

CONFERENCE CENTER MANAGEMENT AGREEMENT

THIS CONFERENCE CENTER MANAGEMENT AGREEMENT ("Agreement") is made and entered into and shall become effective as of the 28th day of January, 2009, by and between **BASE VILLAGE METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and **SNOWMASS HOSPITALITY LLC**, a Delaware limited liability company (the "Manager"). The District and the Manager are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, the District, together with the Base Village Metropolitan District No. 2 ("District No. 2"; and District No. 2 and the District shall be referred to together as the "Districts") has the power pursuant to Article 1, Title 32, C.R.S., to provide for certain public improvements and services as authorized and in accordance with the Amended and Restated Consolidated Service Plan for Base Village Metropolitan District Nos. 1 and 2 (the "Service Plan"), approved by the Town of Snowmass Village, Colorado ("Town"); and

WHEREAS, the relationship of the Districts is set forth in the Service Plan and in an Amended and Restated District Public Improvements Joint Financing, Construction and Service Agreement, dated as of June 25, 2008 (the "Master IGA"), which Master IGA allows District No. 1 to coordinate the provision of services and the ownership, operation and maintenance of District facilities; and

WHEREAS, Base Village Owner LLC ("Developer") is the developer of a mixed-use planned community located in the Town, commonly known as Base Village ("Base Village") including certain improvements known as the Base Village conference center consisting of an approximately 16,000 square foot facility, and equipment and furnishings, all as more particularly described in **Exhibit A** hereto ("Conference Center") pursuant to certain construction contracts and related documents ("Construction Contracts"); and

WHEREAS, District No. 2 has issued its \$15,200,000 Limited Tax Variable Rate Senior Bonds, Series 2008A, and \$32,550,000 Limited Tax Variable Rate Junior Bonds, Series 2008B (the "Bonds") pursuant to an Indenture of Trust between U.S. Bank National Association and District No. 2, dated as of July 1, 2008 (the "Indenture"), which Bonds are to be secured, in part, from certain Pledged Revenue as provided in the Indenture and a Capital Pledge Agreement between the Districts and the Trustee, entered into on July 1, 2008 (together with the Indenture and all other documents, certifications, and resolutions required for issuance of the Bonds are referred to herein as the "Bond Documents"); and

WHEREAS, a portion of the Bond proceeds were utilized for construction of the Conference Center; and

WHEREAS, that certain Condominium Map for Capitol Peak Lodge and that certain Declaration of Covenants, Conditions and Restrictions for Capitol Peak Lodge Condominium have been recorded creating the Commercial Unit 1, Capitol Peak Lodge Condominium (the "Conference Center Condominium") as described in **Exhibit A** hereto) that created a condominium interest in the Conference Center and such interest has been conveyed to the District by special warranty deed recorded in the real property records for Pitkin County, Colorado, at Reception No. 553845 on October 28, 2008; and

WHEREAS, the District and the Manager previously entered into that certain Memorandum of Understanding dated June 25, 2008, that contemplates that the District shall enter into one or more agreements to provide for the operation and maintenance of the Conference Center; and

WHEREAS, the District and the Manager previously entered into that certain Conference Center License Agreement dated December 17, 2008, for the temporary use of the Conference Center (the "Temporary License"); and

WHEREAS, the District has determined that it is in the best interests of the District and its inhabitants and taxpayers to terminate the Memorandum of Understanding and the Temporary License, and to enter into this Agreement for the operation and maintenance of the Conference Center in the manner of a first class resort in order to contribute to the overall quality of the Base Village development in the market place and enhance the value of property within the Districts, in part, to meet the debt service on the Bonds; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the Manager has the requisite experience with respect to the purposes of this Agreement and the District desires to engage the Manager as an independent contractor to perform certain services as are needed by the District to promote the health, safety, and welfare of the inhabitants and taxpayers of the District; and

WHEREAS, the District intends that such services shall include to manage, operate and maintain the Conference Center for the term of this Agreement; and

WHEREAS, the Parties desire to set forth the intentions, understandings, and agreement between the Parties regarding the terms and conditions for management, operation and maintenance of the Conference Center;

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I. APPOINTMENT OF MANAGER

1.1 APPOINTMENT OF MANAGER. The District hereby retains Manager and Manager agrees to perform the certain services (the “Services”) set forth in Article II of this Agreement, and further as set forth in Exhibit “B,” attached hereto and incorporated herein by this reference.

1.2 INDEPENDENT CONTRACTOR STATUS. The Manager is an independent contractor and nothing herein shall constitute or designate the Manager or any of its employees or agents as employees or agents of the District. The Manager shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District will not be responsible for Manager FICA taxes, health or life insurance, vacation or sick-time, or any other form of taxes, benefits or insurance. The Manager shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act).

ARTICLE II. DUTIES AND AUTHORITY

2.1 SERVICES. Manager shall perform the Services using the degree of skill and knowledge customarily employed by other professionals performing similar services for similar facilities in the area and in compliance with the Management Standard (defined below). Manager shall perform such work and Services in a good, substantial, and workmanlike manner, using reasonable diligence and caution, and in accordance with the terms of this Agreement. The District agrees to provide Manager with copies of reports, correspondence, estimates, plans and other documentation, as may be necessary and reasonably requested by the Manager, and access to the site as needed by the Manager to perform the Services.

2.2 COMPLIANCE / ENFORCEMENT OF RULES AND REGULATIONS. Manager acknowledges that the District will adopt rules and regulations from time to time concerning the use and operation of the Conference Center (“Rules and Regulations”). The District will provide a written copy of such Rules and Regulations, and any amendments to such Rules and Regulations to the Manager. Manager shall comply with, and shall use reasonable efforts to require others to comply with, the District Rules and Regulations, any other applicable rules and regulations, including, without limitation, the governing documents of the Condominium Association and the Master Association (as each such term is defined below).

2.3 CONFERENCE CENTER ACCESS. The District grants to Manager rights of access to the Conference Center during the term of this Agreement for the purpose of providing the Services. The District may provide Manager with facilities in the Conference Center

necessary to carry out the purposes of this Agreement as may be determined by the Parties by written addendum hereto.

2.4 MANAGEMENT OF CONFERENCE CENTER. Manager shall operate and maintain the Conference Center in compliance in all material respects with the standards generally and ordinarily observed by resort conference centers that are operated at the standard of a first class resort (the "Management Standard") pursuant to the terms of this Agreement. The full scope of the Services is attached hereto as **Exhibit B** (with notations identifying which costs are direct costs of the District hereunder, and which costs are the responsibilities of the Manager hereunder). In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in **Exhibit B**, the terms in the body of this Agreement shall govern. The Services to be provided hereunder may be modified from time to time as agreed to in writing by the Parties. The Manager and District shall jointly review the scope of Services on an annual basis for the ensuing year, during the District's budget approval process pursuant to Section 3.3, and may determine to amend such scope of Services. Any amended Services shall be agreed to in writing by the parties, and may include a replacement to **Exhibit B**. In the event that there is no change in Services from one year to another year, the most recent prior agreed upon scope of Services shall control. Maintenance, as used herein, shall include any and all maintenance required to maintain the Conference Center in a manner suitable and efficient for use in accordance with the District's Rules and Regulations and the Management Standard. Furthermore, the Manager shall, as part of the Maintenance of the Conference Center, provide all Services required to keep the Conference Center in good repair and good operating condition, including all repairs to all facilities, fixtures, and contents therein and renewals and replacements thereof necessary for operating the Conference Center in accordance with the terms of this Agreement.

2.5 MANAGER'S AUTHORITY. Subject to the terms and conditions of this Agreement, the Manager shall have the right to determine operating policy, quality of service and standards of operation consistent with the Management Standard, and any other matters affecting customer relations or the efficient management and operation of the Conference Center. The Manager may develop additional operational standards and procedures not inconsistent with this Agreement. All policies and procedures established by the Manager shall apply to all uses of the Conference Center, whether by temporary permit or license or long term use agreement or lease, or other authorization, and may address issues that affect the competitiveness of the Conference Center in the relevant market area, consistent with the terms of this Agreement. The Manager shall implement such policies as appropriate, but shall make reasonable effort to implement such policies in conjunction with the budget procedures set forth in Article III. The District reserves the right to review and approve such policies for consistency with the District's obligations hereunder, the Bond Documents and the District's Rules and Regulations. Furthermore, the Manager shall have the authority to enter into or cause its agents, employees, or subcontractors to enter into and carry out the purposes of usage agreements; provided that such usage agreements are made in accordance with Section 2.8 and all other terms and conditions of this Agreement.

2.6 INTERACTION WITH CONDOMINIUM ASSOCIATION AND MASTER ASSOCIATION. The District hereby appoints Manager as its agent for purposes of dealing with

the Capitol Peak Lodge Condominium Association, Inc. (the "Condominium Association") and the Base Village Company, Inc. (the "Master Association"). In furtherance of the foregoing, the District hereby grants to Manager its proxy to vote on all matters in the Condominium Association and the Master Association during the term of this Agreement.

2.7 MAINTENANCE OF CONFERENCE CENTER AMENITIES. To the extent not otherwise provided by the Condominium Association or the Master Association, the Manager shall provide maintenance of the entryway and equipment that are a part of the Conference Center as more particularly described in **Exhibit A** hereto. Nothing in this Agreement shall obligate the District to provide services otherwise available by way of assessments paid as part of the District's Operating Costs. The scope of Services shall specify that the Manager shall furnish all labor, equipment, accessories and material(s) necessary to perform the care and maintenance Services described in **Exhibit B** with respect to the Conference Center amenities in accordance with the terms of this Agreement.

2.8 USE AND EVENT ADMINISTRATION. The Manager shall administer the use of the Conference Center, including the leasing, licensing, permitting, or other authorization for the use of the Conference Center facilities, and the planning, programming, scheduling, administering, and regulating of all uses of the Conference Center in accordance with the District's Rules and Regulations and all applicable law. Administration shall include monitoring the performance of any Conference Center use. The Manager shall take into consideration in administering the events scheduled at the Conference Center, uses for public and special events, including, but not limited to artisan, educational, and other community events or events coordinated with the Town.

2.9 CONFERENCE CENTER RESERVATION AND USE AGREEMENTS. Unless otherwise agreed to by the District by written amendment, the Manager shall use only the District approved forms for each application, reservation, and temporary use of the Conference Center by all applicants ("Use Agreement"). The District shall adopt such Use Agreement as part of its Rules and Regulations for use of the Conference Center and shall provide such Rules and Regulations to the Manager. The Manager shall evaluate, approve and disapprove, and administer such Use Agreements, including the collection of all deposits, fees, rates and charges associated therewith on behalf of the District for remittance to the District in accordance with Section 3.8 herein. Each Use Agreement shall be made in the District's and Manager's names and shall provide for the temporary use of the Conference Center in accordance with applicable law, the District's Rules and Regulations, and this Agreement. Each Use Agreement shall require that users provide at a minimum, commercial general liability, worker's compensation, automobile liability, liquor or host liquor liability (if liquor is planned to be served during the period of use) and such other insurance coverage as deemed necessary by the Manager, and shall name the District and Manager as additional insureds. Proof of insurance by any applicant shall be required to be provided to the Manager no later than twenty (20) days prior to the scheduled event.

2.10 SECURITY. The Manager shall be responsible for provision of security of the Conference Center. In providing such services, the Manager shall cooperate with the Town's police force and the Condominium Association in maintaining safety and security of the

Conference Center. To the extent that Manager has knowledge of circumstances on or around the Conference Center that give rise to the need for immediate action to avert or mitigate actual or threatened material physical damage or harm to persons or property on or about the Conference Center, Manager shall take all steps necessary and reasonable, in the judgment of Manager, to prevent, avert or mitigate said actual or threatened material physical damage or harm. Notwithstanding the foregoing, Manager shall not be required to place its employees or agents, or employees or agents of the District, in harm's way to meet the requirements of this Section 2.10.

2.11 SPECIAL SERVICES. The District may, in writing, request the Manager to provide special services not contemplated in the required Services listed in **Exhibit B**. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Manager and the District pursuant to a written service order executed by an authorized representative of the District and the Manager.

2.12 LIMITATIONS AND REQUIREMENTS. Manager shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the District as reflected in the approved minutes of the District's board meetings. In connection with the specific duties and authority contemplated in this Agreement, Manager shall:

(a) Undertake any and all actions necessary to safely and prudently conduct the Services contemplated herein.

(b) Advise the District of the status of the Services contemplated herein on a regular basis and as reasonably requested by the District.

(c) Except as provided in Section 2.16, refrain from entering into any contract, whether oral or written, in the name of the District and from incurring any debt, liability or obligation for, or on behalf of, the District. Every obligation incurred by Manager pursuant to this Agreement shall be its sole responsibility, from which Manager agrees to hold the District harmless.

(d) Discharge its obligations and exercise its duties hereunder in good faith.

(e) Upon direction to the Manager by the District, not act in any manner or fail to act in any manner which shall cause the District to be in breach of any covenant under or cause any event of default by the District under the Bond Documents.

(f) Not act in any manner or fail to act in any manner which shall cause the Manager or District to be in violation of any applicable law.

Nothing contained in this Section 2.12 shall be deemed to negate Manager's status as an independent contractor, and Manager shall refrain from any activities that could create, or be deemed to create, an employer – employee relationship.

2.13 COMPLIANCE WITH APPLICABLE LAW. Manager shall provide the Services and carry out its obligations under this Agreement in full compliance with all applicable laws, ordinances, rules, and regulations of the District and of any federal, state, county, or municipal or quasi-municipal body, department, board or agency thereof, now in force or hereafter to become effective.

2.14 NOTICE OF LEGAL CLAIMS. The Manager shall promptly provide the District with notice of any pending or threatened legal claim against the District.

2.15 NO RIGHT OR INTEREST IN THE DISTRICT'S ASSETS. Manager shall have no right or interest in any of the District's assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services.

2.16 THIRD-PARTY CONTRACTS.

(a) With respect to Services that are described as "District Expenses" on **Exhibit B**, the Manager shall solicit contracts with third-parties to furnish such Services, to the extent the Manager does not provide such Services through its employees. The District may require that three (3) bids be obtained, and may require publication of notice if necessary to comply with applicable law. The award, terms of and execution of such contracts shall be subject to approval by the District, which approval shall not be withheld unreasonably.

(b) Notwithstanding the provisions of Subsection 2.16(a), the District hereby authorizes the Manager to execute contracts on behalf of the District subject to the following conditions to the authority of the Manager in order to ensure appropriate limitations relating thereto:

(1) Manager may enter into a written contract in the name of the District for the provision of any Services that are a direct District Expense, which contract amount is less than \$5,000 for the contract term, without prior District approval. The Manager may not enter into more than two (2) contracts for the same or similar Service with the same contractor or subcontractor pursuant to the authority granted by this Subsection 2.16(b)(1) in any Fiscal Year.

(2) Manager may enter into a written contract in the name of the District for the provision of any Services that are a direct District Expense, which contract amount is more than \$5,000 but less than \$25,000 for the term of the contract, without prior District approval; provided that the Manager submits such contract for review by and receives approval of the President and Secretary of the Board at least ten (10) days prior to execution thereof. The Manager may not enter into any other contract for the same or any other Services with the same contractor or subcontractor pursuant to the authority granted by this Subsection 2.16(b)(2) in any Fiscal Year.

The contracts authorized pursuant to Sections 2.16(b)(1) and 2.16(b)(2) shall be substantially in the form of **Exhibit C** hereto. Any contract not conforming to the express terms

set forth in the form of **Exhibit C** hereto shall not be valid or enforceable as against the District without prior Board approval. Such Contracts must be signed by either the President or the Vice President of the Board, and attested to by another Board member.

Nothing contained in this Section 2.16 shall be deemed to negate Manager's status as an independent contractor, and Manager shall refrain from any activities that could create, or be deemed to create, an employer – employee relationship.

2.17 CONFERENCE BOOKINGS AND ADMINISTRATION. The District hereby authorizes the Manager to execute Use Agreements (as defined in the Rules and Regulations) on behalf of the District that in the Manager's opinion, are in the best interest of the District. All Use Agreements must be consistent with the District's Rules and Regulations. The District hereby authorizes the Manager to process refunds of deposits in an amount not to exceed \$5,000 without prior District approval; provided that the cancellations are made in accordance with the deadlines and procedures specified in the Rules and Regulations. The Manager may request the District directly process a refund of a deposit for a cancelled booking consistent with the Rules and Regulations, without prior District approval, by written notice to the District. Subject to availability of funding, the District shall process and pay such refunds from the Operating Account and the Manager shall promptly provide the District with a copy of the written notice together with all Use Agreement forms and cancellation notices. The District may determine not to process any refund requested if it is not in the best interests of the District.

ARTICLE III. COMPENSATION

3.1 CONFERENCE CENTER FACILITY REVENUE. For purposes of this Agreement, the term "Facility Revenue" shall include, with respect to any specified period, all revenues and income of any nature derived directly or indirectly from the use or operation of the Conference Center as contemplated under this Agreement, including revenues from conference, meeting and event deposits, bookings, reservations and usage, food and beverage services, audio visual services, and other uses as contemplated in this Agreement, gross receipts from retail or concession operations, billings for housekeeping and maintenance, management fees and the proceeds of business interruption, use, occupancy or similar insurance that has been collected by the Manager and deposited to the Operating Account. Facility Revenue shall not include gratuities or service charges, taxes, interest paid for banking, and shall be net of deposits held until expiration of the reservation hold period, credits, or refunds to Conference Center customers ("Gross Facility Revenue"). All user agreements shall provide that all fees and charges shall be due and payable prior to commencement of use of the Conference Center. The Manager shall be responsible for the collection, retention, and deposit of such fees and charges comprising the Facility Revenue to the Operating Account as provided in Section 3.8 herein

3.2 MANAGEMENT FEE AND PERCENTAGE FEE. In consideration of the performance by Manager of its obligations under this Agreement, the District shall pay Manager a "Management Fee" generally described as a base amount plus a percent share of the Facility Revenue. Beginning in the 2009 fiscal year of the District ("Fiscal Year") and for each Fiscal Year thereafter during the Term of this Agreement, the Management Fee shall be comprised of the following amounts:

(a) A base annual amount of \$50,000 or such greater or lesser amount as may be agreed upon in writing by the District and Manager from time to time (“Base Fee”), which Base Fee for 2009 shall be prorated based on the actual number of days in 2009 this Agreement is in effect and shall be payable monthly on or before the last business day of each month in equal monthly installments during the Term of this Agreement; and

(b) A percentage fee (“Percentage Fee”) calculated as follows: Once the first \$60,000 of Gross Facility Revenue has been collected and deposited to the Operating Account (“Threshold Amount”), twenty percent (20%) of the Gross Facility Revenue in excess of the Threshold Amount. The Percentage Fee will be calculated on a monthly (non-cumulative) basis. Commencing with the first full month following collection and deposit of the Threshold Amount, the Percentage Fee shall be retained each month by the Manager from Gross Facility Revenues that have been collected or received, or if the Manager and District so determine, shall be payable on or before the last business day of each month for the applicable Fiscal Year. If the Manager takes payment of the Percentage Fee by retaining such amount, the Manager shall provide the District with a monthly accounting of the Gross Facility Revenue and Percentage Fee calculation on or before the last business day of each month and the balance of Gross Facility Revenues shall be deposited to the Operating Account as provided herein.

3.3 MANAGER’S EXPENSES AND COSTS. The Services to be provided by the Manager (except to the extent designated as “District Direct Expenses” on **Exhibit B**) shall be at the sole cost, risk and expense of the Manager, and no part of the cost thereof shall be charged to the District, save and except the payments to be made by the District to the Manager for the Services performed. The Manager shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation unless said reimbursement or compensation is approved in writing by the District in advance of incurring such expenses. Any approved direct reimbursable costs will be reimbursable at the Manager’s actual cost. In the event of an emergency or other event which in the judgment of the Manager constitutes an immediate or potential threat to the health, safety or welfare of the public, or to the District’s assets in the Conference Center, the Manager shall take such steps as are necessary to protect the public and the District’s assets and may incur the costs and expenses necessary to alleviate such situation on behalf of the District without prior approval therefore. The Manager shall notify the District of such event within twenty-four (24) hours by telephone or facsimile. The Manager shall bill the District for the cost of such emergency measures, which invoice shall be due and payable within thirty (30) days of receipt thereof, or may withhold and account for such amounts from the Facility Revenues otherwise due to the District. Any such withheld amounts shall not be counted against the gross Facilities Revenues in calculating the Threshold Amount or Percentage Fee.

3.4 ANNUAL BUDGET / FORECAST OF CAPITAL IMPROVEMENTS. Within 120 days of the Effective Date of this Agreement for Fiscal Year 2009 and for each Fiscal Year thereafter no later than sixty (60) days prior to the earlier of (a) the District’s annual budget meeting or (b) November 15 of each succeeding year during the term of this Agreement, Manager shall submit to the District an annual forecast for the operation and maintenance of the Conference Center containing an analysis of repair, replacement and maintenance needs and a budget of operating expenses including all occupancy expenses such as utilities (defined in

Section 3.7 herein), and any Direct District Expenses as set forth on **Exhibit B**, as well as all anticipated revenues for the next Fiscal Year (collectively the "Operating Budget"). Manager, at the same time, shall also submit plans, estimates, and budgets of any capital improvements anticipated to be made during the next calendar year, (the "Capital Expenditures Budget"). The Capital Expenditures Budget shall also include a five (5) year forecast of expected capital improvements to be made during such time period and any additional information the District may require. (The Capital Expenditures Budget and the Operating Budget are collectively referred to as the "Proposed Annual Plan").

The District shall review the Proposed Annual Plan with Manager, and the District and Manager shall use their good faith reasonable efforts to resolve any objections that either Party may have to the Proposed Annual Plan prior to the District's annual budget meeting. The Proposed Annual Plan, once approved (or to the extent approved) and adopted by the District's Board of Directors, is referred to as the "Approved Budget". If, notwithstanding the good faith reasonable efforts of Manager to so resolve any objections to the Proposed Annual Plan prior to the District's annual budget meeting, such objections are not resolved, then the Approved Budget shall control and (a) Manager may terminate this Agreement upon notice to the District, such notice to be given, if at all, not sooner than sixty (60) days after the beginning of the Fiscal Year as to which the Proposed Annual Plan would have applied or effective at such time as otherwise agreed to by the District, or (b) in lieu of terminating this Agreement, Manager may continue to perform services under this Agreement, but Manager will be excused from its obligations to provide such Services for the Conference Center in accordance with the Management Standard for the remainder of the then current Fiscal Year to the extent that the failure of the Parties to resolve such objections reasonably affects Manager's ability to so perform.

Notwithstanding the foregoing, the Parties acknowledge and agree that at the time the Operating Budget is prepared pursuant to this Section 3.4, the Condominium Association and the Master Association may not have established the amount of assessments to be paid by the District (as the owner of the Conference Center) during the next Fiscal Year. In such event, the Operating Budget shall include the amount of such assessments imposed against the Conference Center during the preceding Fiscal Year, however the Operating Budget shall be deemed to be automatically amended to include the actual amount of assessments to be imposed by the Condominium Association and the Master Association during the next Fiscal Year once determined by such associations.

3.5 VARIANCES TO THE APPROVED BUDGET. Manager shall not cause the aggregate expenditures for all items to exceed the Approved Budget by more than 5% for a given month or Fiscal Year without the District's approval, except to pay any expenses required to avert or mitigate actual or threatened material physical damage or harm to persons or property or to pay any special or similar assessments imposed by the Condominium Association or the Master Association, regardless of amount. Regardless of the District's authorization for certain expenditures beyond the Approved Budget pursuant to this clause, Manager shall provide prompt notice to the District of any such excess expenditures, such notice to identify the particular excess expenditures being made, to state in reasonable detail the reason or reasons why such excess expenditures were made, and to provide a total of all such excess expenditures made during the then current Fiscal Year.

3.6 REVISED BUDGET. The District and Manager acknowledge and agree that there may occur from time to time unpredicted significant changes, variables or events affecting the provision of Services for the Conference Center. In such event, Manager may request one or more variances from the Approved Budget as are reasonable and necessary for Manager to be able to continue to operate the Conference Center in accordance with this Agreement and the Management Standard. Any such request by Manager shall be submitted to the District in a notice that includes a reasonably detailed explanation of the reasons for such request and reasonably detailed supporting information for the request. The District and Manager shall use their good faith reasonable efforts to accommodate such request for a variance from the Approved Plan. If, notwithstanding the good faith reasonable efforts of the Parties to accommodate such variance, such variance may not be approved, then (a) Manager may terminate this Agreement upon notice to the District, such notice to be given, if at all, not sooner than sixty (60) days after the District refused to approve the request, or (b) in lieu of terminating this Agreement, Manager may continue to perform the Services under this Agreement, but Manager will be excused from its obligations to provide such Services in accordance with the Management Standard for the remainder of the then current Fiscal Year to the extent that the non-approval of the Manager's request for such variance reasonably affects Manager's ability to so perform. If any such request is denied by the District, Manager, to the extent feasible, will provide in writing the actions that would be required or the consequences that would result as a result of the denial, including anticipated deviations from the Management Standard.

3.7 PAYMENT OF OPERATING EXPENSES. The Manager shall be responsible for collection, retention and deposit on behalf of the District of the Facility Revenue, net of the Percentage Fee, which is intended to provide for the actual, reasonable and necessary occupancy expenses which are incurred pursuant to an Approved Budget in connection with the operation and use of the Conference Center or performance of this Agreement (the "Operating Expenses"). Operating Expenses shall include but not be limited to all expenses of:

- (a) assessments imposed against the Conference Center by the Condominium Association and the Master Association;
- (b) utilities allocated to the District pursuant to the Condominium Documents for service to the Conference Center, including but not by way of limitation, all electric utilities and all water, sewer and storm sewer service user rates, fees, tolls and charges;
- (c) natural gas utilities (per separate metered usage consumption);
- (d) telephone, electronic communication, facsimile, and internet service;
- (e) Conference Center insurance in such form and amounts as determined by the District;
- (f) District administrative expenses associated with this Agreement; and
- (g) Direct District Expenses as set forth on **Exhibit B**.

Operating Expenses shall not include any costs and expenses, including incidental expenses incurred by the Manager, necessary to the provision of Services designated as Manager Direct Expenses on **Exhibit B** in accordance with the Management Standard, such costs and expenses to be the sole responsibility of the Manager.

3.8 OPERATING ACCOUNT. The District shall establish a separate sub-account for the purpose of holding all deposits made and paying all Operating Expenses incurred, including all interest earned on all deposits (the "Operating Account"). The District may establish one or more additional sub-accounts of the Operating Account for the purpose of segregating deposits ("Deposit Sub-Account") from earned Facility Revenue that may be used for Operating Expenses ("Revenue Sub-Account"). The Manager shall be responsible for the collection, retention, and deposit of the Facility Revenue to the Operating Account. The District shall adopt policies for bonding and insurance requirements for all persons dealing with Facility Revenues and with respect to investment of funds in the Operating Account.

(a) The District may determine to make the following allocations based on the annual budgeting process set forth in Section 3.4: Within sixty (60) days after the Effective Date of this Agreement and thereafter no later than January 1 of each succeeding Fiscal Year during the term of this Agreement for which the Board has adopted an Approved Budget, the District shall deposit an amount equal to twenty percent (20%) of the general Operating Expenses for the Conference Center as set forth in the Approved Budget to the Operating Account (the "Annual Operating Account Deposit"). During any Fiscal Year, to the extent the Operating Account holds less than an amount equal to ten percent (10%) of the general Operating Expenses as set forth in the Approved Budget, the District may, subject to appropriation, make additional deposits to increase the balance in the Operating Account to an amount sufficient, in the District's reasonable judgment, to meet the remaining Operating Expenses under the Approved Budget.

(b) On or before the 20th day of the month following collection by the Manager of such Facility Revenue, the Manager shall deposit to the Operating Account the Gross Facility Revenue for such period, net of the Percentage Fee, if applicable. Deposits shall be held in a Deposit Sub-Account until expiration of the reservation hold period and forfeiture or application to the facility usage fee or until such deposit is refunded to the customer, all in accordance with the Rules and Regulations. Deposits either forfeited or applied to the amount due and owing for use of the Conference Center, shall be transferred to the Revenue Sub-Account.

(c) The District shall be entitled to draw on the Operating Account to pay for Operating Expenses in accordance with the Approved Budget and shall notify the Manager of anticipated claims that are pending District approval prior to payment thereof. To the extent the District incurs any extraordinary expenses in addition to any expenses set forth in the Approved Budget, the District shall request prior approval of the Manager, which approval shall not be unreasonably withheld.

(d) Upon request but not more frequently than monthly, the Manager shall provide the District with a report, including reasonably detailed records and invoices, accounting

for all payables due, Facility Revenues collected, deposits to the Operating Account, and Percentage Fees retained or paid. Upon request but not more frequently than monthly, the District shall provide the Manager with a report, including reasonably detailed records and invoices, accounting for all expenditures from the Operating Account.

(e) In the event the Manager fails to timely deposit any Facility Revenue and the District must expend other District funds for the payment of Operating Expenses, the District shall notify the Manager and shall be entitled to pay the same and charge the Manager such additional reasonable amounts to cover any late charges, penalties, interest, or other costs and fees associated with payment of such Operating Expenses. In addition, the District may determine to withhold payment or retention of the Percentage Fee and take such other actions as it deems necessary.

(f) Any amounts remaining in the Operating Account after payment of Operating Expenses, together with any interest earned on monies in the Operating Account, shall be the property of the District and shall be applied by the District first to maintain a reserve balance in such amount as determined by the District based on the annual Operating Expenses set forth in an Approved Budget, and second to general operating expenses of the Districts.

3.9 PAYMENT OF CAPITAL EXPENSES. Subject to the provisions of Section 8.16, the District shall provide funds for capital expenditures for the repair and maintenance of the Conference Center pursuant to an Approved Budget. The District shall pay for such capital expenditures directly or reimburse the Manager for any capital costs incurred by the Manager, for actual, reasonable and necessary costs which are incurred in connection with the performance of this Agreement and pursuant to an Approved Budget (collectively, the “Capital Expenses”). The Manager shall exercise reasonable discretion in determining the necessity for the expenditure of any such capital amounts. Such expenditures shall be paid by the District in addition to the Management Fee and other fees and payments that may become due by the District under this Agreement. Nothing in this Agreement shall obligate the Manager or the District to be responsible for or undertake any repairs or warranty work required under the Construction Documents or any work that is properly the responsibility of the Condominium Association or Master Association. Nevertheless, the District shall cause the Manager to coordinate with the Developer in the completion of any repairs or warranty work required under the Construction Documents and with the Condominium Association or Master Association in the completion of repairs or warranty work required by those associations, in order to carry out the purposes of this Agreement.

ARTICLE IV. COMMENCEMENT AND EXPIRATION

4.1 TERM. The term of this Agreement shall begin on the effective date set forth above and shall terminate on December 31, 2029 or such other later date as agreed to by the Parties by written amendment hereto, unless: (a) terminated by the Parties pursuant to Article V of this Agreement; or (b) terminated by Manager upon written notice to the District for failure by the District to budget and appropriate funds for the succeeding year as and when required by this Agreement.

ARTICLE V. DEFAULT AND TERMINATION

5.1 TERMINATION.

(a) In addition to the termination provisions in Section 4.1, this Agreement may be terminated by the District for convenience, without penalty, upon ninety (90) days prior written notice delivered to Manager pursuant to Section 8.7. Such notice shall specify the effective date of termination. Such Notice shall not be required for automatic expiration under Section 4.1 hereof.

(b) Notwithstanding the foregoing, if either Party to this Agreement fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, after giving ten (10) days written notice to the other Party of the alleged default, and upon said Party in default having failed to cure said breach within ten (10) days (unless such default cannot be cured within such ten (10) day period, in which the defaulting Party shall be obligated to have commenced cure within such ten (10) day period and to diligently pursue completion of such cure thereafter) or such other time as the Parties mutually agree, the other Party shall have the option to terminate this Agreement and pursue any remedy available by law or in equity.

(c) The District may immediately terminate this Agreement upon the failure of Manager to maintain insurance as provided by Section VI, or in order to ensure the immediate health, safety, or welfare of persons or property, in the reasonable, sole discretion of the District.

(d) The Manager may terminate this Agreement in accordance with the provisions of Article III.

5.2 DUTIES ON TERMINATION. Upon termination of this Agreement, by expiration of the term hereof or otherwise, both Parties hereto shall be relieved of all obligations hereunder, except as to those obligations of Manager and the District hereunder which expressly survive the expiration of the term hereof or the earlier termination of this Agreement. Immediately upon termination of this Agreement or the expiration of the term hereof:

(a) In the event of early termination, the District shall pay Manager for any Services performed in accordance with this Agreement prior to the designated termination date, giving due account for any costs for which the District has become responsible through the date of termination. Said payment shall be made in the normal course of business.

(b) Upon any termination, Manager shall transfer title and deliver to the District all work product which shall be deemed from and after the effective date of this Agreement to be the property of the District. "Work Product" shall consist of all written materials maintained by Manager in connection with the performance of this Agreement, including, but not limited to, all documents, maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form. Manager shall maintain reproducible drawings of any project drawings which it obtains and shall make them available for the

District's use, and shall provide such copies to the District upon request at commercial printing rates. Manager may maintain copies of any Work Product for any lawful purpose, including the defense of potential or actual claims by the District or third Parties.

ARTICLE VI. INSURANCE

6.1 INSURANCE COVERAGE REQUIREMENTS. Unless otherwise agreed to by the Parties, Manager shall acquire and maintain during the term of this Agreement, including any extensions of the term, the following insurance coverage in the following minimum amounts:

- (a) Workers' Compensation insurance as required by applicable law.
- (b) Comprehensive (commercial) general liability insurance, \$2,000,000, combined single limit for bodily injury and property damage, each occurrence; \$5,000,000 general aggregate; and \$1,000,000, products and completed operations aggregate.
- (c) Automobile liability insurance to cover all vehicles, whether owned, hired or non-owned, in the amount of \$1,000,000, combined single limit bodily injury and property damage, each accident.
- (d) Professional liability insurance in the amount of \$1,000,000.00 each occurrence.
- (e) Umbrella liability insurance in the amount of \$1,000,000.00 each occurrence.
- (f) Business interruption, use, occupancy or similar insurance in the amount of \$1,000,000.00 each occurrence.

6.2 CERTIFICATES OF INSURANCE. Prior to commencing any work under this Agreement, Manager shall provide the District with a certificate or certificates evidencing the policies required by this Section, as well as the amounts of coverage for the respective types of coverage. If Manager sub-contracts any portion(s) of the Services, said sub-contractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance coverage in the amounts specified above or amounts otherwise satisfactory to the District and Manager. If the coverage required under this Section expires during the term of this Agreement, Manager or sub-contractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

6.3 ADDITIONAL INSUREDS. Any insurance policies procured by Manager shall be written in the name of Manager, with the District, and any other appropriate Parties designated by Manager or the District, named thereon as additional insureds (as their respective interests may appear). This requirement shall not apply to workers' compensation insurance and any other insurance with respect to which it is impractical and inappropriate to name other Parties as additional insureds.

6.4 OBLIGATIONS OF MANAGER. Manager's failure to purchase the required insurance shall not serve to release it from any obligations contained herein, nor shall the purchase of the required insurance serve to limit Manager's liability under any provision herein. Manager shall be responsible for the payment of any deductibles on issued policies.

ARTICLE VII. INDEMNIFICATION

7.1 INDEMNITY.

(a) Manager shall indemnify and hold harmless the District and each of its directors, contractors, agents, employees and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages and expenses, including reasonable legal expenses and attorneys' fees, arising directly or indirectly, in whole or in part, out of the negligence, willful misconduct, or any criminal or tortious act or omission of the Manager or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Manager's performance of the Services or work hereunder, whether within or beyond the scope of its duties or authority hereunder.

(b) To the extent permitted by law, the District shall indemnify and hold harmless the Manager and each of its directors, contractors, agents, employees and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages and expenses, including reasonable legal expenses and attorneys' fees, arising directly or indirectly, in whole or in part, out of the negligence, willful misconduct, or any criminal or tortious act or omission of the District or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the District's performance of its obligations hereunder, whether within or beyond the scope of its duties or authority hereunder.

7.2 SURVIVAL OF PROVISION. The provisions of Section 7.1 shall survive the expiration of the term of this Agreement or the earlier termination of this Agreement, as herein provided.

ARTICLE VIII. MISCELLANEOUS

8.1 ILLEGAL ALIENS. The Manager hereby states that it does not knowingly employ or contract with illegal aliens and that the Manager has participated in or has attempted to participate in the E-Verify Program (formerly known as the Basic Pilot Program) (as defined in § 8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Manager affirmatively makes the following declarations:

(a) The Manager shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated herein and will participate in the E-Verify Program or Department Program (as defined in § 8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated herein.

(b) The Manager shall not knowingly enter into a contract with a subcontractor that fails to certify to the Manager that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated herein.

(c) The Manager has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the contract for public services through participation either in the E-Verify Program or the Department Program.

(d) The Manager is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(e) If the Manager obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Manager shall be required to:

(1) Notify the subcontractor and the District within three (3) days that the Manager has actual knowledge that the subcontractor is employing or contracting with an illegal alien.

(2) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that the Manager shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(f) The Manager shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in § 8-17.5-102, C.R.S.

(g) If the Manager violates a provision of the Agreement pursuant to § 8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Manager shall be liable for actual and consequential damages to the District.

8.2 CONFIDENTIALITY AND CONFLICTS.

(a) Confidentiality. During the performance of this Agreement, if the Manager is notified that certain information is to be considered confidential, the Manager, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Manager by the District, or developed by the Manager as a result of the performance of a particular task, shall remain confidential. In addition, the Manager shall hold in strict confidence, and shall not use in competition, any information of which the Manager becomes aware under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third Party, might reasonably be construed to be contrary to the best interests of the District.

(b) Conflicts. Prior to the execution of, and during the performance of this Agreement, and prior to the execution of future agreements with the District, the Manager agrees to notify the owner of conflicts that impact the Services to the District.

8.3 OWNERSHIP OF DOCUMENTS. All work produced and all information collected by either the Manager or the District in connection with the Services shall become and remain the sole property of the District. All documents produced by or on behalf of the Manager prepared pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon completion of the Service representing the work by or for which such materials were produced. The Manager shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request.

8.4 NO RIGHT OR INTEREST IN DISTRICT ASSETS. The Manager shall not have any right or interest in any of the Districts' assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated herein.

8.5 ASSIGNMENT. The Manager shall not have the right or power to assign, delegate or subcontract this Agreement or parts thereof, or its respective duties, without the express written consent of the District in its sole discretion. Any such assignment shall be subject to the District ascertaining whether such assignment is in full conformity and compliance with the provisions of all covenants and requirements of each of the Districts under the Bond Documents, including without limitation, an opinion of qualified counsel. Any attempted assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

8.6 [Reserved]

8.7 NOTICES. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either Party hereto, by the other Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed or in lieu of such personal services, three days after deposited in the United States' mail, first-class postage prepaid, properly addressed to the Parties at:

To the District: Shawn Gleason, President
Base Village Metropolitan District No. 1
c/o Related Westpac LLC
16 Kearns Road, P.O. Box 6565
Snowmass Village, Colorado 81615
Telephone: (970)205-1938
Facsimile: (970) 920-3384

With a copy to: WHITE, BEAR & ANKELE
Professional Corporation
Attention: William P. Ankele, Jr., Esq.
1805 Shea Center Drive, Suite 100
Highlands Ranch, Colorado 80129
Telephone: (303) 858-1800
Facsimile: (303) 858-1801

To the Manager at: Mr. Jud Hawk, General Manager
Snowmass Hospitality LLC
132 West Main Street, Suite A
Aspen, Colorado 81611
Telephone: (970) 924-6050
Facsimile: (970) 922-0561

With a copy to: Ballard Spahr Andrews & Ingersoll, LLP
Attention: Christopher W. Payne
1225 17th Street, Suite 2300
Denver, Colorado 80202
Telephone: (303) 292-2400
Facsimile: (303) 296-3956

Either Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section 8.7.

8.8 AUDITS. The District shall have the right to audit any of the Manager's books and records which may be necessary to substantiate any invoices and payments hereunder (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Manager agrees to maintain adequate books and records for such purposes during the term of this Agreement and until the last maturity date of the Bonds plus four (4) years (December 1, 2042) or if the Bonds are paid prior to maturity, then that date plus four (4) years and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

8.9 ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by Parties.

8.10 BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and permitted assigns of the Parties hereto.

8.11 NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

8.12 GOVERNING LAW. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the Services are rendered.

8.13 AUTHORITY. By execution hereof, each Party hereto represents and warrants that its representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

8.14 MINOR CHANGES. The Parties executing this Agreement are authorized to make non-substantive corrections to this Agreement and attached exhibits, if any, as the Parties mutually consider necessary.

8.15 GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

8.16 SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Manager expressly understands and agrees that the District's obligations hereunder shall extend only to monies appropriated for the purposes of this Agreement by the Board and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then-current Fiscal Year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-Fiscal Year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

8.17 COMPLIANCE WITH LAW. This Agreement shall be performed in accordance with, and to the extent permitted by, all applicable laws, rules, regulations, ordinances and/or similar directives of the jurisdiction in which this Agreement is performed. The Manager declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

8.18 GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to constitute a waiver, in whole or in part, of any of the rights and protections of either of the Districts under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

8.19 NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

8.20 SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

8.21 NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third Party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

8.22 COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

8.23 TERMINATION OF TEMPORARY LICENSE. This Agreement constitutes the "Management Agreement" contemplated by the Temporary License and the parties hereby acknowledge and agree that the Temporary License shall be deemed terminated contemporaneously with the effectiveness of this Agreement.

8.24 CAMPAIGN CONTRIBUTIONS. To the extent this Agreement may be construed to be a "sole source contract" within the meaning of sections 15 through 17 of Article XXVIII of the Colorado Constitution, and to the extent these constitutional provisions have not been enjoined or invalidated by a court of competent jurisdiction, the following is hereby incorporated in and made a part of this Agreement:

“Section 15: Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, contract holders shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the contract holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions. The obligations of the Parties to comply with Amendment 54 shall be subject to any legislative measure passed to interpret the provisions thereof, and shall not apply to the extent enforcement of Amendment 54 is suspended during the pendency of any litigation filed with respect thereto, or to the extent Amendment 54 is interpreted to be unconstitutional or otherwise unlawful.”

Section 15, Article XXVIII of the Colorado Constitution.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

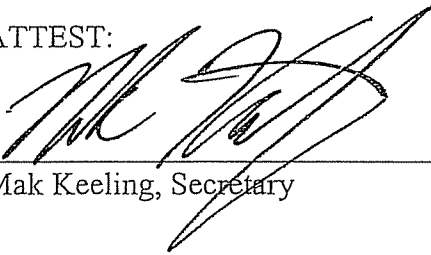
DISTRICT:

**BASE VILLAGE METROPOLITAN
DISTRICT NO. 1,**
a quasi-municipal corporation and political
subdivision of the State of Colorado



Shawn Gleason, President

ATTEST:



Mak Keeling, Secretary

MANAGER:

SNOWMASS HOSPITALITY LLC

By: 

Name: Patrick N. Smith

Title: Manager

EXHIBIT A
CONFERENCE CENTER DESCRIPTION

That certain real property known as:

Commercial Unit 1, Capitol Peak Lodge Condominium, according to the condominium map recorded March 21, 2008 under Reception No. 547694 and as defined and described in the Declaration of Covenants, Conditions and Restrictions for Capitol Peak Lodge Condominium recorded March 21, 2008 under Reception No. 547692, as each may be amended and supplemented from time to time ("Conference Center Condominium");

and generally consisting of the following together with all appurtenances thereto:

a 15,996 square foot concrete building housing the conference center, including all:
pre-function areas,
circulation areas,
an approximately 3,600 square foot ballroom,
four conference/meeting rooms,
stairways,
restrooms,
storage areas,
warming and food preparation kitchen,
coat checking area,
concierge desk, and
information/reception area

all equipment, furnishings, appliances, and all other fixtures, whether permanent or non-permanent attached hereto as **Schedule A-1**.

SCHEDULE A-1
LIST OF EQUIPMENT

[LIST OF BUSINESS PERSONAL PROPERTY – APPROX. VALUE \$400,000]

TO BE PROVIDED BY JUD HAWK

EXHIBIT B
SCOPE OF SERVICES

The Manager agrees to perform or cause to be performed the following Services with respect to the Conference Center referenced herein on behalf of the District, and the District hereby grants the Manager the authority and powers required to perform these Services in accordance with the terms of the Agreement. The Services listed herein are incorporated in the Agreement by this reference.

EXHIBIT B – SCOPE OF SERVICES

DESCRIPTION OF SERVICES TO BE PROVIDED BY MANAGER	Expense Allocation	
	Manager	District
1. General Administrative		
a. Managing and responding to calls, inquiries and other communication relative to Facility matters	√	
b. Maintaining a calendar/schedule of rental/use availability and reservations		√
c. Implementing, maintaining, and managing a web-site for inquiries and other communications, requests for reservations or pricing, and access to booking policies and procedures and rental fees.		√
d. Providing for and coordination of the rental/use contract signing and access key pickup and return policy.	√	
i. Contract compliance tracking		√
ii. Document administration for contracts, insurance certificates, permits and reports		√
e. Collecting, holding, and retaining in a safe or other secure deposit box or depository and release of rental/use deposits.	√	
i. Maintain Performance, fidelity or other bond/insurance	√	
2. Maintenance and Facility Operations		
a. Providing for janitorial services.		√
b. Contracting for the maintenance, or providing the needed maintenance		√
c. Providing after-hours emergency response and emergency repair response to Conference Center and its related common areas.		√
d. Coordinating the use of the Conference Center facility lights with the events scheduled at the Conference Center. In the event the Manager is unable to be present to the turn-on/turn-off of the facility lights at the conclusion of an event due to a schedule conflict, the Manager shall inform the person designated by the District or Manager to request his/her assistance in this function.	√	
e. Providing for maintenance of vestibule, entryway, restrooms, stairways and other appurtenant areas that are part of the Conference Center.		√
3. Invoice Review and Payment:	√	
a. Review all payables and invoices for accuracy and will assure completion of contracted services before recommending payment.	√	
i. Provide reports and interface with District Accountant for compliance		√
b. Verify completion of contracted work or services by visual inspection or contractor certification if the work is concealed.	√	
c. Be responsible for late charges incurred due to the Manager being delinquent in reviewing, recommending approval and making payment.	√	

DESCRIPTION OF SERVICES TO BE PROVIDED BY MANAGER

Expense Allocation
 Manager District

4. Contract Administration:

- a. Administer contracts for all Services to assure that contracted Services are performed in a satisfactory manner. ✓
- b. "Administer" is defined as securing written contracts for all work to be performed in connection with this Agreement (other than the Agreement).^{1/} ✓
- c. Processing of all invoices as needed, informing the subcontractors when there are problems with performance, and inspecting any work, except roofing, to visually verify that work is completed. ✓

5. Subcontracted Services:

- a. Prepare performance specifications for the Conference Center's janitorial, maintenance, repair, replacement, and catering or restaurant services. ✓
- b. Review contractor proposals, check references of proposed contractors ✓
- c. Make recommendations to the District for the above Services. ✓
- d. Monitor subcontractor performance in relation to annual budget and Conference Center facility standards and notify the District of any material non-compliance that is not cured within the contract period or a reasonable time period after completion of work. ✓
 - i. Contract compliance tracking ✓
 - ii. Document administration for contracts, insurance certificates, permits and reports ✓
- e. Coordinate specification preparation with engineers or other professionals, as required. ✓

6. Maintenance and Repairs:

- a. Solicit proposals from vendors, suppliers, and subcontractors and provide for routine maintenance and repairs, including but not by way of limitation, HVAC systems, fire suppression and safety systems, mechanical systems, telephone and internet or other electronic communication services, television relay and translation facilities, interior finishes (including paint, carpet, wallpapering), signage and lighting. ✓
- b. Follow-up to assure that assigned work is satisfactorily completed or reassigned, if necessary. ✓
- c. Make reasonable efforts to assure compliance by any subcontractor, supplier or vendor in the performance of their work under any contracts for routine maintenance or services. ✓

^{1/} (Note: "Administer" does not mean: Acting as superintendent for contractor or overseeing subcontractors in the actual performance of the day-to-day work.)

DESCRIPTION OF SERVICES TO BE PROVIDED BY MANAGER

Expense Allocation
Manager District

- 7. Equipment and Supplies:**
 - a. Equipment and supplies for Conference Center
 - b. Administer/assure that equipment and supplies purchased or utilized are adequate for the Conference Center, as necessary to perform the functions of this Agreement to the Conference Center standards and specifications.
 - c. Provide for linen servicing, including replacement on regular basis.

- 8. Safety and Sanitation:**
 - a. Provide Fire suppression and equipment
 - b. Inspect, repair and maintain alarm systems
 - c. Monitor and provide policies to insure sanitary food and beverage service operations
 - d. Monitor and provide policies to insure beverage service operations comply with Conference Center policies and any required permits or licenses

- 9. Inspections: Following the use of the Conference Center:**
 - a. Make a physical inspection of the Conference Center (including the Conference Center's related common areas) with the intent of determining the overall condition of the facility and the performance, visually, of the contractors assigned to serve the facility.
 - b. Physical inspections will include the following: a walk-through of Conference Center areas as necessary to inspect for problems including those that may have been brought to the Manager's attention; walk-through inspections during contract periods with an intent of determining status of work and to address any contracted work which will be observed from the ground level and interior work which is concealed.

- 10. Administrative Interface with Base Village Metropolitan District**
 - a. Providing notification, preferably by electronic mail or facsimile to District of all rental reservations for District's use. Notification is to be made directly to District Board Secretary or other person designated by the District, on a weekly basis, until otherwise instructed by the District. Duties include those administrative duties listed in individual categories above which are incorporated by reference.
 - b. Interfacing with contractors to adjust facility usage, coordinate construction activities, and provide for the safety of facility users to facilitate the construction of future needed improvements that the District is obligated to construct and whose maintenance may be added to this Services schedule following their construction.
 - c. Notify the District of any legal claims
 - d. Notify the District of any communications with the Town or GID

EXHIBIT C

INDEPENDENT CONTRACTOR AGREEMENT

(_____)

This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the "Agreement"), is entered into and shall become effective as of the ___ day of _____, 200_, by and between the _____ DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and _____, a _____ (the "Independent Contractor"). The District and the Independent Contractor are sometimes referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the District desires to engage the Independent Contractor to perform certain additional services as are needed by the District to serve the property within and without its boundaries.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES. The Independent Contractor shall perform the services described in Exhibit A, attached hereto and incorporated herein by this reference (the "Services"), using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the District. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. The Independent Contractor shall perform the Services in a good and workmanlike manner, using reasonable diligence and caution, and in strict accordance with this Agreement. The District agrees to provide Independent Contractor with copies of reports, correspondence, estimates, plans and other documentation, as may be necessary and reasonably requested by the Independent Contractor, and access to the site as needed by the Independent Contractor to perform the Services. All work product produced and

all information collected by either the Independent Contractor or the District in connection with the Services shall become and remain the sole property of the District.

2. TERM OF AGREEMENT/RENEWAL. This Agreement shall become effective as of the date first above written and shall terminate on December 31, 200_, unless otherwise terminated by either Party in accordance with this Agreement. Notwithstanding the foregoing, this Agreement shall automatically renew on January 1st of each succeeding year for an additional one (1) year term unless: 1) terminated by the Parties in writing at least thirty (30) days prior to the automatic renewal date; 2) terminated by the Parties pursuant to this Agreement; 3) failure by the District to budget and appropriate funds for the succeeding year; or 4) completion of the Services contemplated herein.

3. SPECIAL SERVICES. The District may, in writing, request the Independent Contractor to provide special services not contemplated in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Independent Contractor and the District pursuant to a written service order executed by an authorized representative of the District and the Independent Contractor.

4. TIME OF THE ESSENCE/LIQUIDATED DAMAGES. The Services shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement. It is agreed that time is of the essence in the performance of all Services contemplated in this Agreement.

5. COMPENSATION AND INVOICES.

A. Services. Compensation for the Services provided under this Agreement shall be in accordance with the "Fee Schedule", attached hereto as Exhibit B. The Independent Contractor shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as provided in Exhibit B of this Agreement, unless said reimbursement or compensation is approved in writing by the District in advance of incurring such expenses. Any direct reimbursable costs for materials will be reimbursable at the Independent Contractor's actual cost, provided that the Independent Contractor shall notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services.

B. Invoices. Invoices for the Services shall be submitted monthly during the term of the Agreement and shall contain an itemized statement showing the names, classifications and hours for each individual and any District project and/or cost codes as provided in any applicable written service order. The District shall be charged only for the actual time and direct costs incurred for the performance of the Services.

6. CHARGES AND COSTS. The Services to be provided by the Independent Contractor shall be at its sole cost, risk and expense, and no part of the cost thereof shall be charged to the District, save and except the payments to be made by the District to the Independent Contractor for the Services performed.

7. TIME FOR PAYMENT. Payment for the Services shall be made by the District within thirty (30) days of receipt of satisfactory and detailed invoices for that portion of the Services performed and not previously billed.

8. INDEPENDENT CONTRACTOR. The Independent Contractor is an independent contractor and nothing herein shall constitute or designate the Independent Contractor or any of its employees or agents as employees or agents of the District. The Independent Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District will not be responsible for Independent Contractor FICA taxes, health or life insurance, vacation or sick-time, or any other form of taxes, benefits or insurance. The Independent Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act).

9. ILLEGAL ALIENS. The Independent Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Independent Contractor has participated in or has attempted to participate in the E-Verify Program (formerly known as the Basic Pilot Program) (as defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Independent Contractor affirmatively makes the follow declarations:

A. The Independent Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated herein and will participate in the E-Verify Program or Department Program (as defined in §8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated herein.

B. The Independent Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Independent Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated herein.

C. The Independent Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

D. The Independent Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

E. If the Independent Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Independent Contractor shall be required to:

i. Notify the subcontractor and the District within three (3) days that the Independent Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien.

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that the Independent Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. The Independent Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

G. If the Independent Contractor violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Independent Contractor shall be liable for actual and consequential damages to the District.

10. INDEPENDENT CONTRACTOR'S INSURANCE. The Independent Contractor shall acquire and maintain, during the entire term of this Agreement, Colorado statutory workers' compensation insurance coverage, commercial general liability insurance coverage, automobile liability insurance coverage and professional liability insurance coverage in the minimum amounts set forth in Exhibit C, attached hereto and incorporated herein by this reference. The District shall be named as an additional insured on the Independent Contractor's commercial general liability insurance. Any such policy of insurance obtained to comply with this Paragraph 10 shall provide that the District shall receive (30) days written notice prior to the cancellation of any such policy. Independent Contractor shall also provide the District with thirty (30) days written notice prior to the material modification of such policy.

Independent Contractor's failure to purchase and maintain the required insurance shall not serve to release it from any obligations contained herein; nor shall the purchase or maintaining of the required insurance serve to limit Independent Contractor's liability under any provision herein. Independent Contractor shall be responsible for the payment of any deductibles on issued policies.

11. CONFIDENTIALITY AND CONFLICTS.

A. Confidentiality. During the performance of this Agreement, if the Independent Contractor is notified that certain information is to be considered confidential, the Independent Contractor, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Independent Contractor by the District, or developed by the Independent Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Independent Contractor shall hold in strict confidence, and shall not use in competition, any information which the Independent Contractor becomes aware under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the best interests of the District.

B. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the District, the Independent Contractor agrees to notify the owner of conflicts that impact the Services to the District.

12. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Independent Contractor prepared pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon payment to the Independent Contractor of the invoices representing the work by which such materials were produced. The Independent Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request.

13. NO RIGHT OR INTEREST IN DISTRICT ASSETS. The Independent Contractor shall not have any right or interest in any of the District assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated herein.

14. INDEMNIFICATION. The Independent Contractor shall indemnify and hold harmless the District and each of its directors, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys' fees, arising directly or indirectly, in whole or in part, out of the negligence, willful misconduct, or any criminal or tortious act or omission of the Independent Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Independent Contractor's performance of the Services or work hereunder, whether within or beyond the scope of its duties or authority hereunder. The provisions of this Section shall survive termination of this Agreement.

15. ASSIGNMENT. The Independent Contractor shall not have the right or power to assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

16. SUB-CONTRACTORS. The Independent Contractor shall not subcontract any Services without prior written approval by the District. Independent Contractor agrees that each and every agreement of Independent Contractor with any sub-contractor to perform Services under this Agreement shall be terminable not-for-cause. The Independent Contractor further agrees that all such sub-contracts shall be terminated immediately upon termination of this Agreement.

17. TERMINATION. This Agreement may be terminated by the Independent Contractor upon delivery of ninety (90) days prior written notice to the District and by the District by giving the Independent Contractor thirty (30) days prior written notice. If this Agreement is terminated, the Independent Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared

bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Independent Contractor shall cooperate with the District to ensure a timely and efficient transition of all work and work product to the District or its designees. Such transition shall be complete and all time associated with such transition shall not be billed by the Independent Contractor to the District.

18. DEFAULT. In addition to the termination provisions in Paragraph 17, if either Party to this Agreement fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, after giving ten (10) days written notice to the other Party of the alleged default, and upon said Party in default having failed to cure said breach within ten (10) days, the other Party shall have the option to terminate this Agreement and pursue any remedy available by law or in equity.

19. NOTICES. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either Party hereto, by the other Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed or in lieu of such personal services, three days after deposited in the United States' mail, first-class postage prepaid, properly addressed to the Parties at:

To the District: _____ District

With a copy to: WHITE, BEAR & ANKELE
Professional Corporation
Attention: _____, Esq.
1805 Shea Center Drive, Suite 100
Highlands Ranch, Colorado 80129
(P) 303-858-1800
(F) 303-858-1801

Independent Contractor at:

Either Party may change its address for the purpose of this Paragraph by giving written notice of such change to the other Party in the manner provided in this Paragraph 19.

20. AUDITS. The District shall have the right to audit any of the Independent Contractor's books and records which may be necessary to substantiate any invoices and payments hereunder (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Independent Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years thereafter and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

21. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Independent Contractor and the District.

22. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

23. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

24. GOVERNING LAW. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the Services are rendered.

25. AUTHORITY. By execution hereof, each Party hereto represents and warrants that its representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

26. MINOR CHANGES. The Parties executing this Agreement are authorized to make non-substantive corrections to this Agreement and attached exhibits, if any, as the Parties mutually consider necessary.

27. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

28. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Independent Contractor expressly understands and agrees that the District's obligations hereunder shall extend only to monies appropriated for the purposes of this Agreement by the Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

29. COMPLIANCE WITH LAW. This Agreement shall be performed in accordance with, and to the extent permitted by, all applicable laws, rules, regulations, ordinances and/or similar directives of the jurisdiction in which this Agreement is performed. The Independent Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the services under this Agreement.

30. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to constitute a waiver, in whole or in part, of any of the District's rights and protections under the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

31. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

32. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

33. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

35. AMENDMENT 54. To the extent this Agreement may be construed to be a 'sole source contract' within the meaning of sections 15 through 17 of Article XXVIII of the Colorado Constitution, sections 15 through 17 of Article XXVIII of the Colorado Constitution ("Amendment 54") are hereby incorporated into the Agreement. Notwithstanding the foregoing, the obligations of the Parties to comply with Amendment 54 shall not apply to the extent enforcement of Amendment 54 is suspended during the pendency of any litigation filed with respect thereto, or to the extent Amendment 54 is interpreted by a court of competent jurisdiction to be unconstitutional or otherwise unlawful. In accordance with Amendment 54, Section 15 is specifically set forth below:

"Section 15: Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, contract holders shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the contract holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions."

[Remainder of page intentionally left blank].

Signature Page to Independent Contractor Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

_____ DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado

President

ATTEST:

Secretary

INDEPENDENT CONTRACTOR:

By: _____
Name: _____
Title: _____

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B
FEE SCHEDULE

EXHIBIT C
INSURANCE REQUIREMENTS

1. Workers' Compensation Insurance in accordance with applicable law.
2. Comprehensive general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate.
3. Automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident.
4. Professional liability insurance in the amount of \$1,000,000.00 each occurrence.