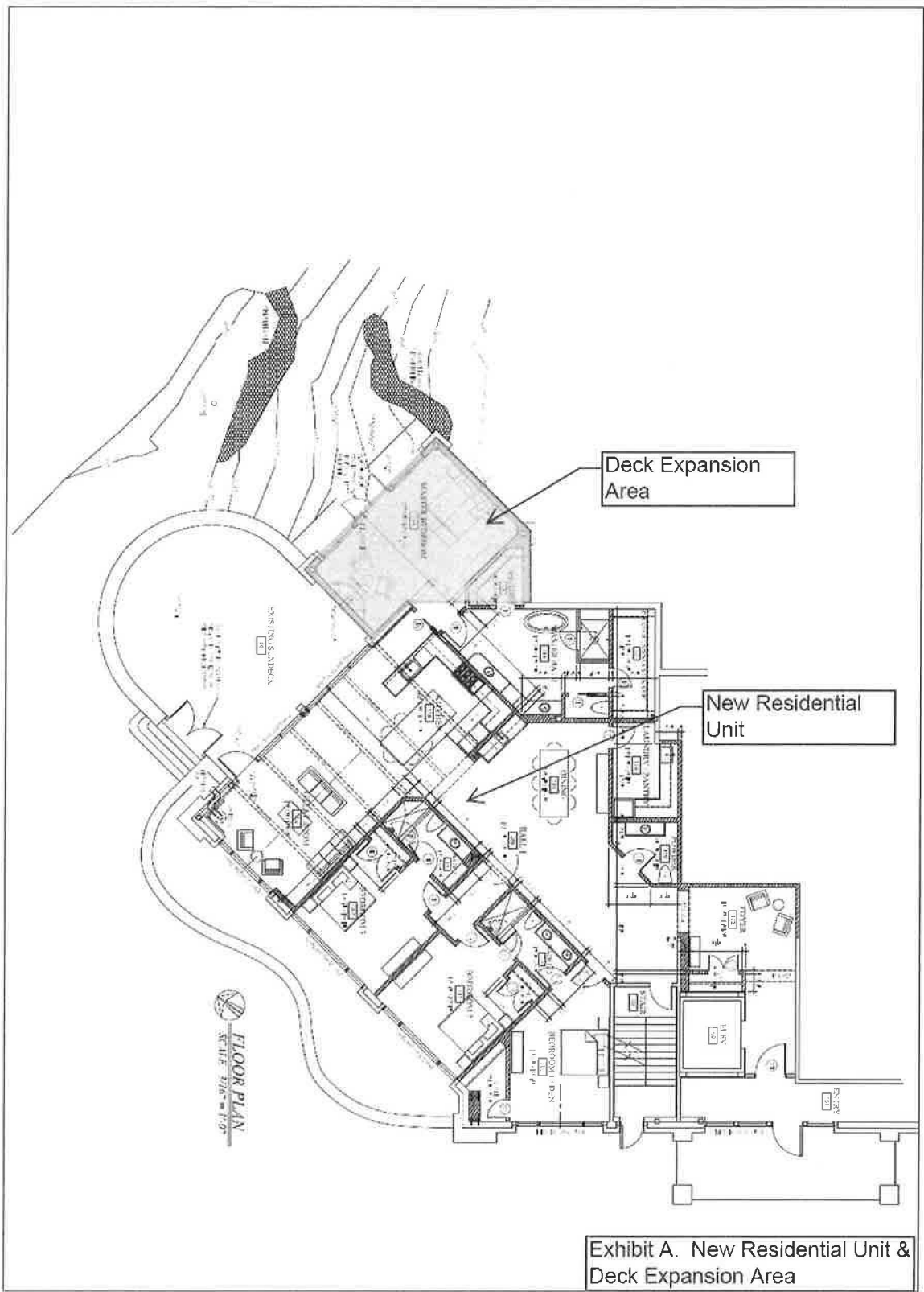
Subscribed to and sworn to before me this \_\_\_\_ day of March, 2017, by Dan Reedy, as Manager of SFV Mountain View, LLC, a Colorado limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

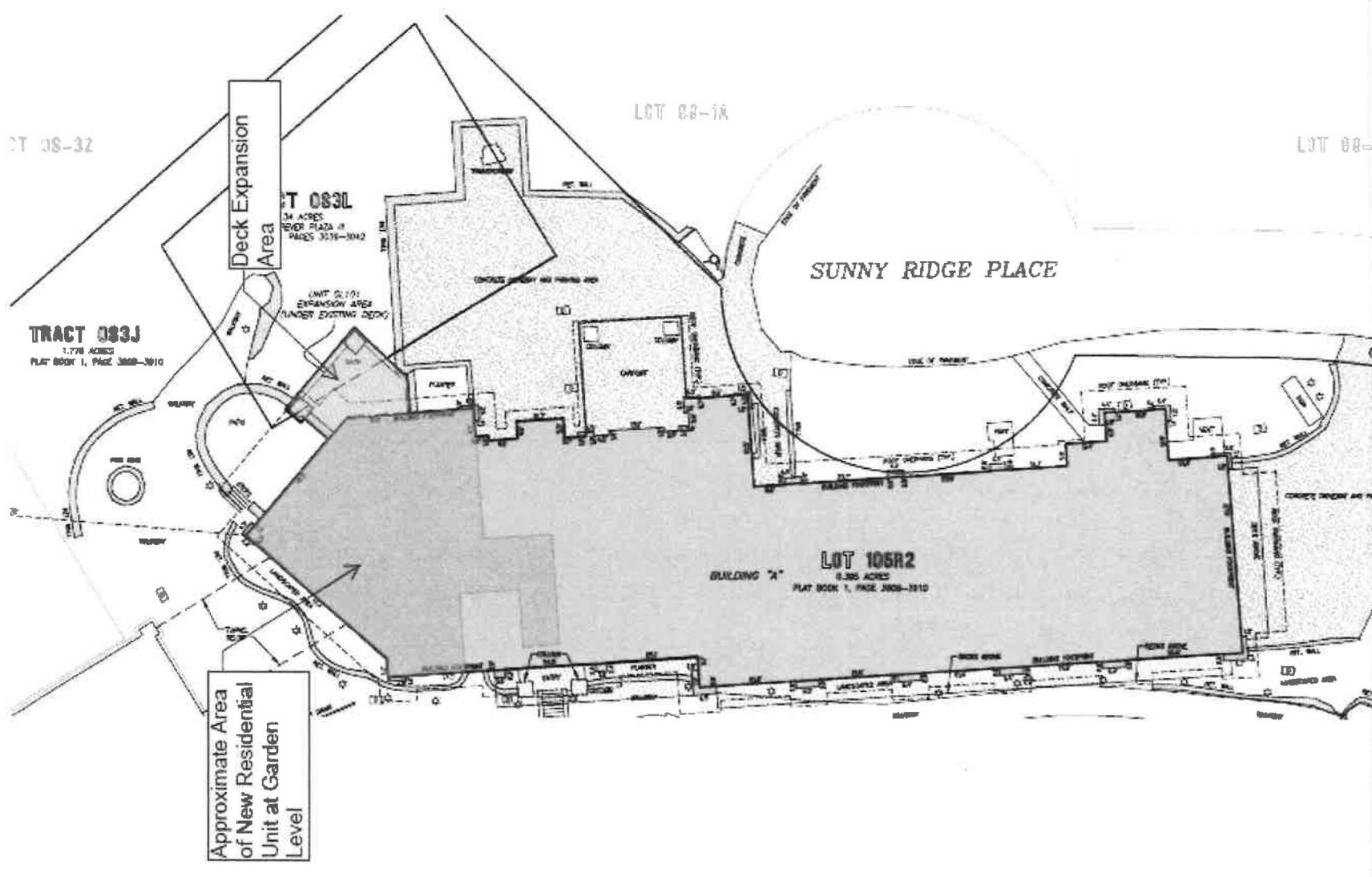
[LIST OF EXHIBITS]

<b>EXHIBIT</b>	<b>CONTENT</b>
Exhibit A	Deck Expansion Area and New Residential Unit Plans
Exhibit B	Unit Management Agreement



<b>A-1</b> FLOOR PLAN	INTERIOR MODIFICATIONS	ONSHORE CONSTRUCTION AND DEVELOPMENT, INC. 938 NORTH OLD DIXIE HIGHWAY JUPITER, FL 33456 OFFICE: (561) 741-8331	DATE OF DESIGN: 07/20/11 DATE OF ISSUE: 07/20/11 PROJECT NO.: 11-0001	PROJECT NO.: 11-0001 SHEET NO.: 11-0001-01
	THE OFFICE: COLORADO		PROJECT NO.: 11-0001 SHEET NO.: 11-0001-01	PROJECT NO.: 11-0001 SHEET NO.: 11-0001-01





**SEE FOREVER VILLAGE  
UNIT MANAGEMENT AGREEMENT**

DATE: \_\_\_\_\_

BY AND BETWEEN:

OWNER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MANAGER: Peaks Hotel, LLC, a Delaware limited liability company  
136 Country Club Drive  
Mountain Village, Colorado 81435

**PROPERTY DESCRIPTION**

Unit No. \_\_\_\_\_, See Forever Village, Town of Mountain Village, Colorado, together with all furnishings and items of personal property therein (herein referred to as "Property").

The owners association which governs the Property is See Forever Village Owners Association, Inc., a Colorado nonprofit corporation (the "Association"). Owner acknowledges that the Association Board and Manager may from time to time amend the terms of the Unit Management Agreement (UMA") applicable to all Units, so as to ensure a fair and equitable arrangement as among the Association Owners and Manager.

**A. AGENCY AUTHORIZATION.**

Owner hereby employs Manager, as Owner's exclusive agent, to manage the Property and to rent the Property to renters, in accordance with the terms and conditions provided herein. Any such rentals shall be for rental residential purposes only as a license pursuant to the directive of the Colorado Real Estate Commission, and otherwise conform to the covenants, conditions and restrictions of record affecting the Property, a copy of which the parties acknowledge is recorded as public record and which the parties have reviewed.

Owner authorizes Manager, and Manager hereby agrees, to do those normal and necessary things to operate and maintain the Property in a fashion consistent with the current reputation of The Peaks Resort and Spa, Town of Mountain Village, Colorado ("The Peaks Resort"), and, if necessary, to subcontract the care, maid and linen services, supplies, pest control, and repairs with parties that Manager, in its reasonable discretion, deems competent, including but not limited to services by The Peaks Resort. Manager shall have no obligation to Owner to sue either for errors, acts or omissions of subcontractors or for past due rents or for loss or damage. Any legal issues shall be Owner's sole responsibility as the aggrieved party. Manager shall cause Owner to be expressly made a third party beneficiary under subcontracts.

Unit Management Agreement p. 1 of 14

and Manager shall reasonably cooperate with Owner, at Owner's expense, in pursuing any claims Owner has against Manager's employees and subcontractors.

B. TERMS AND RATES.

This exclusive agency commences \_\_\_\_\_ ("Effective Date") and expires on June 30, 2050 unless renewed in accordance with the provisions of the following sentence or sooner terminated in accordance with Section G or H of this Agreement. Unless this Agreement has been sooner terminated, this Agreement shall be automatically renewed for successive five (5) year periods thereafter unless terminated by a party effective at the end of the original Term or renewal period, as the case may be, by notice in writing to the other given not later than ninety (90) days but not more than one hundred eighty (180) days prior to the end of such period. Unless otherwise agreed, upon the effective date of any renewal, all terms, covenants and conditions set forth in this Agreement shall be automatically extended to the expiration of the applicable renewal term.

Subject to the provisions of Sections G and H regarding Manager's obligation to find alternative accommodations for renters, Owner shall be responsible for fulfilling Firm Rental Reservations (as hereinafter defined) which were made for periods ending within four (4) months after expiration or earlier termination of this Agreement and were identified in Advance Rentals Schedule (as defined in Section D); however, Manager shall be responsible for providing to such renters at Manager's expense check-in, check-out, concierge, cleaning, housekeeping, linen and toiletry services required to be provided to renters during the term of this Agreement. As used in this Agreement, the term "Firm Rental Reservation" means a reservation which was made in accordance with the terms and conditions of this Agreement and was accepted by Manager prior to the termination or earlier expiration of this Agreement and for which Manager receives a deposit within thirty (30) days after Manager's acceptance of such reservation (whether or not the deposit is received prior to expiration or earlier termination of this Agreement) in amount not less than twenty-five percent (25%) of the confirmed room rentals for the entire period of occupancy.

If Owner (seller) does not fulfill its obligation of informing a purchaser of existing Firm Rental Reservations in accordance with the provisions of Section G of this Agreement, Owner must pay Manager the income lost from having to move any such renters and any reasonable relocation costs involved.

Owner reserves the right to exclude from this Agreement certain periods of time for use by Owner and members of Owner's immediate family and by Owner's guests and other designees in accordance with Exhibit A. Further, Owner may, subject to the provisions of Exhibit A (as it may be amended from time to time), occupy or use, and allow others to occupy and use, the Property, without compensation to Manager, provided that the Property is not then occupied or reserved for occupancy pursuant to the authority granted herein. Any period of actual use pursuant to this paragraph is referred to as an "Owner Use Period".

Within thirty (30) days after expiration or earlier termination of this Agreement, Manager will deliver to Owner all monies due and not previously paid to Owner, an accounting of all monies due Owner and all books, records and papers of any kind related to this Agreement.

Unit Management Agreement p. 2 of 14

Prior to delivery, all such books, records and papers will be kept in Manager's office in the Town of Mountain Village, Colorado.

Owner authorizes Manager to determine the appropriate length of rental term [but less than thirty (30) consecutive days] and the rate to be charged in accordance with guidelines established by Manager in good faith and delivered to Owner. Manager shall produce and promulgate appropriate rate information pieces. Rental rates may vary in Manager's good faith discretion by individual situation, but in no event shall any daily rate be less than \$500.

C. OWNER RESPONSIBILITIES AND EXPENSES.

Owner shall timely pay all expenses of owning the Property and all reasonable expenses of operating the Property in accordance with this Agreement, including but not limited to utilities, taxes and assessments, casualty and liability insurance premiums (which covers rental property), homeowner's dues and assessments, repairs and maintenance, liens incurred by Owner, in such a manner as to not interfere with the renter's rights to quiet enjoyment. Owner shall not be responsible for paying those expenses which under this Agreement are the responsibility of Manager. Manager agrees to maintain the Property in reasonable condition and repair at Owner's reasonable expense and to exercise reasonable oversight of the use of the Property by renters.

Owner understands that Manager, in its capacity as Manager of the homeowner's association, will, at the Association's expense, procure and maintain insurance meeting the requirements of the Declaration. Said insurance policies shall name Manager and Owner as an additional insured. Owner and Manager shall be provided a Certificate of Insurance reflecting such coverage and requiring thirty (30) days advance written notice from the insurance company to Owner and Manager before cancellation, non-renewal or any change in the coverage, scope or limits of any such policies. Manager will also maintain appropriate insurance covering Manager's operations, including workers compensation coverage, with certificates provided to Owner on request.

In order for Manager to be able to rent the Property to a renter, Manager will have to perform general cleaning and housekeeping services as well as stock the Property with clean linens and various customary toiletry and sundry articles (e.g. soap and shampoo). If after the Property has been prepared for use by a renter, an Owner Use Period occurs, Owner shall, upon departure, pay or cause to be paid to Manager a preparation fee of \$23 per hour, which amount shall increase on each November 1 beginning November 1, 2015, by any increase in the CPI (as hereinafter defined) for the immediately preceding month over the CPI for the same month one (1) year earlier, in order to allow Manager to get the Property ready for another renter. Additionally, Owner shall provide Manager at least forty-eight (48) hours notice for any housekeeping requirements during any anticipated Owner Use Period as proper planning is required in order to have the necessary staff on duty to facilitate the cleaning request. Manager shall be entitled to charge a reasonable fee for housekeeping services provided by Manager during an Owner Use Period. For purposes of this Agreement, the term "CPI" means the Consumer Price Index (all items) for Urban Consumers, All Cities (1982-84=100), as published by the United States Department of Labor, Bureau of Labor Statistics.

Notwithstanding the charges for housekeeping services set forth above, if Owner agrees to make the Property available for a minimum of twenty-six (26) weeks each calendar year, of which at least twelve (12) weeks are during the months of January, February, March, June, July or August, then Manager shall provide ten (10) days of housekeeping services at no cost to Owner. Any additional days of housekeeping services shall be charged to such Owner by Manager as set forth above.

D. MANAGER'S SERVICES AND FEES.

Manager, in the consideration of the compensation payable to Manager for services rendered and described in the sixth paragraph of this Section, agrees to provide at Manager's expense its expertise and services of procuring tenants (including, without limitation, commissions and referral fees), rental management, providing check-in and check-out services, and procurement of maid and linen service and supplies (including, without limitation, pillows, blankets, bedspreads, robes, towels, bathmats, customary toiletry and sundry articles and housekeeping supplies) related to renters' or occupant's use. Notwithstanding anything in this agreement to the contrary, Manager shall provide or procure, at its option, twice daily maid service. Manager agrees to use Advance Order System, or other reasonably comparable service, to deliver room service.

Manager will use its best efforts to obtain responsible renters but shall bear no responsibility for any loss, damage, or wear and tear to the Property caused by a renter or an occupant. Manager shall be responsible to promptly report to Owner any loss or damage of which Manager gains knowledge.

No single maintenance or repair expense item of \$500 shall be undertaken by Manager without the prior written approval of Owner, unless Manager reasonably believes, based on its reasonable judgment, that persons or property shall be in imminent danger by lack of immediate action.

Within twenty-one (21) days following the end of each calendar month and showing as of the end of such month, Manager shall provide (i) a detailed Statement of Income and Expense to Owner showing all sources of income and credits to Owner and all expenses incidental thereto, (ii) all future Owner Use Periods reserved by Owner, and (iii) a reasonable written description of each advance reservation (other than by Owner for an Owner Use Period) showing the name of the renter, the rental period reserved by the renter and amount of any deposit received by Manager in connection with the reservation (as updated from time to time pursuant to Sections G and H of this Agreement, the "Advance Rentals Schedule").

Manager may advertise its management business and seek renters generally, at Manager's expense, and Manager shall pay commissions and referral fees due others in its normal course of business. If Manager would like to use the Property on a complimentary basis from time to time for promotional purposes it will contact Owner in advance of such use to obtain permission.

As its compensation for services rendered, Manager shall retain forty percent (40%) of the Gross Receipts attributable to renters' occupancy of the Property prior to expiration or earlier

termination of this Agreement and to renters' occupancy of the Property thereafter pursuant to Firm Rental Reservations.

The parties acknowledge that certain third party reservations sources charge additional commissions and fees over and above those charged by traditional reservations sources. Such third party reservations sources include providers such as Orbitz, Booking.com, Kayak, Expedia and Travelocity. Such third party reservations sources shall hereafter be referred to as the "Increased Marketing Initiatives." Third party reservations sources do not include Manager.

Increased Marketing Initiatives / Sale of Unit or Termination

On sale of a Unit, or in the event of termination of this Agreement by a Unit Owner and then subsequent re-execution of this Agreement by a Unit Owner, the compensation to Manager for Increased Marketing Initiatives shall be as follows:

With respect to Gross Receipts attributable to rentals of the Property that Manager obtains through such Increased Marketing Initiatives, (i) Manager shall first be entitled to deduct from such Gross Receipts (prior to the retention of the applicable percentage of Gross Receipts as provided above), and retain, an amount equal to the actual Increased Marketing Initiatives incurred on such specific rentals, with such amount to be used to pay the expenses of such Increased Marketing Initiatives incurred from time to time, and (ii) Manager then shall be entitled to retain the applicable percentage set forth above of the balance of such Gross Receipts remaining after deduction of the amount deducted and retained by Manager pursuant to clause (i).

Application and Example. For example, if Gross Receipts for the Property for a month are \$5,000, including \$1,000 attributable to rentals obtained through Increased Marketing Initiatives, and the cost of the Increased Marketing Initiatives is 15% of such Gross Receipts, and the applicable Manager's share is forty percent (40%), then the compensation to which Manager would be entitled for such month would be \$2,090.00, determined as follows:

- (1) Manager would be entitled to retain 15% of the \$1,000 of Gross Receipts attributable to rentals obtained through Increased Marketing Initiatives, which would equal \$150.
- (2) Manager would be entitled to retain 40% of the balance of Gross Receipts remaining after the deduction of the \$150 payable pursuant to (1) above from the \$5,000 total of Gross Receipts (i.e., 40% of \$4,850), which would equal \$1,940.00.
- (3) The sum of (1) and (2) above, which equals \$2,090.00, is the total amount to which Manager would be entitled (understanding that Manager pays the entire cost of the Increased Marketing Initiatives).

Owner's share of the Gross Receipts (assuming for purposes of this example that there are no deductions for expenses from Owner's share) would be \$2,910.00 (60% of \$4,850).

The above allocation of Increased Marketing Initiatives shall terminate October 31, 2017. At that time, the Association and Manager may agree to revise the terms of the standard UMAs. If the Association and Manager do not otherwise agree to revise the terms of the standard UMAs, then effective November 1, 2017, the allocation of Increased Marketing Initiatives for all Owners, whether a long-term party to a UMA or whether a new Owner, shall revert to the allocation set forth in the section, above, entitled "Increased Marketing Initiatives / Units Currently a Party to a UMA."

#### Forfeited Rental Deposits

With respect to any forfeited rental deposits, Manager shall include fifty percent (50%) of any such forfeited rental deposits as part of the gross rents to be paid to Owner, and Manager shall retain the other fifty percent (50%) as its compensation for services rendered (but with respect to deposits for bookings of rentals obtained through Increased Marketing Initiatives, Manager shall be entitled to deduct twelve and one-half percent (12.5%) of such deposit for payment of a portion of the expenses of the Increased Marketing Initiatives, and Manager shall be entitled to retain fifty percent (50%) of the balance after such deduction as compensation for services rendered, with the other fifty percent (50%) of such remaining balance to be paid to Owner). However, Owner acknowledges and agrees that reservations are often moved from unit to unit to accommodate arrival and departure patterns and requests made by renters which makes forfeiture of rental deposits difficult, and forfeiture of rental deposits is often not enforced for other reasons. Furthermore, a rental deposit is not forfeited if the reservation is moved to other accommodations, whether or not such accommodations are owned by Owner or managed by Manager. Manager may pay itself amounts owing to it pursuant to this paragraph by retention of applicable amounts collected from renters of the Property.

Owner is aware that Manager deposits all rents and deposits for all units under Manager's direction in a single special account and will maintain a specific daily ledger for each individual unit under its management. Interest accrual, if any, shall be retained by Manager as part of the compensation package for Manager's service and shall not be considered as Gross Receipts. Owner agrees that only Manager or its employees will be authorized to transfer monies to or from such account.

Owner shall cause check-in and check-out services for the Property to be available at The Peaks Resort.

Provided the guests at the Property have registered at The Peaks Resort, Manager shall cause such guests to be entitled to (i) access to The Spa at The Peaks Resort ("Spa") at a rate of \$28 per day of occupancy which amount shall be included in the Property rental rate (but shall not be considered part of the Gross Receipts) and shall increase on each November 1, beginning November 1, 2015, by any increase in the CPI for the immediately preceding month over the CPI for the same month one (1) year earlier, but in no event shall such amount be greater than the amount that is charged to hotel guests at the applicable times; (ii) direct check signing (i.e., "bill to room") privileges, discounts and other benefits (such as preferred tee times) for and at retail shops, restaurants, the Spa and golf course facilities at The Peaks Resort, to the same extent that guests of The Peaks Resort are entitled to such privileges, discounts and benefits at such facilities; (iii) at a price to be determined, ski butlers, drivers, babysitters, personal concierge and

a pre-stocked kitchen; (iv) complimentary storage for skis and boots at The Peaks Resort; (v) complimentary valet parking; and (vi) complimentary shuttle service between The Peaks Resort, the Property and other locations serviced by The Peaks Resort shuttle service.

At Owner's request, Manager shall cause Owner and members of Owner's immediate family or, if Owner is not an individual or is comprised of two or more individuals, an individual designated by Owner and the immediate family members of such family, subject to any limitations provided hereafter, to be entitled to (i) membership access to the Spa at no charge during twenty-one (21) days per calendar year and, after such period, access to the Spa for a service fee of \$28 per day covering all members of such family, which amount shall increase on each November 1 beginning November 1, 2015, by the CPI for the immediately preceding month over the CPI for the same month one (1) year earlier, but in no event shall such amount be greater than the amount that is charged to hotel guests at the applicable time; (ii) direct check signing (i.e., "bill to room") privileges, discounts and other benefits (such as preferred tee times) for and at retail shops, restaurants, the Spa and golf course facilities at The Peaks Resort, to the same extent that guests of The Peaks Resort are entitled to such privileges, discounts and benefits at such facilities; (iii) at a price to be determined, ski butlers, drivers, babysitters, personal concierge and a pre-stocked kitchen; (iv) complimentary storage for skis and boots at The Peaks Resort; (v) complimentary valet parking; and (vi) complimentary shuttle service between The Peaks Resort, the Property and other locations serviced by The Peaks Resort shuttle service.

Manager shall maintain at its expense adequate insurance coverage for claims under the Colorado Worker's Compensation Act and if it hires subcontractors to work within the Property, such subcontractors shall have Worker's Compensation for their employees. In addition, subject to reasonable availability, Manager shall maintain the following insurance with respect to its employees, agents and servants, at Manager's expense: (i) employer's liability insurance in an amount not less than \$500,000 covering against liability in respect of employees, agents and servants not covered by workers' compensation insurance and against occupational disease benefits; (ii) employee fidelity insurance in an amount not less than \$1,000,000; and (iii) employment practices coverage in an amount not less than \$1,000,000 per claim/aggregate.

E. RENTAL TAXES.

Owner acknowledges that it has been advised by Manager to make its own independent investigation as to the tax and general liability implications of this Agreement and has had the opportunity to consult with its own counsel as to the same. Owner is not relying on any statements made by Manager in connection with or regard to any tax, personal liability issues, or any other matters in connection with this Agreement which are not expressly set forth herein.

Owner acknowledges that all transient occupancy taxes for rental of its Property will be collected by Manager. Owner agrees that Manager may remit these taxes to the appropriate taxing authority.

F. INDEMNITIES.

Manager shall indemnify and hold harmless Owner and its affiliates and their respective partners, shareholders, directors, officers, employees and agents from and against any and all



liability, loss, damages, costs and expenses ("Liabilities") incurred by reason of the management and operation of the Property by Manager during the Term, insofar and only insofar as such Liabilities are caused by the gross negligence, willful misconduct or willful violation of Legal Requirements by Manager. "Legal Requirement" means any law, ordinance, order, rule or regulation of any governmental authority and any requirement, term or condition contained in any restriction or restrictive covenant affecting Manager, Owner or the operation of the Property.

Owner shall indemnify and hold harmless Manager and its shareholders and affiliates and their respective partners, shareholders, directors, officers, employees and agents from and against any and all Liabilities (including those caused by the simple negligence of the indemnitee and those to which the indemnitee may be strictly liable) (i) arising out of or incurred in connection with the construction, renovation, management, leasing or operation of the Property or (ii) which may be asserted or arise as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Property of any hazardous materials or any hazardous materials contamination or arise out of or result from the environmental condition of the Property or the applicability of Legal Requirements related to hazardous materials, except, in the case of both (i) and (ii) above, insofar as such Liabilities are caused by the gross negligence, willful misconduct or willful violation of Legal Requirements by Manager.

In case an action covered by this Section F is brought against any indemnified party, the indemnifying party will be entitled to assume the defense thereof, subject to the provisions herein stated, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election to so assume the defense thereof, the indemnifying party will not be liable to such indemnified party for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof. The indemnified party shall have the right to employ separate counsel on any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party. If the indemnifying party has assumed the defense of action with counsel reasonably satisfactory to the indemnified party; provided that the fees and expenses of the indemnified party's counsel shall be at the expense of the indemnifying party if (i) the employment of such counsel has been specifically authorized in writing by the indemnifying party or (ii) such indemnified party shall have been reasonably advised by counsel that there is a conflict of interest or issue conflict involved in the representation by counsel employed by the indemnifying party in the defense of such action on behalf of the indemnified party or that there may be one or more legal defenses available to such indemnified party which are not available to the indemnifying party (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of such indemnified party, it being understood, however, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the indemnified party, which firm shall be designated in writing by the indemnified party).

As used herein, the term "Property Policy" means any fire and extended coverage or all risk material and property damage insurance policy which is carried by or on behalf of Manager, Owner or any of the parties named in the first two paragraphs of this Section. Any Property

Policy procured or maintained by Manager or Owner shall provide that the right of any insured to coverage shall not be affected by any indemnity obligation, release of liability or waiver of claim in this Agreement; in addition, each such Property Policy shall include a waiver of any right of subrogation which the insurer might have against any insured, or any of the parties named in the first two paragraphs of this Section. In addition to and without limiting or being limited by any other releases or waivers of claims in this Agreement, but rather in confirmation and furtherance thereof, to the extent not prohibited by law, Manager waives all claims for recovery from Owner and its affiliates, agents, shareholders, directors, officers, partners, members and employees, and Owner waives all claims for recovery from Manager and its agents and employees for any injury or damage to or theft, robbery, pilferage, loss or the loss of use of any of their respective property to the extent of proceeds recovered or recoverable under insurance policies maintained hereunder.

Notwithstanding anything contained in this Agreement to the contrary, Owner and Manager agree that the liability of Owner to Manager and the other persons entitled to be indemnified pursuant to the second paragraph of this Section shall be limited to an amount equal to twenty-five percent (25%) of the greater of (i) original purchase price of the Property or (ii) the original purchase price of the Property as increased by annual increases in the CPI from the time of the original purchase of the Property. Notwithstanding the foregoing, however, in no event shall such amount exceed twenty-five percent (25%) of the then market value of the Property. Moreover, Manager shall first exhaust the Owner's equity in the Property to satisfy such liability prior to pursuing any of Owner's other assets, and the foregoing limitation of liability shall not be applicable with respect to any liability to the extent caused by intentional acts, willful misconduct or negligence on the part of Owner, the immediate family of Owner or an agent thereof. For purposes of this limitation, neither Manager, nor any employees, directors, officers, contractors, nor agents thereof shall be considered to be agents of Owner or its immediate family.

The provisions of this Section F shall survive any termination or expiration of this Agreement, whether by lapse of time or otherwise, and shall be binding upon the parties hereto and their respective successors and assigns.

G. NOTICES; OWNER'S WARRANTIES AND EARLY TERMINATION RIGHTS.

Any notices required herein shall be given by registered or certified mail, return receipt requested, to the addresses shown herein, in which event it shall be deemed received on the earlier of the day of receipt or the fifth business day after the date of deposit in the U.S. Mail.

Owner warrants that it has legal title to the Property and is of legal capacity to commit the Property to this Agreement. Further, the Property is furnished and ready for use and occupancy.

Owner agrees to notify Manager prior to any change in ownership of the Property (the "Transfer of Ownership Notice"). Within ten (10) days after it has received the Transfer of Ownership Notice, Manager shall deliver to Owner a current update of the Advance Rentals Schedule and shall promptly deliver to Owner further updates as reservations are made. If requested by Owner at any time after the Transfer of Ownership Notice is received, Manager

shall stop accepting reservations during the pendency of the transfer of ownership. In connection with any such transfer, promptly after receipt of a request therefor from Owner or the transferee, Manager will deliver to the requesting party a certificate confirming that this Agreement is in full force and effect and that there are no defaults on the part of Owner under this Agreement except to the extent disclosed in the certificate. Upon Owner's transfer of ownership of the Property, the rights and obligations of Owner accruing or arising after termination will be terminated. Owner agrees that Owner and Owner's successors are bound by Firm Rental Reservations for a period ending within four (4) months of the termination which were identified in an Advance Rentals Schedule delivered to Owner prior to the transfer of the Property, provided that at Owner's request Manager will use reasonable efforts to move renters to alternative accommodations. Owner has freely chosen the services of Manager to render management and renting services.

In addition to its other termination rights under this Agreement, Owner may terminate this Agreement for any reason or no reason upon thirty (30) days prior written notice to Manager without payment of any termination fee, damages or penalty. Within ten (10) days after the delivery of such termination notice to Manager, Manager shall deliver to Owner a current update of the Advance Rentals Schedule and shall promptly deliver to Owner further updates as reservations are made. Owner and Owner's successors shall be bound by Firm Rental Reservations for a period ending within four (4) months of the date of termination which were identified in an Advance Rentals Schedule delivered to Owner prior to termination, provided that at Owner's request Manager will use reasonable efforts to move renters to alternative accommodations.

Owner acknowledges that Manager does not possess a Colorado Real Estate Broker's License and Manager is managing the Property pursuant to the directives of the Colorado Real Estate Commission.

Owner and Manager enter into this Agreement with the beneficial intent of providing income to each party. It is specifically understood that the relative degree of success in this endeavor is dependent upon factors outside of either party's control or direction. It is highly unlikely that rental activity will generate sufficient income to cover all expenses of the Property. Manager has not represented that Owner will receive any specific amount or level of rental income.

Owner has been advised to seek whatever independent advice and counsel necessary to fully understand the ramifications of rental property programs. It is Manager's intention to use its best efforts to evenly spread income to participating owners of units in See Forever Village, The Peaks Resort and associated projects, subject to guest preferences and availability during peak periods and high season, defined by the published nightly room rates.

#### H. DEFAULT.

If a party defaults in its obligations under this Agreement and such default is not cured within thirty (30) days after notice of such default to the defaulting party or a bankruptcy, insolvency or similar proceeding is filed by or against a party, then the other party may terminate this Agreement by notice given to the other party and exercise any and all other rights and remedies it may have under this Agreement. Within ten (10) days after the delivery of any such

termination notice to either party, Manager shall deliver to Owner a current update of the Advance Rentals Schedule and shall promptly deliver to Owner further updates as reservations are made. Owner and Owner's successors shall be bound by Firm Rental Reservations for a period ending within four (4) months of the termination which were identified in an Advance Rentals Schedule delivered prior to termination, provided that at Owner's request Manager will use reasonable efforts to move renters to alternative accommodations.

I. EXISTING RESERVATIONS.

Manager represents and warrants to Owner that the only rental reservations which Manager has accepted and occur after the Effective Date are fully disclosed in Exhibit B. Owner expressly agrees to fulfill such reservations. Owner represents and warrants that it has not agreed to rent the Property for any period after the Effective Date.

J. DISPUTE RESOLUTION.

Venue for any dispute hereunder shall be in the Courts of San Miguel County, Colorado.

K. ATTORNEYS' FEES.

In case of litigation between Owner and Manager in their respective capacities, the parties agree that costs and reasonable attorneys' and expert witness fees shall be awarded to the prevailing party.

L. MODIFICATION OF THIS AGREEMENT.

No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. However, if Owner consists of more than one person, Manager may rely upon the action of any such person with respect to the reservation or use of the Property, which action shall be deemed to bind all other persons comprising Owner.

M. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of Colorado.

N. SPECIAL RIGHT OF MANAGER TO TERMINATE

Manager shall have a right to terminate this Agreement if (i) Owner fails or refuses to allow the exterior of the Property to be maintained in all material respects with at least Manager's minimum standards for upscale units managed by it or fails or refuses to allow the interior of the Property to be maintained and, with respect to furnishings, otherwise conform with at least Manager's minimum standards for upscale units managed by it, (ii) Manager has given Owner a notice that this Agreement will terminate on the date which is forty-five (45) days after receipt of the notice by Owner or on such later date as Manager may specify in the notice unless Owner corrects the failure or withdraws its refusal prior to the specified termination date, and (iii) Owner does not correct such failure or withdraw such refusal prior to the specified termination

date. Manager may withdraw at any time a termination notice given pursuant to this Section. Manager acknowledges that the exterior and interior of the Property and the furnishings within the Property currently meet Manager's current minimum standards for upscale units managed by it. As used herein, the term "minimum standards" means the lesser of either current minimum standards or standards prevailing at the time of Manager's election to terminate this Agreement.

Within ten (10) days after the delivery of any termination notice pursuant to this Section, Manager shall deliver to Owner a current update of the Advance Rentals Schedule and shall promptly deliver to Owner further updates as reservations are made. Owner and Owner's successors shall be bound by Firm Rental Reservations for a period ending within four (4) months of the termination which were identified in an Advance Rentals Schedule delivered prior to termination, provided that at Owner's request Manager will use reasonable efforts to move renters to alternative accommodations.

Signed and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, effective for all purposes as of \_\_\_\_\_, \_\_\_\_\_.

OWNER:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MANAGER:

Peaks Hotel, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT A

### OWNERS RIGHTS OF OCCUPANCY

Owner shall have the absolute right to the use of the Property by Owner, Owner's family, guests and designees at any time or times if Owner has reserved use of the Property by giving prior notice thereof to Manager in accordance with requirements of this Exhibit. A telephonic reservation by an Owner will be accepted by Manager, but such notice will not be deemed effective unless within seven (7) days thereafter Manager receives from Owner a written confirmation of the reservation specifying the check-in and check-out dates. Notice of intended use must be given (a) not later than January 1, for the period beginning the following May 1 and ending the following October 31, and (b) not later than June 1, for the period beginning the following November 1 and ending the following April 30; however, Manager may from time to time change the date by which notice of intended use must be given for any period of use as it deems appropriate to manage more efficiently the rental of the Property and other units in See Forever Village. Notice of reservation of use during a period for which Manager has not entered into rental agreements, accepted reservations or scheduled maintenance may be given by Owner at any time and shall be accepted by Manager, even if Owner has not reserved use pursuant to the preceding provisions of this Section (i.e., Owner may still reserve use of the Property on a "first-come, first-served basis" in accordance with Manager's reservation policies in effect from time to time); provided, however, Manager may refuse to accept any notice of reservation of use for any period which Manager in its reasonable discretion deems necessary for the maintenance of the Property. If Owner has not made a proper and timely reservation of use, Manager may enter into rental agreements, accept reservations, and schedule maintenance, repairs and other work on the Property during such periods; and Owner will honor such commitments. Prior to using the Property during any period, Owner's family, guests or designees will check-in with Manager in accordance with the normal check-in procedures established by Manager.

**EXHIBIT B  
EXISTING RESERVATIONS DISCLOSURE**

Renter's Name	Date Reservation Accepted	Occupancy Period	Rental Date	Deposit Received

**Exhibit B: See Forever Plaza III – Replat No. 3**



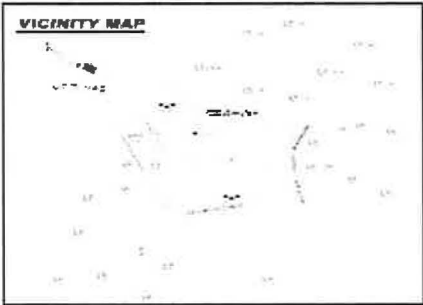
**SEE FOREVER PLAZA III - REPLAT No. 3  
 REPLAT OF LOT 105R1, TRACT 083J, AND TRACT 083L, SEE FOREVER PLAZA III - REPLAT No. 2, TOWN OF MOUNTAIN VILLAGE,  
 SECTION 34, T.43N, R.9W, N.M.P.M, TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO.**

**STATEMENTS OF PREVIOUS**

1. The subject property was previously replatted as Lot 105R1, Tract 083J, and Tract 083L, See Forever Plaza III - Replat No. 2, Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado, by the Colorado State Engineer, on the 15th day of August, 1994.

**LEGAL DESCRIPTION**

The subject property is located in the Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado, and is bounded as follows: On the north by the Colorado State Engineer's Replat No. 2, Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado, on the south by the Colorado State Engineer's Replat No. 2, Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado, on the east by the Colorado State Engineer's Replat No. 2, Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado, and on the west by the Colorado State Engineer's Replat No. 2, Town of Mountain Village, Section 34, T.43N, R.9W, N.M.P.M, Town of Mountain Village, County of San Miguel, State of Colorado.



**FILE RECORDING COUNTY JURISDICTION**

The Colorado State Engineer, who having been duly sworn, has examined the above described plat and has found that the same complies with the provisions of the Colorado State Engineer's Act, Chapter 24, Title 24, of the Colorado Revised Statutes, and that the same is correct and true.

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**ADVISEMENTS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**ADVISEMENTS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**ADVISEMENTS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**ADVISEMENTS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**STATEMENTS OF PREVIOUS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**STATEMENTS OF PREVIOUS**

By \_\_\_\_\_  
 County Clerk

By \_\_\_\_\_  
 County Clerk

**See Forever Plaza III - Replat No. 3**

FILED	2024	10/24	10/24	10/24
FILED	2024	10/24	10/24	10/24
FILED	2024	10/24	10/24	10/24
FILED	2024	10/24	10/24	10/24

**SEE FOREVER PLAZA III - REPLAT No. 3**  
**REPLAT OF LOT 105R1, TRACT 063J, AND TRACT 063L, SEE FOREVER PLAZA III - REPLAT No. 2, TOWN OF MOUNTAIN VILLAGE,**  
**SECTION 34, T.43N, R.9W, N.M.P.M., TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO.**

**OPERATING AGREEMENT**

1. **OPERATING AGREEMENT** - The Operating Agreement shall be the same as the Operating Agreement attached as **EXHIBIT A** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference. The Operating Agreement shall be deemed to be a part of the Replat and shall be deemed to be incorporated herein by reference.

**REPLAT**

1. **REPLAT** - The replat shall be the same as the replat attached as **EXHIBIT B** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.
2. **REPLAT** - The replat shall be the same as the replat attached as **EXHIBIT C** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.
3. **REPLAT** - The replat shall be the same as the replat attached as **EXHIBIT D** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.
4. **REPLAT** - The replat shall be the same as the replat attached as **EXHIBIT E** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.

**ADDRESS**

1. **ADDRESS** - The address shall be the same as the address attached as **EXHIBIT F** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.

**ADDRESS SHEET**

Lot	Year	County	City
105R1	12	San Miguel	Mountain Village
105R2		San Miguel	Mountain Village

**PROPERTY OF LAND INTEREST**

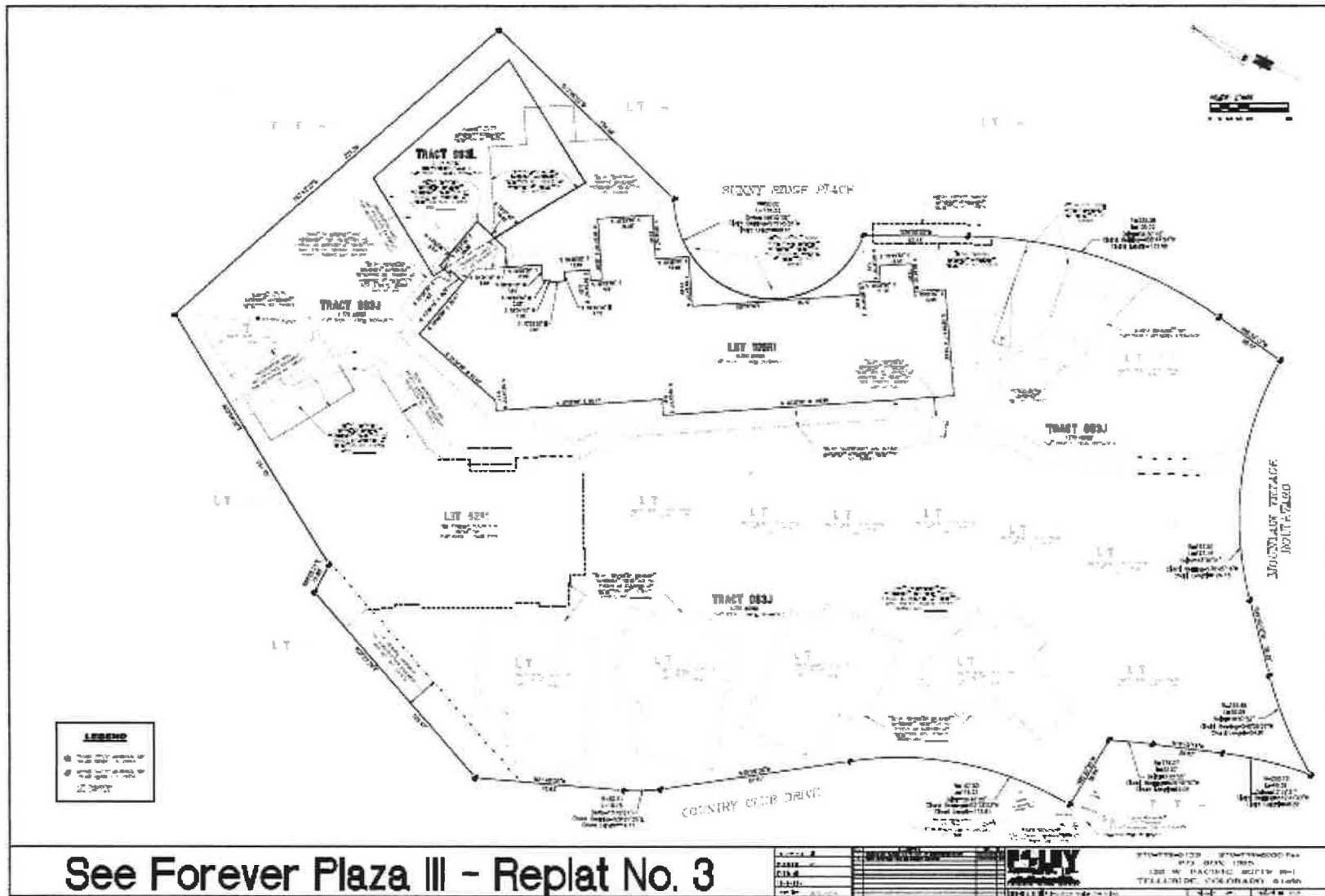
The Land Interest in the property shall be the same as the Land Interest attached as **EXHIBIT G** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.

**SECURITY INTEREST RECORD COVERED**

The Security Interest Record Covered shall be the same as the Security Interest Record Covered attached as **EXHIBIT H** to the Replat. It shall be a part of the Replat and shall be deemed to be incorporated herein by reference.

**See Forever Plaza III - Replat No. 3**

<p><b>CLAY</b></p> <p>1000 W. PACIFIC AVENUE, SUITE 100                  COLORADO SPRINGS, CO 80904</p>	<p>STANDARD FEE</p> <p>STANDARD FEE</p> <p>STANDARD FEE</p> <p>STANDARD FEE</p>
---	---



See Forever Plaza III - Replat No. 3