

Memo

Agenda Item #7

To: Mayor and Town Council

From: James D. Mahoney and Gene D. Dackonish

Date: April 19, 2018

Re: Approving Settlement Term Sheet for Settlement Terms for Lot 161C-R and Ridge Lawsuit

In your packets under agenda item #7 is a proposed Settlement Term Sheet outlining terms upon which the parties to the lawsuit involving Lot 161C-R, the Ridge, the Town, and various named parties in that portion of the lawsuit, involving claims related to Ridge parking and Lot 161C-R, are willing to resolve the lawsuit. This Settlement Term Sheet is the result of months of direct negotiation between principal designated representatives from Lot 161C-R, The Ridge HOA, The Ridge Club, some of The Ridge owners, and the Town. The negotiated terms among those principals have been recited, reviewed and addressed by legal counsel for the involved entities, resulting in the proposed Settlement Term Sheet to identify all material terms of settlement and provide the basis from which the parties are obligated to work toward the parties preparing and performing a full, final, binding settlement agreement, in order to resolve the lawsuit.

Approval of this Settlement Term Sheet would bind the Town to agree to resolve the lawsuit on the terms outlined therein, so long as all other parties similarly agreed to be bound, and so long as all conditions precedent outlined in the term sheet are performed as required by various parties. Denial of the Settlement Term Sheet by the Town would not allow the lawsuit to resolve on the specific terms set forth in the Settlement Term Sheet, and depending upon reasons for Town denial or unwillingness to agree to the Settlement Term Sheet, would lead to either a revised Settlement Term Sheet, or perhaps a cessation of settlement efforts and a resumption of litigation. Litigation has essentially been on hold or stay since mediation last September and the ensuing months of Settlement Term Sheet discussions and negotiations.

Proposed Motion:

Approval: I move to approve the Town entering into and agreeing to be bound by the Settlement Term Sheet for resolution of the lawsuit involving the parties identified in the Settlement Term Sheet.

Denial: I move to deny the Town entering into and agreeing to be bound by the Settlement Term Sheet for resolution of the lawsuit involving the parties identified in the Settlement Term Sheet.

SETTLEMENT TERM SHEET

This **SETTLEMENT TERM SHEET** (“**Term Sheet**”) is made and entered into this ____ day of ____, 2018, by and between CO Lot 161C-R Mountain Village, LLC (“**CO Lot**”), a Colorado limited liability company; The Ridge At Telluride Homeowners Association, Inc. (“**The Ridge HOA**”), a Colorado nonprofit corporation; The Ridge Club At Telluride, Inc. (“**The Ridge Club**”), a Colorado nonprofit corporation; Coonskin Ridge Cabin Lot, LLC, a Michigan limited liability company (“**Coonskin**”); Ironhorse Land Company, LLC, a Nevada limited liability company (“**Ironhorse**”); CO Ridge Lots 3 & 11, LLC, a Delaware limited liability company (“**CO Ridge Lots**”); Jonathan H. and Tiffany L. Horton Living Trust (“**Horton Trust**”); Life @ 10,500 Ft LLC, a Colorado limited liability company (“**Life @ 10,500**”); Telluride Longview, LLC, a Colorado limited liability company (“**Longview**”); See Forever Holdings, LLC, a Tennessee limited liability company (“**See Forever**”); Eenhoorn Ridge, LLC, a Michigan limited liability company (“**Eenhoorn**”); Leonard Conway (“**Conway**”); SSS Ranch, LLC, a Colorado limited liability company (“**SSS Ranch**”); Ridge Cabin Holdings, LLC, a Colorado limited liability company (“**Ridge Cabin**”); Lakshmana R. Madala (“**L. Madala**”); Manjula Madala (“**M. Madala**”); Lot 20 The Ridge, LLC, a Michigan limited liability company (“**Lot 20**”); Lot 16 The Ridge, LLC, a Michigan limited liability company (“**Lot 16**”); and the Town of Mountain Village (“**Town**”), a Colorado home rule municipality. CO Lot, The Ridge HOA, The Ridge Club, Coonskin, Ironhorse, CO Ridge Lots, Horton Trust, Life @ 10,500, Longview, See Forever, Eenhoorn, Conway, SSS Ranch, Ridge Cabin, L. Madala, M. Madala, Lot 20, Lot 16, and Town may be referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

The Parties have entered into this Term Sheet in an effort to resolve that certain litigation (civil action No. 2015CV30031, San Miguel County District Court) (the “**Litigation**”) which arises from various disputes concerning the Ridge At Telluride real estate development (the “**Project**”).

The terms below set forth a number of significant and time-consuming obligations by the Parties, including positive resolution of certain public processes to be undertaken with the Town, the outcome of which is not pre-determined or guaranteed. Understanding what is required of each of them, and that time is of the essence, the Parties agree that the timely and full satisfaction of all of the following terms constitute conditions precedent to a final settlement, releases and dismissal of all claims, with prejudice, against CO Lot, TMVOA, and the Town. The Parties agree that they will, in good faith, take all reasonable actions to carry out the terms of this agreement and expedite the fulfillment of the terms below.

The Term Sheet is being developed in connection with the September 22, 2017 Standstill Agreement the November 17, 2017 Standstill Agreement, the January 25th, 2018 First Amendment to Standstill Agreement, and the March 8, 2018 Second Amendment to Standstill

Agreement entered into between CO Lot, The Ridge HOA, and The Ridge Club (collectively, the “**Standstill Agreement**”).

Now therefore, in consideration of the foregoing, and without admitting any fault or liability with regard to the claims and allegations in the Litigation, the Parties agree as follows:

A. DEEDED PARKING SPACE PURCHASE PROGRAM

CO Lot will make available up to 52 deeded, underground parking spaces for purchase within the Core Development (defined below) by: (i) owners of units annexed into The Ridge at Telluride as of December 31, 2017 (“**Ridge Unit Owners**”), who are Coonskin (Units 7, 9, 10, 19), Ironhorse (Unit 25), CO Ridge Lots (Units 3, 11), Horton Trust (Unit 12), Life @ 10,500 (Unit 15), Longview (Unit 17), See Forever (Unit 18), Eenhoorn (Unit 21), Conway (Unit 22), SSS Ranch (Unit C3), Ridge Cabin (Unit C4), L. Madala (Unit 23, as joint tenant), M. Madala (Unit 23, as joint tenant), Lot 20 (Unit 20), Lot 16 (Unit 16); (ii) Coonskin and Ironhorse, who collectively own 32 “Condominium Units” of zoned density allocated to Lots 161AR-2, 161AR-3, 161A-4 and 161D-2 as of December 31, 2017 that have not been annexed into The Ridge at Telluride (“**Unplatted Density Owners**”); (iii) Coonskin, as the owner of Unit 2 and Unit 7, Lot 161A-1 Building (“**Units 2 & 7 Owner**”) and (iv) The Ridge HOA. Ridge Unit Owners, Unplatted Density Owners, Units 2 & 7 Owner, and the Ridge HOA may be referred to herein collectively as “**Owners**” and individually as an “**Owner.**”

1. **Number of Individual Parking Spaces.** The 52 deeded, underground parking spaces shall be available and allocated to the Owners as follows:
 - i. Ridge Unit Owners shall be eligible to purchase one underground parking space for each Unit annexed into The Ridge at Telluride as of December 31, 2017 (18 parking spaces);
 - ii. Unplatted Density Owners shall be eligible to purchase one underground parking space for each “Condominium Unit” of unplatted density currently zoned and allocated to the Unplatted Density Owners (32 parking spaces) provided that the Unplatted Density has been annexed into The Ridge at Telluride by the Election Deadline; and
 - iii. Units 2 & 7 Owner shall be eligible to purchase one underground parking space for each of Units 2 and 7 (2 parking spaces).
 - iv. Each Ridge Unit and each Condominium Unit shall only be entitled to purchase one parking space per unit except as provided for under Section A(1)(v). Each parking space shall be deed restricted to the applicable Ridge Unit in accordance with Section A(7) below.
 - v. If the Ridge Unit Owners or Unplatted Density Owners eligible to purchase parking spaces (for Unplatted Density Owners, meaning they are annexed into the Ridge at Telluride by the Election Deadline (as defined below)) opt not to purchase a deeded underground parking space within the Core Development the balance of the 52 parking spaces not purchased by an Owner (the “**Non-Purchasing Owner**”) may be purchased by the Ridge HOA on behalf of and appurtenant to the Non-Purchasing Owner’s unit within the Ridge at Telluride pursuant to the terms of Section A.2. The Ridge HOA’s purchase of such spaces related to a Non-Purchasing Owner may only be used by the Ridge HOA for HOA related purposes or shall be sold to the Non-Purchasing Owner upon Non-Purchasing Owner’s request. If a Non-Purchasing Owner delivers a written notice to The Ridge HOA to purchase a parking space that is appurtenant to the Non-Purchasing Owner’s unit

within the Ridge at Telluride, The Ridge HOA shall deed the Non-Purchasing Owner the parking space upon reimbursement to The Ridge HOA of the purchase price, along with interest thereon equal to The Ridge HOA's then-current past-due assessment collection policy rate. The Ridge HOA shall have an additional five business days after the Election Deadline to elect to purchase the spaces allowed under this provision and execute a Reservation Agreement and deposit \$60,000 per space into escrow in accordance with this Section A.

2. **Reservation Agreement.** If an Owner elects to purchase a deeded, underground parking space within the Core Development, the Owner shall execute a reservation agreement ("**Reservation Agreement**") and deposit the sum of \$60,000 per parking space to be held in escrow by Land Title Guaranty Company pursuant to an escrow agreement consistent with the terms of the Settlement Agreement. Each executed Reservation Agreement shall be recorded in the public records of the San Miguel County Clerk and Recorder against Lot 161C-R (the "**Core Property**"). Upon receipt of the executed Reservation Agreement and the escrowed funds, the Owner shall be guaranteed the number of deeded, underground parking spaces set forth in the Reservation Agreement at the specified purchase price and shall receive a permit allowing the Owner to park one vehicle on the Core Property for each underground parking space reserved by the Owner under an executed Reservation Agreement in accordance with the temporary surface parking program on the Core Property set forth in **Section B** below. *The total number of temporary surface parking spaces shall be capped at 20 parking spaces and shall be available on a first-come, first-serve basis based upon the date of execution of a Reservation Agreement.*
3. **Purchase by no later than Early Reservation Deadline.** For purposes of this Term Sheet, the "**Early Reservation Deadline**" shall mean the date that is 60 days following the date of execution of the Settlement Agreement (defined below) and related documents by all Parties. The Ridge Unit Owners and the Unit 2 & 7 Owner shall be entitled to purchase deeded, underground parking spaces on or before the Early Reservation Deadline for a purchase price equal to the lesser of \$60,000 or the actual cost of construction of an underground parking space within the Core Development.
4. **Purchase after the Early Reservation Deadline.** After the Early Reservation Deadline, the balance of the 52 parking spaces not purchased by the Early Reservation Deadline may be purchased by Owners for an amount equal to the actual cost of construction of an underground parking space within the Core Development. Unplatted Density Owners shall only be eligible to purchase parking spaces if the Unplatted Density has been annexed into The Ridge at Telluride by the Election Deadline (defined below).
5. **Election Deadline.** CO Lot or the Developer of the Core Development shall provide written notice to the Owners and the Ridge HOA that it intends to conduct a pre-submittal meeting required by the Town's Community Development Code ("CDC") as a precursor to a development application for the Core Property no less than 90 days prior to such pre-submittal meeting (the "Pre-Submittal Notice"). An election to purchase a deeded, underground parking space by an Owner *must* be made by no later than the date that is sixty days after receipt of the Pre-Submittal Notice (the "**Election Deadline**").
 - a. If an Owner exercises the right to reserve a parking space *after* the Early Reservation Deadline and *before* the Election Deadline, the Owner shall be required to execute a

Reservation Agreement agreeing to pay the actual cost of construction of an underground parking space and shall deposit \$60,000 into escrow on or before the Election Deadline.

- b. If an Owner has not both executed a Reservation Agreement and deposited \$60,000 into escrow on or before the Election Deadline, an Owner shall not be entitled to purchase an underground parking space within the Core Development.
- c. CO Lot and/or the Developer shall only be required to construct underground deeded parking spaces within the Core Development equal to the number of parking spaces 1) reserved under the Reservation Agreements executed by the Owners on or before the Election Deadline; or 2) reserved by the Ridge HOA in accordance with Section A.1.v. (collectively, the “**Deeded Parking Spaces**”).
- d. A Reservation Agreement may be terminated by an Owner on or before the Election Deadline by delivery of written notice of termination to CO Lot on or before the Election Deadline. In the event of termination of a Reservation Agreement, the \$60,000 deposit shall be released from escrow and refunded to the Owner subject to 5(e) below.
- e. In the event a Reservation Agreement was used as the basis for an Owner to pull a building permit from the Town of Mountain Village (“the Town”), and said owner terminates the Reservation Agreement, the escrow agreement associated with such Reservation Agreement shall provide for a release of funds to the Town from the \$60,000 plus interest in the amount of the Town’s parking payment in lieu in effect at the time of termination of the Reservation Agreement with any amounts left after the Town’s parking payment in lieu returned to the Owner. In the event that the \$60,000 plus interest does not cover the parking payment in lieu fee the Owner shall be responsible for paying the difference and failure to pay such difference shall constitute a violation of the Town’s Community Development Code.

6. **Actual Costs of Construction.** Upon completion of the underground parking within the Core Development, the actual costs of construction, at no profit to the Developer, per underground parking space shall be calculated.

- a. **Reservation Agreement executed on or before the Early Reservation Deadline.** If the actual costs of construction are *less* than \$60,000 per underground parking space, any Owner who executed a Reservation Agreement on or before the Early Election Deadline shall be refunded the amount that is the difference between \$60,000 and the actual costs of construction. If the actual costs of construction are *greater* than \$60,000, such Owner shall *not* be required to pay more than \$60,000 per parking space.
- b. **Reservation Agreement executed after the Early Reservation Deadline.** If the actual costs of construction are *greater* than \$60,000 per underground parking space, those Owners executing a Reservation Agreement dated after the Early Reservation Deadline shall pay the total amount of the actual cost of construction of the underground parking space. If the costs of construction are *less* than \$60,000 per underground parking space, these Owners shall be entitled to a refund in the amount that is the difference between \$60,000 and the actual costs of construction.

7. **Transfer of Title to Parking Space.** Upon receipt of a certificate of occupancy or equivalent document from the Town of Mountain Village for the underground parking located within the Core Development and recordation of common interest community documents required under Colorado law for the Core Development: (i) a deed for each individual parking space reserved under a Reservation Agreement will be delivered to an Owner; and (ii) the escrowed funds will be released from escrow to CO Lot and, if the actual costs of construction are less than \$60,000, to an Owner who executed a Reservation Agreement and is entitled to a refund in accordance with Section A.6. Owners who executed

a Reservation Agreement dated after the Early Election Deadline shall be required to pay the difference between \$60,000 and the actual costs of construction as a condition of delivery of a deed for a Deeded Parking Space. The deed for each Deeded Parking Space shall contain a restriction prohibiting the transfer, sale or conveyance of the parking space separate and apart from the specific Ridge Unit, Unplatted Density Unit or Units 2 & 7 without the written consent from the Town and the Ridge HOA. Additionally, as a condition of delivery of the deed for each Deeded Parking Space, each Owner shall execute a right of purchase for the fee owner of the Core Development (“**Right of Purchase**”). The Right of Purchase shall grant the fee owner of the Core Development the right to purchase any Deeded Parking Space allocated to any Unplatted Density or any Unit that has been annexed into The Ridge at Telluride that is subsequently transferred to the Town’s density bank or to another lot outside The Ridge at Telluride for a period of twenty-five (25) years following date of recordation of the deed to a Deeded Parking Space. The purchase price for the Right of Purchase shall be set at the actual purchase price paid by the Owner for delivery of a deed for the Deeded Parking Space.

8. **Receiving/Loading Services and/or Facilities and Valet Services.** CO Lot shall *require* a provision in the development agreement or purchase agreement with a Developer requiring that the Developer commit to providing receiving, loading and unloading services or facilities to the Owners within the area of the Core Development currently known as Lot 161C-R and Lot 53A. The Ridge HOA, The Ridge Club, and Owners shall have the opportunity to discuss the purchase of additional underground parking spaces and the provision of valet services within the Core Development to the Owners with the Developer.

These additional services and facilities and the details listed below shall be negotiated between The Ridge HOA, The Ridge Club, and the Owners, on the one hand, and the Developer, on the other hand. CO Lot shall participate in all discussions and negotiations with the Developer as a facilitator in order to facilitate productive discussions and negotiations. The Ridge HOA, The Ridge Club, and the Owners shall collectively designate no more than two individuals who shall be solely authorized to negotiate these terms and conditions with the Developer on behalf of The Ridge HOA, The Ridge Club, and the Owners. All communications, negotiations and contacts with the Developer must be coordinated through CO Lot unless CO Lot provides written authorization otherwise.

Items to be discussed and negotiated with the Developer are:

- a. The option of providing valet services by the Developer;
 - b. The scope, terms, location and cost of receiving, loading and unloading services or facilities within the Core Development provided by the Developer;
 - c. The option of purchasing additional parking spaces in excess of the Deeded Parking Spaces by The Ridge HOA, The Ridge Club, or the Owners; and
 - d. The exact location of the Deeded Parking Spaces within the Core Development.
9. **Additional Terms and Conditions.**
 - a. Those Owners who have *not* executed Reservation Agreements by the Election Deadline, i.e., the Non-Purchasing Owners as defined in Section A.1.v., shall not be eligible to purchase an underground parking space within the Core Development from CO Lot or Developer, but may be eligible to purchase a parking space from the Ridge HOA if the Ridge HOA exercised its right to purchase any parking spaces not exercised by the Non-Purchasing Owners and if such space is properly allocable to the Non-Purchasing

Owner's unit within the Ridge at Telluride. If the Non-Purchasing Owner fails to acquire a space through the method set forth in Section A.1.v., the Non-Purchasing Owner will be individually responsible for satisfying the Town parking requirements appurtenant to the Owner's unit or density pursuant to terms and conditions of the Town's CDC, which requires payment of the payment-in-lieu fee established by the Town in effect at the time a building permit is sought.

- b. In order to obtain a building permit from the Town, an Owner must either present an executed Reservation Agreement to the Town or make payment to the Town for the then-applicable payment-in-lieu fee established by the Town.
- c. The building permit issued for the Core Development shall include a condition that the certificate of occupancy for the Core Development is conditioned upon the completion of the Deeded Parking Spaces.
- d. The Ridge HOA, The Ridge Club, and the Owners shall cause The Ridge HOA Declaration to be amended to prohibit sale of the Deeded Parking Spaces except in conjunction with the sale of the Unit associated with the Deeded Parking Space in the deed unless the Ridge HOA and Town have provided written consent. The Owners acknowledge that the use of Deeded Parking Spaces used to satisfy Town parking requirements shall be governed by the Town's CDC.
- e. If an Owner of Unplatted Density rezones the Unplatted Density under the Town's Community Development Code, the Owner shall only be allowed to purchase the number of parking spaces equal to the equivalent number of "Condominium Units" currently zoned as part of the Unplatted Density.
- f. If any Unplatted Density or any Unit that has been annexed into The Ridge at Telluride is transferred to the Town's density bank or to another lot, CO Lot shall have no obligation to make parking spaces available for purchase within the Core Development for such Unplatted Density or Unit, and any Reservation Agreement associated with such Unplatted Density or Unit shall automatically terminate and the deposit shall be refunded to the Owner without interest.
- g. Ongoing operations and maintenance assessments, fees, and costs for the Deeded Parking Spaces shall be invoiced by the owners' association for the Core Development directly to The Ridge HOA, rather than the individual Owners of the Deeded Parking Spaces. The Ridge HOA shall be responsible for payment of the assessments, fees, and costs associated with the Deeded Parking Spaces to the owners' association for the Core Development. The Owners of the Deeded Parking Spaces shall comply with all rules and regulations set forth in the Core Development governing documents. The assessments associated with the Deeded Parking Spaces shall be equal to the assessments for all other underground parking spaces within the Core Development.
- h. TMVOA and CO Lot shall have no payment obligation for any of the Deeded Parking Spaces except to the extent required for Ridge Units 3 and 11 owned by CO Ridge Lots 3 and 11 Mountain Village, LLC.

10. **No Guaranteed Date of Commencement, Duration, or Date of Completion of Construction.** CO Lot and TMVOA make no representations regarding the date of commencement, duration, or date of completion of construction of the Core Development, including the Deeded Parking Spaces.

B. **TEMPORARY PRE-CONSTRUCTION PARKING.**

CO Lot represents that it has received conditional approval from the Town for a conditional use permit (“**CUP**”) for temporary surface parking on the Core Property until such time as construction of the Core Development is commenced. CO Lot further represents that it is diligently using its best efforts to comply with all conditions imposed by Town under the CUP, including without limitation the construction of stairs from the Core Property to the gondola plaza and installation of parking and informational signage. CO Lot shall make available a maximum of 20 temporary surface parking spaces to Owners who have executed a Reservation Agreement and paid \$60,000 into escrow as set forth in Section A above and 4 temporary parking spaces pursuant to the Standstill Agreement and in accordance with the following terms and conditions:

1. **CO Lot’s Obligations.** To facilitate limited temporary parking at present and prior to construction of the Core Development, CO Lot will:
 - a. Use its best efforts to obtain all necessary conditional use and any other required permits from the Town to allow for temporary surface parking on the Core Property (completed).
 - b. Obtain approval from the Town and the owner of Lot 53A to construct stairs leading from the Core Property to the gondola plaza (completed).
 - c. Grade and gravel the Core Property to make it suitable for parking.
 - d. Comply with all conditions under the CUP.
 - e. Install signs, gates and other facilities deemed necessary for the Core Property to be used for temporary surface parking consistent with any Town approvals.
 - f. Maintain and surveil the Core Property.
 - g. Obtain liability insurance in connection with temporary surface parking on the Core Property for authorized purposes and by authorized individuals (completed).
 - h. Provide the Standstill Temporary Parking (defined below) and Temporary Permitted Parking (defined below) in accordance with this Term Sheet, the Standstill Agreement, and the CUP.
 - i. Provide for additional permitted parking on the Core Property as may be determined by CO Lot, in its sole discretion, for use by Village Center businesses and TMVOA residents and approved by the Town of Mountain Village.
2. **Standstill Temporary Parking.** Conditioned upon the issuance of the CUP and compliance with all conditions imposed by the Town in accordance with the CUP, CO Lot will authorize The Ridge HOA to use 4 temporary parking spaces on the Core Property in accordance with the terms and the conditions of the Standstill Agreement (“**Standstill Temporary Parking**”), this Term Sheet, and the CUP. The Standstill Temporary Parking will begin only upon compliance with all conditions imposed by the Town under the CUP and, if necessary, an extension of the Standstill Agreement.
3. **Temporary Permitted Parking.** Upon execution of the Settlement Agreement by all Parties and liability releases set forth in Section B.5.c, and compliance with all conditions imposed by the Town under the CUP, CO Lot shall make available a maximum of 20 temporary surface parking spaces to Owners who have executed a Reservation Agreement and paid \$60,000 into escrow as set forth in Section A above (“**Temporary Permitted Parking**”). The Standstill Temporary Parking shall cease upon execution of the Settlement Agreement.
4. **Rules and Regulations.** CO Lot will establish, and the Owners will follow, reasonable written rules and regulations for use of the Standstill Temporary Parking and Temporary Permitted Parking consistent with the conditions of the CUP, including the following:

- a. The Standstill Temporary Parking and the Temporary Permitted Parking individual parking spaces shall be signed and designated for the Owners by CO Lot and shall be located as close to the gondola as reasonably practicable.
 - b. Permits (decals or hangtags) will be issued for each Standstill Temporary Parking and Temporary Permitted Parking individual parking space. A permit must be displayed in vehicles parking on the Core Property in the spaces designated for Owners. Owners may not park in the temporary parking spaces reserved for other authorized users by CO Lot.
 - c. Overnight parking will be allowed for the Temporary Permitted Parking only, subject to the Owners' cooperation in connection with snow removal, maintenance activities and tests and investigations conducted by CO Lot or the Developer for items such as wetlands delineation, water table testing and soils and geotechnical tests and investigations and compliance with conditions imposed by the Town under the CUP.
 - d. The Ridge HOA, The Ridge Club, and the Owners shall not perform any maintenance or work on the Core Property, including but not limited to sign installation, grading, or snow plowing (which shall all be conducted by CO Lot).
 - e. The Ridge HOA, The Ridge Club, and the Owners shall have no parking privileges on the Core Property other than the Standstill Temporary Parking and the Temporary Permitted Parking prior to commencement of construction of the Core Development.
5. **The Ridge HOA, The Ridge Club and Owners' Obligations.** To facilitate the Standstill Temporary Parking and the Temporary Permitted Parking, The Ridge HOA, The Ridge Club, and the individual Owners will:
- a. Pay \$350 per permit per year to CO Lot for the Temporary Permitted Parking, subject to annual increases commensurate with the costs for operating, maintaining, and insuring the Core Property for temporary surface parking purposes. The cost of permits issued for the Temporary Permitted Parking shall not exceed the cost of permits issued to other authorized users for parking on the Core Property. The cost of permits shall include amortization of the costs of construction of the stairs, sign installation, and grading of the Core Property.
 - b. Negotiate with the Town regarding the Town's permission to access the "side door" to the gondola from the ground level of the Core Property for limited and occasional use, pursuant to advance notice to and scheduling with the Town, when loading multiple or heavy items. Multiple or heavy items shall be limited to personal luggage type items, and shall not include furniture, fixtures, building materials, construction materials, or other such non-personal luggage items which must be transported to the Ridge by means other than the gondola. CO Lot and TMVOA shall have no involvement in these negotiations or additional obligations relating to Town-owned property, including the gondola stations and plazas.
 - c. Execute a liability release holding CO Lot, TMVOA, TSG, and the Town harmless for any injury to person or property that may occur on or in connection with the use of the Core Property, the gondola "side door" and gondola plaza; and shall indemnify the Town for any damage resulting to the gondola in connection with use of the gondola "side door" and/or loading multiple or heavy items on the gondola.

C. **PLANNING AND DEVELOPMENT OF THE CORE PROPERTY AND CORE DEVELOPMENT.**

The Ridge HOA, The Ridge Club, and the Owners acknowledge and understand that the planning for the ultimate development of the Core Property will be undertaken in connection with the Village Center

Subarea planning process initiated by the Town under the Town's land use regulations. CO Lot will ensure that The Ridge HOA, The Ridge Club and the Owners are provided written notice of all meetings and activities conducted as part of the Village Center Subarea planning process. It is CO Lot's understanding that the public Village Center Subarea planning process will commence in early or mid-2018.

1. **Development of Core Property.** The terms and conditions of the Settlement Agreement shall be disclosed by CO Lot and the Town in connection with the Village Center Subarea planning process and shall be incorporated into the planning for the Core Property. The Village Center Subarea planning process may result in a recommendation for the joint development of parcels that are immediately adjacent to the Core Property. Upon completion of the Village Center Subarea planning process, CO Lot will seek a developer, partner and/or operator ("**Developer**") to develop the Core Property and adjacent parcels, if applicable, in accordance with the plans and concepts developed during the Village Center Subarea planning process ("**Core Development**"), in the sole discretion and judgment of CO Lot.
2. The terms and conditions of the Settlement Agreement shall encumber the Core Property and Core Development. As an exhibit to the Settlement Agreement, the Parties shall prepare a mutually agreeable form of memorandum of agreement creating a valid covenant running with the Core Property and binding on subsequent purchasers, consistent with the terms of the Settlement Agreement. Upon execution of the Settlement Agreement by all Parties and all parties required under Section E.2., CO Lot shall record the memorandum of agreement in the public records of the San Miguel County Clerk and Recorder, providing notice of the existence of the Settlement Agreement.
3. **Cessation of Temporary Permitted Parking.** The Temporary Permitted Parking shall immediately cease upon receipt of written notice from CO Lot or the Developer of the commencement of physical construction or physical pre-construction activities (i.e. grading and site preparation) on the Core Property in accordance with the Town approvals for the Core Development and delivery of a copy of the Town approval authorizing the construction activities. The date of commencement of construction activities shall be determined in CO Lot's and/or the Developer's sole discretion and consistent with the Town approvals.
4. **Parking During Construction Activities**
 - a. The Ridge HOA, The Ridge Club, and the Owners, with assistance from CO Lot and the Town, will secure future temporary parking arrangements for use during the construction of the Core Development for no more than the number of temporary parking spaces authorized in accordance with Temporary Permitted Parking, not to exceed a total of 20 parking spaces under any circumstances. The cost (if any) of the alternate parking during construction of the Core Development shall be the sole responsibility of The Ridge HOA, The Ridge Club, and/or the Owners.
 - a. If the public parking garage adjacent to gondola located on Lot1003R-1 ("**Lot 1003R-1 Parking Garage**") has been expanded, the Town will allow parking in the Lot 1003R-1 Parking Garage for the Owners equal to the number of spaces allocated under the Temporary Permitted Parking, not to exceed 20 parking spaces, at the lowest available rate for overnight parking. If the Lot 1003R-1 Parking Garage has not been expanded, the Town will commit to working with The Ridge HOA, The Ridge Club, and the Owners to locate temporary parking either at Town-owned facilities (subject to charge at the lowest available rate) or any available vacant lot that can be converted to temporary parking during the

construction of the Core Development, subject to approval of such parking on a vacant lot through the Town's conditional use permit process. By agreeing to work with The Ridge HOA, The Ridge Club, and the Owners in this regard, the Town does not guarantee that temporary parking will be located or that a conditional use permit will be approved, only that the Town will use its best efforts to assist with this endeavor, if needed. The Ridge HOA, The Ridge Club, and the Owners shall designate no more than two individuals who shall be solely authorized to work with the Town on behalf of The Ridge HOA, The Ridge Club and all Owners regarding temporary parking during construction of the Core Development.

D. **TOWN PARKING OBLIGATIONS/PROMISSORY NOTES.**

1. **Town Parking Requirements for Ridge Density.** The Ridge HOA and the Owners shall submit an application ("**Application**") to the Town pursuant to the Town's Community Development Code on or before August 1, 2018, seeking to obtain the Town's approval as to the total parking obligation required for all density, including the "Unplatted Density," at The Ridge consistent with the terms and conditions set forth in this Term Sheet. In the event that approval of the Application from the Town is materially inconsistent with this Term Sheet, The Ridge HOA, The Ridge Club, or the Owners may terminate this Term Sheet. Neither CO Lot nor TMVOA has any obligations under this Section D.1. The Town makes no representation or guarantee with regard to the approval of the Application.
2. **Satisfaction of Promissory Notes and Payment-in-Lieu Fees.**
 - a. Contingent upon the Town's approval of the Application required under Section D.1, the respective Owner of the units identified in this Section D.2.a and the Town shall enter into replacement promissory notes (the "**Replacement Promissory Notes**") for the four Promissory Notes reissued to the Town on February 5, 2015 by St. Sophia Partners, LLLP ("St. Sophia") ("**Promissory Notes**"). The Promissory Notes were issued for parking payment-in-lieu fees in the total principal amount of \$234,000.00 as follows: (i) principal amount of \$78,000 for three parking spaces for Unit 2, Lot 161A-1R Building; (ii) principal amount of \$52,000 for two parking spaces for Unit 7, Lot 161A-1R Building; (iii) principal amount of \$52,000 for two parking spaces for Unit C-3, The Ridge; and (iv) principal amount of \$52,000 for two parking spaces for Unit 21, The Ridge. The Replacement Promissory Notes shall be for the same units and parking spaces identified above and for the same amounts as provided for in the Promissory Notes, with the following additional or modified terms:
 - i. The Replacement Promissory Notes shall be due and payable on the Early Reservation Deadline.
 - ii. In order to comply with the payment obligation listed above in Section D.2.a.i, on or before the Early Reservation Deadline, the Owner of a Unit listed above that is subject to the Replacement Promissory Notes shall either (1) deliver to the Town an executed Reservation Agreement for the purchase of a Deeded Parking Space appurtenant to a unit listed above; or (2) the Owner of a Unit listed above that is subject to the Replacement Promissory Note shall pay the Town the amount due on the Replacement Promissory Note, including principal and accrued interest; either method of which shall satisfy the Town's parking requirement.

- iii. Upon delivery to the Town of an executed Reservation Agreement or payment of the Replacement Promissory Note, the Town shall cancel the associated Replacement Promissory Note.
- b. If the Owner of Unit 15, The Ridge at Telluride (current owner is Life @ 10,500 Ft LLC), delivers an executed Reservation Agreement to the Town on or before the Election Deadline, the Town will refund to such Owner the parking payment-in-lieu fees paid to the Town in connection with the issuance of the building permit for Unit 15. If an executed Reservation Agreement is *not* delivered to the Town on or before the Election Deadline, the Town shall retain all parking payment-in-lieu fees paid to the Town in connection with Unit 15 in full satisfaction of the Town's parking requirement for Unit 15.
- c. In order to obtain a building permit from the Town, an Owner must either present an executed Reservation Agreement or pay to the Town the then-applicable parking-payment-in-lieu fees.
- d. CO Lot and TMVOA shall have no payment obligations with respect to the Promissory Notes or any payment-in-lieu fee required by the Town or any promissory notes issued to the Town for purposes of satisfying the Town's parking requirements for The Ridge density.
- e. As a condition precedent to its execution of the Settlement Agreement, the Town shall receive executed Replacement Promissory Notes from the respective Owner of each of the units identified in Section D.2.a. After the Town's receipt of executed Replacement Promissory Notes and its subsequent execution of the Settlement Agreement along with execution of the Settlement Agreement by all other Parties and all parties required under Section E.2., the Town shall waive any restriction on the issuance of a building permit for development of the Core Property related to the satisfaction of the Promissory Notes or parking requirements for The Ridge density other than the provision of the Deeded Parking Spaces.

E. **SETTLEMENT AGREEMENT.**

- 1. Upon agreement and execution of this Term Sheet and approval of the terms by the Town, this Term Sheet will be converted to a settlement agreement which all Parties shall participate in drafting ("**Settlement Agreement**"). The Ridge HOA shall deliver a first draft of the Settlement Agreement within thirty days following agreement by CO Lot, The Ridge HOA, the Ridge Club, and Town to the Term Sheet. If the Settlement Agreement has not been finalized and executed by all parties identified in Section E.2 by December 31, 2018, and CO Lot, The Ridge HOA, The Ridge Club, Coonskin, Ironhorse, and Town have not executed any amendment to this Term Sheet extending this time period, this Term Sheet will automatically terminate.
- 2. The Settlement Agreement must be executed by CO Lot, TMVOA, the Town, The Ridge HOA, The Ridge Club, each individual Owner, and St. Sophia Partners, LLLP ("St. Sophia") to the extent they are required under Section E.7.b and d.
- 3. The Settlement Agreement, along with other documents identified in or required by this Term Sheet shall be the sole and exclusive documents governing the Parties' respective rights and obligations related to parking on the Core Property and the parking requirements for The Ridge (including any payment-in-lieu fees owed to or required by the Town). Provided,

however, that any approval adopted by the Town (if any) in connection with the Application required under Section D.1 shall further govern The Ridge Units and density.

4. The Ridge HOA, The Ridge Club, and the Owners shall: (1) represent and warrant that they have the right to bind all past, current, and future Owners of units and density with respect to any rights, privileges, or obligations associated with the Core Property; and (2) effectuate any changes to The Ridge Development's common-interest ownership declarations, purchase and sales agreements, covenants, marketing materials, and other such documents to reflect the rights, privileges and obligations set forth in the Settlement Agreement.
5. A maximum of two appointees from The Ridge HOA, CO Lot, and Town and their respective attorneys shall act as the representatives and sole points of contact with respect to drafting and the rights, privileges, and obligations set forth in the Settlement Agreement in accordance with the provisions of this term sheet.
6. **Dismissal of Claims.** Following execution of and upon conditions set forth in the Settlement Agreement, The Ridge HOA, The Ridge Club, and each Owner shall dismiss all claims, with prejudice, against CO Lot, TMVOA, and the Town. Unless required by law, The Ridge HOA and The Ridge Club shall not take any action to support or promote the claims in litigation by St. Sophia against TSG and Town for an implied easement for a roadway.
7. **Releases.** The Settlement Agreement shall contain the following releases:
 - a. **General Mutual Release.** Each Party explicitly releases and holds harmless each other Party in relation to any claim, existing or future, related to the Parties' respective rights and obligations in connection with parking on the Core Property (including any payment-in-lieu presently owed to or required by the Town; but excluding future requirements as contained herein). The release of future claims is only to the extent permitted under all final settlement documents and applicable law.
 - b. **Release and Termination of Covenants.** All Parties and St. Sophia must agree to the termination of the 2000 Covenant, the 2001 Covenant, the 2005 Covenant, the Parking Performance Agreement, the Parking Assurance Covenant, and the release of any rights and extinguishment of any obligations under any such document listed in this Section 7(b). The Parking Assurance Covenant shall be removed from title to the Core Property.
 - c. **Release of Any Claimed Easement or Other Rights.** The Ridge HOA, The Ridge Club, and the Owners shall expressly waive any claimed easement rights or any other rights with respect to the Core Property, whether based in express or implied easement or any other legal theory, and whether supported by any covenant, agreement, resolution, or other document created on or before the date of the Settlement Agreement. The Settlement Agreement shall be the sole and exclusive document governing The Ridge HOA, The Ridge Club, and the Owners' rights with respect to the Core Property and the parking requirements for The Ridge.
 - d. **St. Sophia's Release.** The Ridge HOA, The Ridge Club, and the Owners shall secure St. Sophia's (and other named Plaintiffs') written agreement to be bound by all releases set forth in the Settlement Agreement with respect to any potential claims against CO Lot, TMVOA, the Core Property, and the Town in relation to any claim, existing or future, related to the Parties' and/or St. Sophia's respective rights and obligations in connection with use of, access to, or parking on the Core Property.
8. **Confidentiality.** This is a confidential settlement communication subject to state and federal Rules of Evidence Rule 408. Unless required by law, the Parties to this Term Sheet shall not disclose the terms of this Term Sheet to any other person or entity other than the Parties'

respective legal counsel or financial advisor(s) for purposes of advising a Party with respect hereto; provided, however, that such counsel and financial advisor(s) agree to preserve the confidentiality of this documentation and correspondence. Notwithstanding the foregoing, the Parties acknowledge and agree that in order to get a determination of the Town of Mountain Village Town Council on this Term Sheet, it will have to be presented in an open public meeting of the Town Council and at such point will become a public record within the meaning of the Colorado Open Records Act. Additionally, the Parties to this Term Sheet acknowledge and agree that The Ridge HOA and The Ridge Club will disclose and present this Term Sheet to the Owners for their review. However, the Parties still intend that the provisions of Rules of Evidence Rule 408 regarding the admissibility of evidence related to this term sheet and the negotiations surrounding this term sheet shall apply.

9. **Enforceability.** Each of the terms above are conditions precedent to a Settlement Agreement and dismissal of the Lawsuit, including positive resolution of certain public processes to be undertaken with the Town, the outcomes of which are not guaranteed or pre-determined. Accordingly, this Term Sheet is enforceable and binding only insofar as it reflects what each of the Parties has agreed to undertake and accept in order to fully and finally resolve the Litigation. If any one or more of the material terms of this Term Sheet are not satisfied in spite of the Parties' timely and good faith efforts, the Parties are not required to enter into a Settlement Agreement. Upon execution of the Settlement Agreement, this Term Sheet shall be deemed merged therein and shall have no independent legal effect.
10. **Counterpart Execution.** This Term Sheet may be signed in multiple counterparts, with facsimile signatures permitted, and each counterpart when taken with the other executed counterpart shall constitute a binding agreement among the Parties executed as of the date first written above.

(Signature pages follow)

CO LOT 161C-R MOUNTAIN VILLAGE,
LLC

By: _____
[Name], [Position]

THE RIDGE AT TELLURIDE
HOMEOWNERS ASSOCIATION, INC.

By: _____
Charles Harris, President

TOWN OF MOUNTAIN VILLAGE

By: _____
[Name], [Position]

THE RIDGE CLUB AT TELLURIDE, INC.

By: _____
Charles Harris, President

IRONHORSE LAND COMPANY, LLC

By: _____
Michael Blevins, Manager/Member

COONSKIN RIDGE CABIN LOT, LLC

By: _____
Ramesh Cherukuri, Manager/Member

CO RIDGE LOTS 3 & 11, LLC

By: _____
[Name], Manager/Member

JONATHAN H. AND TIFFANY L. HORTON
LIVING TRUST

By: _____
Jonathan H. Horton, Trustee

LIFE @ 10,500 FT LLC

By: _____
Kevin Rost, Manager/Member

TELLURIDE LONGVIEW, LLC

By: _____
Charles Harris, Manager/Member

SEE FOREVER HOLDINGS, LLC

LEONARD CONWAY

By: _____
Stephen Cram, Jr., Manager/Member

EENHOORN RIDGE, LLC

SSS RANCH, LLC

By: _____
Paulus Heule, Manager/Member

By: _____
Mark Stuart, Manager/Member

RIDGE CABIN HOLDINGS, LLC

LAKSHMANA R. MADALA

By: _____
Greg Pope, Manager/Member

MANJULA MADALA

LOT 20 THE RIDGE, LLC

By: _____
Ramesh Cherukuri, Manager/Member

LOT 16 THE RIDGE, LLC

By: _____
Ramesh Cherukuri, Manager/Member

APPROVED AS TO FORM AND CONTENT:

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LLC; Leonard Conway; and Ridge Cabin
Holdings, LLC**

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Living Trust; See Forever Holdings, LLC;
Lakshmana R. Madala; Manjula Madala;
Lot 20 The Ridge, LLC; and Lot 16 The
Ridge, LLC**