

Memorandum of Understanding Regarding Comprehensive Plan Public Benefits

This Memo of Understanding (this “**MOU**”) is entered into and made effective as this ___day of August, 2018, (“**Effective Date**”) by and between TSG SKI & GOLF, LLC, a Delaware limited liability company (“**TSG**”) and the Town of Mountain Village, a home rule municipality and political subdivision of the state of Colorado (“**Town**”).

RECITAL

- A. The Town adopted its “Comprehensive Plan” on June 16, 2011 by Resolution 2011, 0616-11 and amended on March 20, 2014 by Resolution 2014-0320-06 and on June 20, 2017 by Resolution no 2017-0620-11 (“Comprehensive Plan”).
- B. Among other things, the Comprehensive Plan sets forth a “Public Benefits Table”, which “provides the foundation for rezoning, subdivision or density transfer requests whereby the development and density listed for each parcel in a Subarea Development Table may be requested based on the provision of the specific proposed benefits listed.”
- C. As stated in the Comprehensive Plan, the Public Benefits Table and associated timing triggers are proposals that emerged from a prior Town Council’s review of the Comprehensive Plan, and are memorialized in the Comprehensive Plan to record the views of Town Council in 2011. The proposed Public Benefits Table and the associated timing triggers may be changed by a future Town Council during a future development review process.
- D. The Comprehensive Plan also states that the Town should “provide incentives and strive to achieve the public benefits in the Public Benefits Table, and other public benefits that further the Comprehensive Plan, so that these benefits are realized sooner rather than later and prior to the timing/trigger listed in the Public Benefits Table. Nothing will prohibit the provision of a public benefit prior to the timing/trigger listed in the Public Benefits Table. If a public benefit is provided earlier than the timing/trigger, then the entity providing the public benefit will be given credit for the provision of the public benefit in a subsequent, future development review.
- E. Over time, TSG has provided the Town with various licenses, easements and other conveyances (the “TSG Provisions”) which the Town has requested and needed in order to provide certain municipal functions, amenities for residents, homeowners and guests.
- F. TSG desires to have the Town recognize the TSG Provisions as “Public Benefits” pursuant to the Comprehensive Plan and for the Town to acknowledge these Public Benefits should be given credit as envisioned by the Comprehensive Plan.
- G. The Town desires to recognize the TSG Provisions listed herein as Public Benefits pursuant to the Comprehensive Plan and give TSG credit for the Public Benefits provided to the Town. However, the Town cannot assign any weight or value to the Public Benefits due to the nature of future land use applications as a quasi-judicial hearing, which requires that all determination of the value of public benefits be made at such time and in conjunction with the nature of the requests made in any future land use applications.

AGREEMENT

In consideration of the promises and other valuable consideration set forth herein, TSG and Town agree as follows:

Section 1. Recognition of Public Benefits:

1.1 Public Benefits Provided. The Town hereby acknowledges that the following TSG Provisions shall be recognized as Public Benefits pursuant to the Comprehensive Plan:

- a. Grant of a Supplemental Easement Agreement dated December 18, 2014 by TSG over OS-1 benefiting Lot 1003 for revised access and utilities (recorded at reception number 435883).
- b. Telluride Apartments (Lot 640A) redevelopment for employee housing, as envisioned by Comprehensive Plan.
- c. Grant of long term license agreement dated May 20th, 2014 (ten years with five-year auto renewal if not terminated) for VCA Community Garden/Rec Area to build and maintain these areas.
- d. Grant of annual disc golf license to operate the 18-hole disc golf course on Double Cabin and Sundance ski runs beginning in 2011.
- e. Grant of license agreement dated May 2nd, 2013, for the playground on OS-3CRR for one year with one-year auto renewals.
- f. Grant of a bus stop easement over OS-22R1 for the construction, operation and maintenance of a bus stop.
- g. Grant of a generator easement for backup power to the Gondola dated July 11th, 2016 over OS161-R2 near St. Sophia Station.
- h. Grant of a gondola stairwell easement dated September 28th, 2015 on OS49R for the construction of stairways to allow employees to safely travel between various levels of the station (reception number 439729).
- i. Grant of an annual license agreement to the Town to operate the Mountain Village Bike Park starting on May 27th, 2010 through the 2018 summer season.
- j. Grant of Easement dated June 12, 2015 over OSP-35A for implementation of the Meadows Improvement Plan (recorded at reception number 439470).

1.2 Future TSG Provisions. The Town and TSG recognize that there are future TSG Provisions which are likely to be made to the Town. However, in order for such future TSG Provisions to be recognized as Public Benefits they must actually be granted by TSG to the Town in a form acceptable to the Town. In the event additional TSG Provisions are granted to the Town and TSG desires to have such TSG Provisions recognized as Public Benefits, TSG shall submit, in writing, a request for the Town Council to recognize such TSG Provisions as Public Benefits, which shall be considered by the Town Council in its sole discretion. In the event the Town Council recognizes future TSG Provisions as Public Benefits it shall be done as an amendment of this Memorandum of Understanding. Such Future TSG Provisions may include but not be limited to the following:

- a. Public Benefits listed in the Comprehensive Plan
- b. Future conveyance of Access Tract 14 for emergency access and egress.
- c. Possible future grant of easement for Mountain Village Blvd Trail.
- d. Possible future additional easements, licenses and conveyances requested by the Town related to matters including but not limited to trails, recreation facilities, utilities (including but not limited to gas, power, telecommunications) and parks which require the use of TSG lands.

- 1.3 Expiration of TSG Provisions. In the event TSG revokes or allows to expire without renewing any of the TSG Provisions which are temporary in nature (Example: all license agreements listed above), the recognition of such TSG Provisions as Public Benefits shall only be given credit for the time such TSG Provisions were in place.
- 1.4 Transfer of Public Benefits Credit. The Town recognizes that TSG may not be the actual developer of parcels listed in the Subarea Development Tables of the Comprehensive Plan even though TSG owns a large portion of such parcels at this time. Therefore, in the event TSG transfers title or otherwise partners with a third party to a development parcel listed in the Subarea Development Tables of the Comprehensive Plan, TSG at the time of such transfer or partnership may assign to the new owner of such parcels the credits associated with the recognized TSG Public Benefits listed herein or in any addendum to this MOU. TSG shall be required in any such assignment to attach a copy of this MOU and any addendums hereto to the assignment, so that the new owner is aware of the nature of the specific credits being assigned.
- 1.5 Value of Public Benefits. While the Town is recognizing and giving credit as Public Benefits to the TSG Provisions in this MOU, the Town cannot assign any weight or value to the TSG Provisions due to the nature of future land use applications which are quasi-judicial proceedings, which by their nature require that all determination of the value of public benefits be made at such time and in conjunction with the nature of the requests made in any future and specific land use applications.

ENTERED INTO ON THE DATE FIRST SET FORTH ABOVE:

TSG SKI & GOLF, LLC

By: _____
Bill Jensen, CEO

TOWN OF MOUNTAIN VILLAGE

By: _____
Laila Benitez, Mayor