

**INDEPENDENT CONTRACTOR AGREEMENT
(DISTRICT AND PUBLIC FACILITIES MANAGEMENT)**

This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the “**Agreement**”), is entered into as of the 1st day of January, 2024, by and between BASE VILLAGE METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and SV SNOWMASS HOSPITALITY, LLC, a Colorado limited liability company (the “**Contractor**”). The District and the Contractor are referred to herein 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 and Snowmass Hospitality LLC entered into that certain Second Amended and Restated Public Facilities Management Agreement, dated January 1, 2014, which was assigned by Snowmass Hospitality LLC to the Contract (the “**Prior Agreement**”); and

WHEREAS, as of the Effective Date, the District and the Contract desire to terminate the Prior Agreement and to enter into this Agreement in its place; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

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; PERFORMANCE STANDARDS.** The Contractor shall perform the services described in **Exhibits B-E**, attached hereto and incorporated herein by this reference (the “**Services**”): (a) in a professional manner, to the satisfaction of the District, using the degree of skill and knowledge customarily employed by other professionals performing similar services; (b) within the time period and pursuant to the Scope of Services specified in said **Exhibits B-E**; and (c) using reasonable commercial efforts to minimize any annoyance, interference, or disruption to the residents, tenants, occupants, and invitees within the District. **Exhibits B-E** 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 **Exhibits B-E**, the terms in the body of this Agreement shall govern. Contractor 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 (including **Exhibits B-E**) or through other authorization expressly delegated to or authorized by the District through its Board of Directors.

2. TERM/RENEWAL. This Agreement shall be effective as of January 1, 2024 and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; or (ii) December 31, 2024. Notwithstanding the foregoing, unless terminated pursuant to subsection (i) above, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew on January 1 of each succeeding year for an additional one (1) year term.

3. ADDITIONAL SERVICES. The District may, in writing, request the Contractor provide additional services not set forth in **Exhibits B-E**. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the District pursuant to a written service/work order executed by an authorized representative of the District and the Contractor or an addendum to this Agreement. Authorization to proceed with additional services shall not be given unless the District has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. REPAIRS/CLAIMS. The Contractor shall notify the District immediately of any and all damage caused by the Contractor to District property and that of third parties. The Contractor will promptly repair or, at the District's option, reimburse the District for the repair of any damage to property caused by the Contractor or its employees, agents, or equipment. In addition, the Contractor shall promptly notify the District of all potential claims of which it becomes aware. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information, which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the District the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. GENERAL PERFORMANCE STANDARDS.

a. The Contractor has by careful examination ascertained: (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment, and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services; and (v) all other matters which in any way may affect the performance of the Services by the

Contractor. Contractor enters into this Agreement solely because of the results of such examination and not because of any representations pertaining to the Services or the provision thereof made to it by the District or any agent of the District and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill, and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor's performance of the Services does not meet this standard, the Contractor shall, at the District's request, re-perform the Services not meeting this standard without additional compensation.

b. The Contractor shall use reasonable commercial efforts to perform and complete the Services in a timely manner. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor's reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give prompt notice to the District of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor agrees that it has complied and will continue to comply with all Laws while providing Services under this Agreement. "Laws" means: (i) federal, state, county, and local or municipal body or agency laws, statutes, ordinances, and regulations; (ii) any licensing, bonding, and permit requirements; (iii) any laws relating to storage, use, or disposal of hazardous wastes, substances, or materials; (iv) rules, regulations, ordinances, and/or similar directives regarding business permits, certificates, and licenses; (v) regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970; (vi) Wage and Hour laws, Worker Compensation laws, and immigration laws; and (vii) rules and regulations of the Colorado Department of Public Health and Environment..

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant, or employee of the District. Review, acceptance, or approval by the District of the Services performed or any documents prepared by the Contractor shall not relieve the Contractor of any responsibility for deficiencies, omissions, or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. MONTHLY STATUS REPORT. The Contractor shall provide to the District, at the District's request, on or before the 25th of each month, a narrative progress and status report describing work in progress and results achieved during the reporting period, including a description of the Services performed during the invoice period and the Services anticipated to be performed during the ensuing invoice period ("**Monthly Report**").

7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the compensation schedule attached hereto as **Exhibit F**. The 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 F** 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 Contractor's actual cost, provided that the Contractor shall make a reasonable attempt to notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Contractor shall provide the District with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("**W-9**"). No payments will be made to the Contractor until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit F-1**.

b. Annual Budget for Direct Expenses. No later than October 15, of each year during the term of this Agreement, the Contractor shall submit to the District an annual forecast of costs to be incurred for the operation and maintenance of the Public Facilities (as defined in **Exhibit A**), including any proposed Direct Labor Costs, as well as all anticipated revenues for the next fiscal year (collectively the "**Proposed Budget**").

The District shall review the Proposed Budget with the Contractor, and the District and the Contractor shall use their good faith reasonable efforts to resolve any objections that either Party may have to the Proposed Budget prior to the District's annual budget meeting. The Proposed Budget, 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 the Contractor to so resolve any objections to the Proposed Budget prior to the District's annual budget meeting, such objections are not resolved, then the last Approved Budget shall control; provided, however, that the Contractor may terminate this Agreement as provided for in Section 18 of this Agreement.

The Contractor shall not cause the aggregate expenditures for all items to exceed the Approved Budget by more than 5% for a given month or the 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, regardless of amount. Regardless of the District's authorization for certain expenditures beyond the Approved Budget pursuant to this clause, the District shall provide prompt notice to the Contractor 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.

The District and the Contractor acknowledge and agree that there may occur from time to time unpredicted significant changes, variables or events affecting the provision of Services for the Public Facilities. In such event, the Contractor may request one or more variances from the Approved Budget as are reasonable and necessary for the Contractor to be able to continue to

operate the Public Facilities in accordance with this Agreement. Any such request by the Contractor 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 the Contractor shall use their good faith reasonable efforts to accommodate such request for a variance from the Approved Budget. If, notwithstanding the good faith reasonable efforts of the Parties to accommodate such variance, such variance may not be approved, then the Contractor may terminate this Agreement upon notice to the District as provided in Section 18 of this Agreement.

c. Contractor Compensation. The District shall pay the Contractor Compensation (as set forth in Exhibit F) on a monthly basis, no later than the 15th of each month, allocating payments pro rata according to the total of all Contractor Compensation as set forth in Exhibit F divided by 12.

d. Invoices for Direct Labor Costs. Invoices Direct Labor Costs for the Services (exclusive of the Contractor Compensation) shall be submitted by the Contractor to the District monthly, by the 10th of each month, during the term of this Agreement and shall contain the following information:

i. An itemized statement of the Services performed or direct costs incurred.

ii. Any other reasonable information required by the District to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

With the exception of the Contractor Compensation, the District shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the District after the 10th of each month may be processed the following month.

8. TIME FOR PAYMENT. Payment for invoices for Direct Costs shall be made by the District within thirty (30) days of receipt of: (i) a timely, satisfactory, and detailed invoice in the form required by Section 7; and (ii) if applicable, a reasonably satisfactory and detailed Monthly Report, for that portion of the Services performed and not previously billed. The District may determine to waive or extend the deadline for filing the Monthly Report, or may make payment for Services to the Contractor notwithstanding a delay in filing the Monthly Report, upon reasonable request of the Contractor, if it is in the interest of the District to do so. In the event a Board meeting is not scheduled in time to review payment of an invoice, the Board hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27 hereof, without the need for additional Board approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the District's approved budget. Such payment shall require review and approval of each Monthly Report and invoice by two officers of the District.

9. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor and nothing in this Agreement shall constitute or designate the Contractor or any of its employees

or agents as employees or agents of the District. The 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 shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income, or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits, or insurance. The Contractor shall be responsible for its safety, and the safety of its employees, sub-contractors, agents, and representatives. All personnel furnished by the Contractor will be deemed employees or sub-contractors of the Contractor and will not for any purpose be considered employees or agents of the District. **The Contractor is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the District, and the Contractor is obligated to pay federal and state income taxes on moneys by it earned pursuant to this Agreement.**

10. EQUAL OPPORTUNITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

11. CONTRACTOR'S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit G**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the District, its directors, officers, employees, and agents is required for Commercial General Liability and workers' compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the District as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the District may carry, and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverage, information, or representations contained in this Agreement.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the District with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit G-1**. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance, and automobile liability insurance in amounts satisfactory to the District and the Contractor; provided, however, that sub-contractors of the Contractor shall not be required by the District to provide coverage in excess of that which is required hereunder of the Contractor. If the coverage required expires

during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Contractor's failure to purchase the required insurance shall not serve to release it from any obligations contained in this Agreement, nor shall the purchase of the required insurance serve to limit the Contractor's liability under any provision in this Agreement. The Contractor shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. Any information deemed confidential by the District and given to the Contractor by the District, or developed by the Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Contractor shall hold in strict confidence, and shall not use in competition, any information which the Contractor becomes aware of 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, would reasonably be construed to be contrary to the interests of the District. Confidential information shall not include, however, any information which is: (i) generally known to the public at the time provided to the Contractor; (ii) provided to the Contractor by a person or entity not bound by confidentiality to the District; or (iii) independently developed by the Contractor without use of the District's confidential information. During the performance of this Agreement, if the Contractor is notified that certain information is to be considered confidential, the Contractor agrees to enter into a confidentiality agreement in a form reasonably acceptable to the District and the Contractor. The Contractor agrees that any of its employees, agents, or subcontractors with access to any information designated thereunder as confidential information of the District shall agree to be bound by the terms of such confidentiality agreement.

b. Personal Identifying Information. During the performance of this Agreement, the District may disclose Personal Identifying Information to the Contractor. "**Personal Identifying Information**" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in § 24-73-103(1)(a), C.R.S.; an employer, student, or military identification number; or a financial transaction device, as defined in § 18-5-701(3), C.R.S. In compliance with § 24-73-102, C.R.S., the Contractor agrees to implement and maintain reasonable security procedures and practices that are: (i) appropriate to the nature of the Personal Identifying Information disclosed to the Contractor; and (ii) reasonably designed to help protect the Personal Identifying Information from unauthorized access, use, modification, disclosure, or destruction.

c. 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 Contractor agrees to notify the District of conflicts known to the Contractor that impact the Contractor's provision of Services to the District.

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the 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 Contractor of the invoices representing the work by which such materials were produced. At the District's request the Contractor will provide the District with all documents produced by or on behalf of the Contractor pursuant to this Agreement. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services for a period of two (2) years after termination of this Agreement, shall make them available for the District's use and shall provide such copies to the District upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any District assets, or any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated in this Agreement. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's, or other such lien claims, or rights to place a lien upon the District's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through, or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers, and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the District. The Contractor will provide indemnification against all such liens for labor performed and/or materials supplied or used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15, below.

15. INDEMNIFICATION.

a. The Contractor shall defend, indemnify, and hold harmless the District and each of its directors, officers, contractors, employees, agents, and consultants (collectively, the "**District Indemnitees**"), from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses (the "**Claims**"), including reasonable legal expenses and attorneys' fees actually incurred, by the District Indemnitees arising directly or indirectly, in whole or in part, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents, or employees, in connection with this Agreement and/or the Contractor's performance of the Services or work pursuant to this Agreement. Notwithstanding anything else in this Agreement or otherwise to the contrary, the Contractor is not obligated to indemnify the District Indemnitees for the negligence of the District or the negligence of any other District Indemnitee, except the Contractor. Except as otherwise provided by applicable law, this indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation, or benefits payable by or for the Contractor under workers' compensation acts, disability acts, or other employee benefit acts, provided that in no event shall the Contractor be liable for special/consequential or punitive damages.

b. In the event the Contractor fails to assume the defense of any Claims under this Section 15 within fifteen (15) days after notice from the District of the existence of such Claim, the District may assume the defense of the Claim with counsel of its own selection, and the Contractor will pay all reasonable expenses of such counsel. Insurance coverage requirements

specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation.

c. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary with respect to its obligations under this Agreement, including the indemnity obligations set forth in Section 15. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted assignment 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.

17. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the District for the performance of all Services in accordance with the terms set forth in this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor, and neither the District's approval of any subcontractor, suppliers, or materialman, nor the failure of performance thereof by such persons or entities, will relieve, release, or affect in any manner the Contractor's duties, liabilities, or obligations under this Agreement. The Contractor shall not subcontract any Services without prior written approval by the District. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained in this Agreement holding the District harmless for the acts of the subcontractor. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the District in accordance with the requirements of this Agreement. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without cost or penalty upon termination of this Agreement, other than payment for services rendered prior to the date of any such termination.

18. TERMINATION. In addition to the termination provisions contained in Section 2, above, this Agreement may be terminated for convenience by the Contractor upon delivery of thirty (30) days' prior written notice to the District and by the District by giving the Contractor thirty (30) days' prior written notice. Each Party may terminate this Agreement for cause at any time upon written notice to the other Party setting forth the cause for termination and the notified Party's failure to cure the cause to the reasonable satisfaction of the Party given such notice within the cure period set forth in Section 19. If this Agreement is terminated, the 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 of this Agreement, the 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. All time, fees, and costs associated with such transition shall not be billed by the Contractor to the District.

If to the Contractor: SV Snowmass Hospitality, LLC
45 Wood Road
P.O. Box 5550
Snowmass Village, CO 81615

With a copy to: Richard D. Travers, Esq.
Wear Travers Perkins LLC
97 Main Street, Suite E-202
Edwards, CO 81632

21. AUDITS. The District shall have the right to audit, with reasonable notice, any of the Contractor's books and records solely as are necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll, and personnel records) and the 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 after termination of this Agreement 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.

22. 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, and hereby supersedes any and all prior negotiations, representations, agreements, or arrangements of any kind with respect to the Services, whether written or oral. 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 Contractor and the District.

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

24. 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 in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the District's request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the District shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

b. Choice of Law. Colorado law shall apply to any dispute, 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.

c. Litigation. At the District's request, the Contractor will consent to being joined in litigation between the District and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner, or failure of the District to furnish timely information or to approve or disapprove of Contractor's Services in a timely manner.

26. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, consent, 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, consent, or extension of time required or requested pursuant to this Agreement.

27. 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 Contractor expressly understands and agrees that the District's obligations under this Agreement 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 or Article XI, Section 6 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.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

29. 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 to the preparation of this Agreement.

30. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void, or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the

intention being that such portions are severable. 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.

31. 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.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, *et seq.*, C.R.S.

33. TAX EXEMPT STATUS. The District is exempt from Colorado state sales and use taxes. Accordingly, taxes from which the District is exempt shall not be included in any invoices submitted to the District. The District shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase materials tax free. The Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

34. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

[Signature pages follow].

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

Andrew Junion

Officer of the District

ATTEST:

DB

Dawn Blasberg (Nov 16, 2023 11:56 MST)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel for the District

*District's Signature Page to Independent Contractor Agreement for District and Public
Facilities Management Services with SV Snowmass Hospitality, LLC, dated January 1, 2024*

EXHIBIT A

PUBLIC FACILITIES

The “**Public Facilities**” consist of:

1. Parking Units P-103, P-104, and P-203, Base Village Subterranean Condominium, according to the Base Village Subterranean Condominium Map (the “**Parking Units**”). The Parking Units are within the Base Village Subterranean Condominium parking garage (the “**Parking Garage**”) that includes equipment and accessories utilized in administering access to the Parking Garage by vehicular traffic and parking fee collections, including but not limited to entryways, gates, payment kiosks, signage, attendant kiosks, security cameras, lighting, utilities and related equipment (collectively the “**Parking Fee Administration Facilities**”). The Parking Fee Administration Facilities include an automated computerized system utilized by the District to permit access to the Parking Units, for parking fees determined by and payable to the District (the “**Parking Fee System**”).

2. Transit Unit and Unit 313, Base Village Subterranean Condominium, according to the Base Village Subterranean Condominium Map and the District Unit, as shown on the Condominium Map of One Snowmass (collectively, the “**Transit Center**”).

3. Skier Funnel Bridge over Wood Road, Base Village, Town of Snowmass, conveyed to the District pursuant to that Bill of Sale dated August 18, 2008 (the “**Skier Funnel Bridge**”).

4. Base Village Bridge No. 2, Town of Snowmass Village, Colorado as constructed pursuant to that certain Contract dated April 16, 2008 by and between Base Village Metropolitan District No. 1 and CFC/PCL, a Joint Venture, Denver, Colorado, and accepted by the District on September 24, 2009 (“**Bridge No. 2**”).

5. Storm Sewer Lines: A (Main Line), B (Main Line), B2 (ROW), BG, C (Main Line in ROW), C3, C4, C5, E, E1, G1, G2, inclusive, conveyed to the District pursuant to that Bill of Sale dated August 18, 2008 (collectively, the “**Storm Sewer Lines**”).

EXHIBIT B

PARKING UNITS SCOPE OF SERVICES

The District and the Contractor agree and acknowledge that all operations and maintenance of the Parking Garage and the Parking Units is addressed in the Declaration of Covenants, Conditions and Restrictions for Base Village Subterranean Condominium recorded in the real property records of Pitkin County, Colorado, on December 4, 2018, at Reception Number 652336 (the “**Garage Condominium Declaration**”).

The Contractor shall be responsible for the operation of the Parking Fee System, such that access to and use of the Parking Units within the Parking Garage are administered and fees collected as provided in the District’s rules and regulations and adopted fee schedules. **(Direct Labor Cost)**

The Contractor shall also liaison with the Town of Snowmass Village as applicable to aid in the annual Town of Snowmass Village Parking Plan.

The Contractor shall staff security patrols and oversee traffic control in coordination with Town police services, as related to the use of the Parking Units and administration of the Parking Fee System, including monitoring and maintenance of camera security systems as needed. **(Direct Labor Cost)**

The Contractor shall provide monthly reports to the Board of Directors of the District concerning operating revenue, expenses, performance against budget, and such other material as the District may reasonably require.

EXHIBIT C

TRANSIT CENTER SCOPE OF SERVICES

The Contractor shall be responsible for operating and maintaining the Transit Unit in compliance with the Garage Condominium Declaration.

Additionally, the District and the Contractor acknowledge that the District and the Town of Snowmass Village have entered into that certain "Transit Center Joint Operating Agreement," dated as of November 1, 2010, which addresses the District's obligations to operate and maintain the Transit Center, as well as certain rights and responsibilities of the Town. The Contractor shall be responsible for keeping the District in compliance with its obligations under this Agreement, and managing compliance by the Town of its responsibilities.

The Services to be performed by the Contractor for the Transit Center, include, but shall not be limited to the following:

- a. Review, comment on and, if necessary, dispute any invoices, costs and shall approve payment of same, all in a timely manner, prior to submitting such invoices to the District's accountant for payment.
- b. Regular general maintenance to keep the Transit Center in a reasonably safe, clean, orderly and healthful condition, with such maintenance to include trash and debris removal from all walks and grounds, maintenance of all lights, regular inspection of all common plumbing, mechanical and electrical equipment and systems removal of snow and ice from walks, driveways, steps, and porches **(Direct Labor Cost)**
- c. After-hours emergency response and emergency repair response to the Transit Center and its related common areas and to all areas of the Public Facilities **(Direct Labor Cost)**
- d. Maintenance and upkeep of the day use lockers and associated token machine including collecting, holding, and retaining in a safe or other secure deposit box or depository until deposit in the District's account(s) **(Direct Labor Cost)**
- e. Staffing of security patrols and traffic control in coordination with Town police services. Review of camera security systems as needed. **(Direct Labor Cost)**

EXHIBIT D

MISCELLANEOUS PUBLIC IMPROVEMENTS SCOPE OF SERVICES

The Public Facilities constituting the Miscellaneous Public Improvements consist of the Skier Funnel Bridge, Bridge No. 2 and the Storm Sewer Lines, as defined in Exhibit A.

The Contractor shall be responsible for the operations and maintenance of the Miscellaneous Public Improvements, and as further specified below:

- a. Perform regular inspections to identify functionality and/or maintenance items
(**Direct Labor Cost**)
- b. Maintenance of lighting and signage (**Direct Labor Cost**)
- c. Maintenance of fascia and other cosmetics (**Direct Labor Cost**)
- d. Arranging for and pursuing any issues identified by State of Colorado bridge inspections.
- e. Liaison with the Aspen Skiing Company regarding Bridge Activities
- f. Review, comment on and, if necessary, dispute any invoices, costs and shall approve payment of same, all in a timely manner, prior to submitting such invoices to the District's accountant for payment.

EXHIBIT E

DISTRICT MANAGEMENT SCOPE OF SERVICES

The Contractor shall perform the following services for the District:

1. Coordination of all Board meetings to include:
 - a. Preparation and distribution of agenda and information packets.
 - b. Attendance at Board meetings.
 - c. Posting of Board meeting notices on the District's website.
 - c. Other details incidental to meeting preparation and follow-up in cooperation with the District's accountants, attorneys and consultants.
2. Maintenance and administration of the District's website'
3. Periodic coordination with the District's accountants in handling the financial affairs of the District.
4. Periodic coordination with the District's attorneys to ensure compliance with legal requirements applicable to the District.
5. As risk manager, insurance administration, including evaluating risks, comparing coverage, processing claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence, etc. Ensure that all contractors and subcontracts maintain required coverage for the District's benefit.
6. Assist with budget preparation, including preparation of proposed budget in coordination with the District's accountants and attorneys.
7. Response to inquiries, questions and requests for information from the District's property owners and residents and others.
8. Contract administration as directed by the Board of Directors of the District.
9. Provide liaison and coordination with other governments.
10. Keep adequate, secure and complete records of all activities of the Contractor in the performance of the Services.
11. Assist with real estate closing administration.

EXHIBIT F

COMPENSATION SCHEDULE

1. CONTRACTOR COMPENSATION. The Contractor shall receive fixed annual compensation for the Services for calendar/fiscal year 2024, allocable as follows (the "Contractor Compensation"):

- a. Parking Units Scope of Services (See Exhibit B) - \$45,000
- b. Transit Center Scope of Services (See Exhibit C) - \$15,000
- c. Miscellaneous Public Improvements and District Management Scopes of Services (See Exhibits D and E) - \$25,000

The Contractor Compensation shall be subject to adjustment at the commencement of each fiscal year, thereafter by the greater of 2% or the CPI for Denver-Boulder-Greeley, unless otherwise agreed.

2. DIRECT LABOR COSTS. In addition to the Contractor Compensation, the District shall pay costs of third-party contractors/suppliers engaged by the Contractor to perform the Services hereunder, as well as labor costs for personnel of the Contractor for those Services denoted in Exhibits B-E hereof as "**Direct Labor Costs.**" Such Direct Labor Costs shall be reasonable. The District shall pay the Contractor for such Direct Labor Costs at the agreed upon hourly rate for each employee category. The agreed upon rate will be established during the budgeting process set forth in Section 7.b of this Agreement.

EXHIBIT F-1

CONTRACTOR'S COMPLETED W-9

EXHIBIT G

INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 11 of this Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$2,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate; and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury, and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to:
 - a. premises operations;
 - b. personal injury liability without employment exclusion;
 - c. limited contractual;
 - d. broad form property damages, including completed operations;
 - e. medical payments;
 - f. products and completed operations;
 - g. independent consultants coverage; and
 - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction consultant.

This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.

3. Comprehensive Automobile Liability Insurance covering all owned, non-owned, and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
4. If applicable: Contractor shall secure and maintain a third-party fidelity bond in favor of the District, covering the Contractor and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the District. Such bond shall protect the District against any fraudulent or dishonest act which may result in the loss of money, securities,

or other property belonging to or in the possession of the District. Said bond shall be in an amount as determined by the District, from a surety acceptable to the District.

5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.

EXHIBIT G-1
CERTIFICATE(S) OF INSURANCE