Board of Commissioners
Regular Meeting Agenda
WEDNESDAY, SEPTEMBER 25, 2019, 12:00 PM
BOCC Meeting Room, 1st Floor
530 E Main St, Aspen, CO 81611

(Commissioner McNicholas Kury not attending)

Additions/Deletions to Agenda

Public Comments (please limit to 3 minutes per speaker unless otherwise advised by the Chair)

Commissioner Comments

Consent Items: Consent items are generally perceived as non-controversial and allow the Board to spend its time on more complex items elsewhere on the agenda. A Board member or member of the public may ask for a Consent item be removed for individual consideration. Consent items typically have been discussed in work sessions with the Board and are approved by a single motion.

Consent Items - Single Reading:
1. Resolution to Appoint Citizen Board Members, Charlotte Anderson
2. Resolution of the Board of County Commissioners Endorsing the Declaration of a Climate Emergency and Requesting Regional Collaboration to Counter Climate Change and Preserve a Flourishing Environment - Zachary Hendrix

Individual Consideration Items:

Individual Consideration Items / First Readings set for Public Hearings on October 9, 2019:
3. Resolution of the Board of County Commissioners Authorizing Submission of a Grant Application to Great Outdoors Colorado (GOCO) for Construction of a Playground at the Basalt Vista Affordable Housing Community and If Awarded, Approving a Grant Agreement with GOCO to Accept the Funds
4. Resolution of the Board of County Commissioners Canceling Certain Uncollectable Taxes Levied on Personal Property, including but not limited to mobile homes, in Pitkin County, CO - Ann Driggers
5. Ordinances of the Board of County Commissioners of Pitkin County, Colorado, Authorizing Execution of Four (4) License and Use Agreements for On-Airport Rental Car Operators at Aspen / Pitkin County Airport - Chris Padilla
   a. Ordinance of the Board of County Commissioners Repealing Ordinance 035-2014 and Authorizing Execution of a License and Use Agreement with Avis Budget Car Rental, LLC for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport - Chris Padilla
   b. Ordinance of the Board of County Commissioners Repealing Ordinance No. 035-2014 and Authorizing Execution of a License and Use Agreement with Enterprise Leasing Company of Denver, LLC D/B/A Alamo Rent a Car, Enterprise Rent-A-Car and National Car Rental for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport - Chris Padilla
   c. Ordinance of the Board of County Commissioners Repealing Ordinance No. 035-2014 and Authorizing Execution of a License and Use Agreement with the Hertz Corporation for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport - Chris Padilla
   d. Ordinance Repealing Ordinance No. 035-2014 and Authorizing Execution of a License and Use Agreement with Sixt Rent A Car, LLC for On_Airport Rental Car Operations at the Aspen/Pitkin County Airport - Chris Padilla

Individual Consideration Items / Public Hearing, 2nd Readings:
6. Resolution Approving 3rd Quarter Budget Supplemental Requests - Connie Baker
7. Ordinance Authorizing CDOT - North Star Boundary Agreement - Dale Will
8. Resolution of the Board of County Commissioners Adopting a Memorandum of Understanding between Pitkin County and the State of Colorado Governor's Office of Information Technology (OIT) Public Safety Communications Network (PSCN) for Shared Communication Sites of Hunter Creek, Loge, Snowmass Village and Williams in the State of Colorado

Individual Consideration Items / Emergency Ordinance and Resolution Confirmatory Reading:

AGENDA and TIMES ARE SUBJECT TO CHANGE
9. Emergency Ordinance of the Board of County Commissioners Accepting a Rock Fall Mitigation Easement from Castle Ridge Associates - Gary Tennenbaum, Richard Neiley III - continued from September 11th

Land Use Items:

Land Use Public Hearings:

10. Resolution Approving Le Chamonix Major PUD Amendment, Site Plan and Scenic Review, Leslie Lamont

11. Resolution Approving the Aspen Consolidated Sanitation District Solar Project - Special Review Use, Activity Envelope and Site Plan and Granting a Permit for Activities of State Interest - Site Selection and Construction of Major Facilities of a Public Utility - and for an Area of State Interest - Area Around an Airport (Continued from 8/28/19), Leslie Lamont (Continued to TBD)

Land Use Actions:

12. Resolution Allocating 2018 Rural Area Residential GMQS Allotment for a New Lot to JCH, LLC, Suzanne Wolff

13. Forwarding 2019 Rural Area Residential GMQS Scores for Additional Floor Area - Helvetica Endeavours LLC, Suzanne Wolff

Open Discussion

Adjourn Regular Meeting

SPECIAL MEETING - EXECUTIVE SESSION (Attorney's Conference Room)

A. Request for Easement Over County Property
   CRS 24-6-402 (4) (b)

Adjourn Executive Session
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: Resolution Appointing Citizen Board Members

STAFF RESPONSIBLE: Charlotte Anderson

ISSUE STATEMENT: The Board agreed at the September 10, 2019 Regular Meeting, to appoint new citizen board members to various boards. Below are the boards and applicants approved for appointment at this meeting:

- Jasmine Tygre - Planning & Zoning Board
- Brenda O’Connor - Citizen Grant Review Committee
- Jeannie Seybold (Regular) - Board of Health
- Lida Viera (Alternate) - Board of Health
- Ashley McGee - Senior Services Council

All terms will expire in April 2022 with the exception of Jeannie Seybold. She will assume the term left vacant by the recent resignation of Dr. Christina Miller. Jeannie’s term will expire April 1, 2021.

RECOMMENDED BOCC ACTION: Approve the attached resolution appointing the above applicants.

ATTACHMENTS:
1. Resolution Appointing Citizen Board Members
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS (“BOCC”) OF PITKIN COUNTY, COLORADO, AUTHORIZING THE APPOINTMENT OF CITIZEN BOARD MEMBERS

RESOLUTION NO. ______-2019

RECITALS

WHEREAS, Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter (“HRC”), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution, and

WHEREAS, The Board of County Commissioners wishes to make the following appointments to the following boards;

<table>
<thead>
<tr>
<th>APPLICANTS &amp; BOARD</th>
<th>TERM EXPIRES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jasmine Tygre, (Regular), Planning &amp; Zoning</td>
<td>April 1, 2022</td>
</tr>
<tr>
<td>Brenda O’Connor (Regular), Citizen Grant Review</td>
<td>April 1, 2022</td>
</tr>
<tr>
<td>Jeannie Seybold (Regular) Board of Health</td>
<td>April 1, 2021</td>
</tr>
<tr>
<td>Linda Vieira (Alternate), Board of Health</td>
<td>April 1, 2022</td>
</tr>
</tbody>
</table>

WHEREAS, Volunteer Citizen Boards are established per the Home Rule Charter and State Statute;

WHEREAS, The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts a Resolution Authorizing the Appointment of Citizen Board Members and authorizes the Chair to sign the Resolution and execute any other associated documents necessary to complete this matter.


ATTEST: BOARD OF COUNTY COMMISSIONERS

By: ___________________________                By: ___________________________
    Jeanette Jones                Greg Poschman, Chair
    Deputy County Clerk

MANAGER APPROVAL

___________________________
Jon Peacock, County Manager  

5
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: Resolution of the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, Endorsing the Declaration of a Climate Emergency and Requesting Regional Collaboration to Counter Climate Change

STAFF RESPONSIBLE: Cindy Houben, Community Development Director and Zachary Hendrix, Sr. Administrative Assistant for Community Development

ISSUE STATEMENT:

This resolution is being brought before the Pitkin County Board of Commissioners to address the imminent consequences of Climate Change. A declaration of a Climate Emergency provides the County with a concrete provision to justify any actions the County must take to deal with the repercussions of rapid climate change in the region. A declaration of a Climate Emergency also demonstrates to the citizens of the County and to other jurisdictions the seriousness of Pitkin County in countering Climate Change.

BACKGROUND:

This resolution would place Pitkin County in line with the 1,003 other governments around the world that have declared Climate Emergencies. Thirty-Two of these governments are in the United States of America, including the Town of Basalt, and joining with them will keep Pitkin County in a leadership role for climate preservation.

This declaration is necessitated by the current global increase in average temperature of 1°C, the projected global average temperature increase of 1.5°C by 2030 and by over 10 % of the planet currently experiencing over a 2°C increase in average temperature. These temperature increases have the potential to spur the intensification of storms, droughts, sea level rise, and radical climate shifts, as well as a dramatic alterations in wildlife habitats and agricultural stability.

LINK TO STRATEGIC PLAN:

This resolutions links to all components of the strategic plan, including but not limited to:
A Flourishing Natural and Built Environment: Ensures the County will take the steps necessary to conserve natural resources and environment that may become threatened by a rapidly shifting climate and meeting the County’s responsibility to maintain the County’s assets.
A Livable and Supportive Community: Demonstrates the County is willing to preserve a livable community for future generations and that it is listening to the concerns of its citizens.
A Prosperous Economy: The technologies and programs needed to combat Climate Change have the potential to create, and already have created, new markets in the local economy to help make the economy sustainable long-term and open up new employment opportunities.

KEY DISCUSSION ITEMS: Staff will be present to answer any questions the Board may have.

BUDGETARY IMPACT:

There will be no immediate budgetary impact on Pitkin County at this time as a result of this resolution but the BOCC will need to consider what measures will be necessary to accomplish these goals in future budgets.

RECOMMENDED BOCC ACTION:

Approve the Resolution of the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, Endorsing the Declaration of a Climate Emergency and Requesting Regional Collaboration to Counter Climate Change.

ATTACHMENTS:

Attachment A: Resolution of the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, Endorsing the Declaration of a Climate Emergency and Requesting Regional Collaboration to Counter Climate Change
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS ("BOCC") OF PITKIN COUNTY, COLORADO, ENDORSING THE DECLARATION OF A CLIMATE EMERGENCY AND REQUESTING REGIONAL COLLABORATION TO COUNTER CLIMATE CHANGE AND PRESERVE A FLOURISHING ENVIRONMENT

RESOLUTION NO. ______-2019

RECITALS

WHEREAS, Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter ("HRC"), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution, and

WHEREAS, In April 2016 world leaders from 175 countries recognized the threat of climate change and the urgent need to combat it by signing the Paris Agreement, agreeing to keep warming “well below 2° above pre-industrial levels” and to “pursue efforts to limit the temperature increase to 1.5°”; and

WHEREAS, The current warming of the planet by 1° due to greenhouse gases correlates with the increase and intensification of wildfires, floods, rising seas, diseases, droughts and extreme weather that compromise humanity’s safety and the economic well-being of the county and nation; and

WHEREAS, Pitkin County has long been committed to sustainability and to preserve natural resources for current and future generations, and endeavors to be a leader in responsible stewardship of the environment; and

WHEREAS, Pitkin County’s Strategic Plan establishes the need to preserve and develop a “flourishing natural and built environment,” a “supportive and livable community,” and a “prosperous economy”; and

WHEREAS, The impacts of Climate Change affect everyone regardless of age, gender or socioeconomic background; and

WHEREAS, Pitkin County strives to be cognizant of its most vulnerable populations that are disproportionately impacted by Climate Change; and

WHEREAS, Pitkin County has committed to taking steps to reduce its own contributions to climate change by adopting the following climate-related resolutions:

- Resolution of the Board of County Commissioners of Pitkin County, Colorado, adopting the 2017 Pitkin County Climate Action Plan (Resolution No. 074-2017);
- Resolution of the Board of County Commissioners of Pitkin County, Colorado, Approving the Pitkin County Energy Action Plan (Resolution No. 046-2008);
- Resolution of the Board of County Commissioners of Pitkin County, Colorado, Endorsing Climate Protection (Resolution No. 034-2012); and
WHEREAS, Addressing the repercussions and causes of climate change will require regional collaboration and immediate action; and

WHEREAS, The imminent impacts of already occurring Climate Change requires increased resiliency measures to provide for, and mitigate negative effects on, Public Health; and

WHEREAS, The implementation of the Pitkin County Climate Action Plan is occurring on a daily basis, with some of the significant actions being:

- The revision of the Building Code to work towards net-zero energy use;
- The revision of the Land-Use Code to encourage installation of renewable energy technologies;
- The installation of solar energy systems on new County buildings and the retrofitting of existing County buildings;
- The emphasis on energy conservation in all Pitkin County facilities;
- Working towards the diversion of construction and demolition waste and debris from the Pitkin County Solid Waste Center;
- The continual support and development of regional mass transit efforts and transportation solutions;
- The electrification of Pitkin County’s vehicle fleet; and

WHEREAS, Restoring a safe and stable climate requires emergency mobilization across all sectors to rapidly drawdown or remove greenhouse gases from the atmosphere and to implement measures that will reach zero greenhouse gas emissions. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Endorsement of the Declaration of a Climate Emergency and the Request for Regional Collaboration to Counter Climate Change and Preserve a Flourishing Natural and Built Environment and authorizes the Chair to sign the Resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.

INTRODUCED, READ AND ADOPTED ON THE ___________ DAY OF ________________ 2019.

ATTEST:                    BOARD OF COUNTY COMMISSIONERS

By: ______________________  By: _____________________________
   Jeanette Jones               Greg Poschman, Chair
   Deputy County Clerk

Date: ________________

APPROVED AS TO FORM:

MANAGER APPROVAL

__________________________               _____________________________
John Ely, County Attorney                Jon Peacock, County Manager
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS ("BOCC") OF
PITKIN COUNTY, COLORADO, ADOPTING THE 2017 PITKIN COUNTY
CLIMATE ACTION PLAN

RESOLUTION NO. 074 -2017

RECITALS:

1. Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter ("HRC"), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution.

2. Pitkin County has long been committed to sustainability and to preserve natural resources for current and future generations; and

3. There is an overwhelming consensus of the international scientific community that human activities are warming earth's climate system and that climate change is a global threat will have significant local impacts that can threaten the County's tourism economy and public safety; and

4. By acting now to reduce greenhouse gas (GHG) emissions, the County can reduce the severity of these impacts; and

5. Pitkin County has committed to taking steps to reduce its own contributions to climate change by adopting the following climate-related resolutions within the last ten years:
• Resolution of the Board of County Commissioners of Pitkin County, Colorado, Approving the Pitkin County Energy Action Plan (Resolution No. 046-2008)
• Resolution of the Board of County Commissioners of Pitkin County, Colorado Endorsing Climate Protection (Resolution #034-2012;) and

6. Based on the 2014 greenhouse gas emissions inventory, Pitkin County is emitting 551,900 metric tons of carbon dioxide equivalent (MTCO2e) across the incorporated and unincorporated areas; and

7. Recognizing the importance of Pitkin County’s leadership on this issue, County departments worked collaboratively together to create the Climate Action Plan (CAP) to guide greenhouse gas emission reduction in government operations and services; and

8. The Climate Action Plan incorporated three-year work plans for the following departments and entities: Aspen/Pitkin County Airport, Building Department,
Planning/Zoning/Engineering Departments, Environmental Health Department, Public Works Department, Public Health Department; and

9. The Climate Action Plan is consistent with the Pitkin County Strategic Plan and supports the core focus of a flourishing natural and built environment; and

10. The Board of County Commissioners encourages all County departments to fulfill the CAP; and

11. Pitkin County shall implement the Climate Action Plan based on the availability of resources and monitor progress; and

12. Implementing these actions will directly benefit the County and its citizens; and

13. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it approves Adoption of The 2017 Pitkin County Climate Action Plan and authorizes the Chair to sign on behalf of the county.


ATTEST:

By: Jeanette Jones
Deputy County Clerk

APPROVED AS TO FORM:

John Ely, County Attorney

BOARD OF COUNTY COMMISSIONERS

By: George Newman, Chair
Date: 10/25/17

MANAGER APPROVAL

Jon Peacock, County Manager
Pitkin County Climate Action Plan

Pitkin County has long been committed to climate action and sustainability to preserve natural resources for current and future generations.

The County recognizes that the changing climate has the potential to significantly affect the environment and the economy. By acting now to reduce greenhouse gas (GHG) emissions, the County can dampen the severity of these impacts.

There are elements of County infrastructure, such as buildings, fleets and the landfill, that generate emissions in the course of providing services to the community. The Pitkin County Climate Action Plan focuses on County agencies and initiatives that can reduce emissions. This plan makes an important contribution to emissions reduction and shows the County’s leadership. The plan was developed to serve as a guide for departments to drive robust and meaningful reductions.

Relationship to the Strategic Plan
Pitkin County is an organization with a long history of environmental stewardship that values the natural and built environment. This is reflected in the Pitkin County Strategic Plan. The Strategic Plan strives for Pitkin County to “continue to be a healthy, safe, vibrant and sustainable community, enhancing the quality of life for everyone who lives, works and visits here, while conserving the natural environment” and prioritizes a “flourishing natural and built environment” as a Core Focus Area. See diagram below:

Figure 1: Pitkin County Strategic Plan
The Strategic Plan action items for achieving the *Flourishing Natural & Built Environment* Core Focus include the following climate-change-related direction:

- Adopt responsible land-use and building practices that support a co-existence of natural and built environments.
- Support and encourage food production at a local and regional level.
- Promote activities that are climate-change neutral and supportive of appropriate renewable and alternative energy.
- Preserve the local, regional and global environment through sustainable land-use measures.
  - Ensure that land-use and building codes promote state-of-the-art energy efficiency.

**Greenhouse Gas Emissions**

In order to support pivotal values defined in the Strategic Plan, Pitkin County prepared the *2014 Pitkin County Greenhouse Gas Emissions Inventory* (attached). This will be updated every three years and is just one part of the ongoing planning process to assess, plan and mitigate emissions.

The *Greenhouse Gas Emissions Inventory* defines the source and the quantity of emissions generated across Pitkin County. In 2014, total community GHG emissions across the Pitkin County community were approximately 551,900 metric tons of carbon dioxide equivalent. The figure below shows the emissions by sector. The largest sector is the energy used to heat and power buildings, at 70 percent, followed by fuel from cars, trucks, public transit buses and aircrafts (25 percent) and the decomposition of solid waste at the landfill (5 percent).

Figure 2: Pitkin County GHG Emissions by Sector

In order to effectively address these emissions, each department in Pitkin County that affects the noted sectors above is working toward reducing its GHGs. In collaboration with one another and as part of this Climate Action Plan, each department has developed a three-year work plan to reduce GHG emissions.
Scope
Emissions from county operations are bundled into the community-wide results. But while county-generated emissions likely represent a small portion of overall emissions, they represent an important piece as the County has a greater ability to influence its own operations than other industries.

The Pitkin County Climate Action Plan does not address all actions to reduce emissions. The County is also collaborating with others in the valley to work together on climate action and to produce an overall climate action plan for the greater community.

With the exception of the Public Health Department, this plan focuses on reducing GHG emissions rather than adapting to the impacts of climate change.

Timeline
This is a three-year work plan to reduce GHG emissions from 2017 to 2020 if approved for funding on an annual basis by the Board of County Commissioners.

The following Pitkin County Climate Action Plan will be presented to the BOCC upon each budget review and will be reported on at each department update.

Responsible Departments
The process for developing this plan involved the following departments: Aspen/Pitkin County Airport, Building Department, Planning/Zoning/Engineering Departments, Landfill, Environmental Health Department, Public Works Department, and Public Health Department.

The following chart illustrates Pitkin County departments primarily responsible for each sector of the GHG emission reduction work plan:

Figure 3: Pitkin County Departments

Note: The Public Health Department is not included in the above chart. The Public Health Work Plan is primarily concerned with building local resilience and adapting to the impacts of the changing climate rather than reducing emissions.
<table>
<thead>
<tr>
<th>Rank #</th>
<th>Goal &amp; Sub Tasks (If needed)</th>
<th>Collaboration Needs Internal/External</th>
<th>Resource Needs (Staff, Equipment)</th>
<th>Start Year/Quarter</th>
<th>End Year/Quarter</th>
<th>Anticipated Obstacle(s)</th>
<th>Com Dev Anticipated Solution(s)</th>
<th>Anticipated Budget Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terminal/Building Energy – dominant source is existing terminal</td>
<td>1. Replace the new terminal with larger and notably more energy efficient terminal</td>
<td>CORE collaboration/grants; Potentially add CORE representative to terminal design team</td>
<td>Funding</td>
<td>Envr: 2017 Design: 2018-2019 Const: 2019-2022</td>
<td>Cost of the terminal relative to other airport needs – could use additional funding sources</td>
<td></td>
<td></td>
<td>$89M</td>
</tr>
<tr>
<td></td>
<td>2. Consider geothermal or other renewables as part of the terminal complex</td>
<td>CORE collaboration/grants; Potentially add CORE representative to terminal design team</td>
<td>Funding</td>
<td>Envr: 2017 Design: 2018-2019 Const: 2019-2022</td>
<td>Cost of the terminal relative to other airport needs – could use additional funding sources</td>
<td></td>
<td></td>
<td>Unknown</td>
</tr>
<tr>
<td>Airport Fleet Vehicles</td>
<td>3. Identify high emission vehicles that are in line for replacement, and replace earlier</td>
<td>Infrastructure requirements; grants (VALE, VW potential options)</td>
<td>Potential funding sources review</td>
<td>2018</td>
<td></td>
<td></td>
<td>Airport’s need to be consistent in its procurement with County specifications/vendors</td>
<td>Unknown</td>
</tr>
<tr>
<td>Airfield Electrical</td>
<td>4. Consider replacing airfield lighting with LED lighting</td>
<td>CORE collaboration/grants; review of LED ROI relative to ASE climate (may need heater to keep clear of snow)</td>
<td>Funding/Review of ROI relative to LED due to weather</td>
<td>With proposed airfield changes (2023-2028)</td>
<td></td>
<td></td>
<td>Funding availability; Potential operational barriers due to climate at ASE (snow could require use of heaters which may offset the benefits of this option)</td>
<td>Unknown</td>
</tr>
<tr>
<td>Tenant Owned and Controlled Sources</td>
<td>5. Aircraft: Encourage reliance on alternative fuels</td>
<td>Meet with Rocky Mountain Institute to discuss collaboration</td>
<td>Ability to manufacture in the valley</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Ability to manufacture fuel near its use. Transporting from Denver is not cost effective.</td>
<td>Unknown</td>
</tr>
<tr>
<td></td>
<td>6. APU use of apron parking – installation of preconditioned air and electric GPUs</td>
<td>Examine use of FAA VALE grants/CORE grants</td>
<td>Funding</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Cost effectiveness and potential need for an expanded apron with fixed/less flexible parking positions</td>
<td>Unknown</td>
</tr>
<tr>
<td></td>
<td>7. Rental Cars: With new facility, include energy efficiency and water conservation in the QTA</td>
<td>Coordination with rental car companies/lease agreements</td>
<td>Funding and specification to be developed</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Cost effectiveness</td>
<td>Unknown</td>
</tr>
<tr>
<td>Ground Access Vehicles</td>
<td>8. Investigate rewards for increase vehicle occupancy/P&amp;R share</td>
<td>Potential for County employees</td>
<td>Partnership with local entity (SkiCo) to provide rewards</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Value of the rewards/multi seasonal, number of merchants/businesses participating</td>
<td>Unknown</td>
</tr>
<tr>
<td></td>
<td>9. Increase ridership of public transportation</td>
<td>Work with planning process to provide easier access to BRT station in future</td>
<td>RTTA, funding</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Cost and social norms of riding public transportation with luggage, solving the luggage transport and frequency of travel</td>
<td>Unknown</td>
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<td></td>
<td>10. Require taxi and airport shuttles to meet a MPG standard</td>
<td>Legal review and development of an ordinance</td>
<td>Unknown</td>
<td></td>
<td></td>
<td></td>
<td>Opposition from providers, requirement to change vehicles</td>
<td>Unknown</td>
</tr>
<tr>
<td></td>
<td>11. Rental Cars: require rental car operators to meet a MPG standard for on-site rental agreements</td>
<td>Coordination with rental car companies/lease agreements</td>
<td>Legal review and development of lease requirements</td>
<td>Unknown</td>
<td></td>
<td></td>
<td>Opposition from providers, requirement to change vehicles</td>
<td>Unknown</td>
</tr>
<tr>
<td>Rank</td>
<td>Goal &amp; Sub Tasks (if needed)</td>
<td>Collaboration Needs External/Internal</td>
<td>Resource Needs (Staff, Equipment)</td>
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<td>Anticipated Obstacle(s)</td>
<td>Com Dev Anticipated Solution(s)</td>
<td>Anticipated Budget Needed</td>
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<tr>
<td>1.</td>
<td>New Waste and Recycling Ordinance - goal to increase waste diversion</td>
<td>Community Stakeholders</td>
<td>Enforcement personnel</td>
<td>2017/2nd</td>
<td>2019/1st</td>
<td>Enforcement assistance</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Expand compost program</td>
<td>Engineering Consultants</td>
<td>2017/3rd</td>
<td>Space constraints, community opposition</td>
<td></td>
<td>None</td>
<td></td>
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<tr>
<td>3.</td>
<td>Expanded Diversion Programs - Textiles, Mattresses</td>
<td>Landfill Staff (Once a month collection)</td>
<td></td>
<td>None</td>
<td>None</td>
<td></td>
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<tr>
<td>4.</td>
<td>Stormwater Mitigation/Leachate Collection System</td>
<td>Engineering Consultants</td>
<td>CDPHE Denial of Proposed Technology</td>
<td>None</td>
<td>None</td>
<td>$200,000</td>
<td></td>
<td></td>
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<tr>
<td>5.</td>
<td>Waste Diversion Plan - Diversion Goals</td>
<td>Consultants/Com Dev (Permit Requirements)</td>
<td>Community opposition, particularly from homeowners and builders.</td>
<td>Diversion requirements in building and demo permits.</td>
<td>None</td>
<td></td>
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<tr>
<td>6.</td>
<td>Shredded Tires as Alternative Daily Cover</td>
<td>Overton Recycling</td>
<td>None</td>
<td>None</td>
<td></td>
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<tr>
<td>7.</td>
<td>Landfill Expansion</td>
<td>Engineering Consultants, State CDPHE</td>
<td>CDPHE Community opposition</td>
<td>None</td>
<td>Approx. $1.2 million</td>
<td></td>
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</tbody>
</table>
## BUILDING WORK PLAN 2017-2020

<table>
<thead>
<tr>
<th>Rank #</th>
<th>Goal &amp; SubTasks (if needed)</th>
<th>Collaboration Needs Internal/External</th>
<th>Resource Needs (Staff/Equipment)</th>
<th>Start Year/Quarter End Year/Quarter</th>
<th>Anticipated Obstacle(s)</th>
<th>Community Development Anticipated Solution(s)</th>
<th>Anticipated Budget</th>
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</thead>
<tbody>
<tr>
<td>2.</td>
<td>Landfill C &amp; D</td>
<td>Landfill Department</td>
<td>FTE for Auditing</td>
<td>2017 – Adopt 2018 Training the construction industry Enforcement Revise Building Code to review demo/deconstruction plans.</td>
<td>(See Landfill budget for anticipated FTE)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>2015 IECC Adopted</td>
<td></td>
<td>Done Adopted</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4.</td>
<td>REMP Rewrite</td>
<td>CORE consultant</td>
<td>Staff review at building permit</td>
<td>Underway adoption mid 2017 with addendum Public Outreach Enforcement and follow up</td>
<td>Revision to REMP regulations</td>
<td>CORE Grant assessed with Addendum</td>
<td></td>
</tr>
<tr>
<td>5.</td>
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<td>Rank #</td>
<td>Goal &amp; Sub Tasks (if needed)</td>
<td>Collaboration Needs Internal/External</td>
<td>Resource Needs (Staff/Equipment)</td>
<td>Start Year/Quarter End Year/Quarter</td>
<td>Anticipated Obstacle(s)</td>
<td>Community Development Anticipated Solution(s)</td>
<td>Anticipated Budget</td>
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</tr>
<tr>
<td>1.</td>
<td>GHGI CORE, Aspen &amp; other Communities</td>
<td>Long Range Staff CORE Staff</td>
<td>2016-2017 Adopted Updating every three years</td>
<td>Grants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Colorado Climate Action Plan</td>
<td>All departments internally Staff</td>
<td>2017-January 2018 Work load/funding</td>
<td>On-going department integration</td>
<td>Budget funding per year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>LU Code siting improvements CORE, Building Department Staff/consultants</td>
<td>2017-2018 Time/capacity for Staff</td>
<td>Consultant help</td>
<td>$50,000 2017 $50,000 2018</td>
<td>*Already allocated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Work with County Building &amp; Maintenance Department to develop a Work Program for inclusion within the Climate Action Plan. Include an action item within Work Program to track and review energy use of all Pitkin County buildings for greenhouse gas emissions measurement purposes. Building &amp; Maintenance Dept., CORE, Holy Cross Cooperative, Black Hills Energy Staff</td>
<td>2017-2018 Time/capacity for Staff</td>
<td>Assistance from CORE</td>
<td></td>
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<td>5.</td>
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*Already allocated*
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<thead>
<tr>
<th>Rank #</th>
<th>Goal &amp; Sub Tasks (if needed)</th>
<th>Collaboration Needs Internal/External</th>
<th>Resource Needs (Staff/Equipment)</th>
<th>Start/Quarter Start Year/Quarter</th>
<th>End/Quarter End Year/Quarter</th>
<th>Anticipated Obstacle(s)</th>
<th>Community Development Anticipated Solution(s)</th>
<th>Anticipated Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Grey Water Regulation Adoption State Health, Division of Water Resources, Com Dev, IGAs with other jurisdictions if desired</td>
<td>Underway, target Spring/Summer 2017</td>
<td>Staff Time</td>
<td>Underway, target Spring/Summer 2017</td>
<td>June 2017</td>
<td>June 2018</td>
<td>Anticipated for private well owners Water Rights for private well owners</td>
<td>Follow up with RMCO and CPHHE to continue efforts</td>
</tr>
<tr>
<td>2.</td>
<td>OTWS Regulation update State Health, Com Dev</td>
<td>Staff Time</td>
<td>Staff Time</td>
<td>Staff Time</td>
<td>June 2018</td>
<td>June 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>RMCO Public Health Stakeholder Group State Health</td>
<td>Staff Time</td>
<td>Staff Time</td>
<td>Staff Time</td>
<td>Underway</td>
<td>Finish?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rank #</td>
<td>Goal &amp; Sub Tasks (if needed)</td>
<td>Collaboration Needs Internal/External</td>
<td>Resource Needs (Staff, Equipment)</td>
<td>Start Year/Quarter</td>
<td>End Year/Quarter</td>
<td>Anticipated Obstacle(s)</td>
<td>Com Dev Anticipated Solution(s)</td>
<td>Anticipated Budget Needed</td>
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<tr>
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</tr>
<tr>
<td>1.</td>
<td>Utilize opportunities for renewable energy</td>
<td>Facilities, Engineering, Com Dev Contractor – Sol Energy – PW Staff</td>
<td>Staff time, Consulting work for feasibility, planning, and design Staff time, consulting work, CORE (grant)</td>
<td>Ongoing</td>
<td>1/17 – 3/17</td>
<td>1/17 – 3/18</td>
<td>Pushback from CoA for buildings in town, budget, feasibility (lack of sun) at some facilities</td>
<td></td>
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<tr>
<td></td>
<td>COMPLETED: Purchase of 98 kW from CEC In Progress Install 103 kW at PW yard Install ~125 kW at Landfill</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>125k</td>
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<tr>
<td>2.</td>
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<td></td>
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<td>150k</td>
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</tbody>
</table>
Climate Change and Public Health

Significantly reducing greenhouse gas emissions is important in slowing climate change and minimizing impacts. Public Health focuses on prevention, and this is true in relation to climate change initiatives. Primary prevention includes mitigation strategies, such as Vehicle Anti-Idling Policies, which can reduce greenhouse gas emissions. Secondary/Tertiary prevention involves creating resilience and adaptation. Efforts to prepare for climate change and reduce the associated health burden are important, since some degree of climate change will continue and have a significant economic, social, and environmental impact on communities, even after reducing greenhouse gas emissions. Climate change adaptation is anticipating adverse effects of climate change, identifying vulnerable populations and taking action to prevent or minimize damage or negative impacts or taking advantage of opportunities that may occur.

The ability to cope and adapt differs across populations, economic sectors, and communities. There is a gap between high and low income populations based on their vulnerability to climate change and their readiness to adapt to droughts, extreme weather events, and natural disasters, such as wildfires. The Public Health strategies provided in the Pitkin County Climate Action Plan are community based rather than internal, and include primary, secondary and tertiary prevention strategies, with a particular focus on those most vulnerable to climate change events.

### Public and Environmental Health Work Plan 2017-2020

<table>
<thead>
<tr>
<th>Rank</th>
<th>Goal &amp; Sub Tasks (if needed)</th>
<th>Collaboration Needs Internal/External</th>
<th>Resource Needs (Staff/Equipment)</th>
<th>Start Year/Quarter End Year/Quarter</th>
<th>Anticipated Obstacle(s)</th>
<th>Anticipated Solution(s)</th>
<th>Anticipated Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Grey Water Regulation Adoption</td>
<td>State Health, Division of Water Resources, Com Dev, IGAs with other jurisdictions if desired, Board of Health</td>
<td>Staff Time</td>
<td>Underway, Final adoption late 2017</td>
<td>Water Rights for private well owners</td>
<td>Work with Division of Water Resources to have applicant demonstrate water rights at application for permit.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>OTWS Regulation update Subtasks: 1. Stakeholder Meeting(s) 2. Creation of Regulation based on CDPHE Reg #43 and Stakeholder feedback 3. Review by Attorney’s Office 4. Adoption of Regulation by Board of Health</td>
<td>State Health, Com Dev, Attorney’s Office, Board of Health</td>
<td>Staff Time</td>
<td>June 2017 June 2018</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>RMCO Public Health Stakeholder Group</td>
<td>Com Dev/BOCC, State Health, Board of Health</td>
<td>Staff Time</td>
<td>Underway Finish - ?</td>
<td>Follow up with RMCO and CDPHE to continue efforts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Vehicle Anti-Idling Policy for unincorporated Pitkin County</td>
<td>Board of Health, CORE, Attorney’s Office</td>
<td>Staff Time</td>
<td>July 2017 June 2018</td>
<td>Education of the Public, Enforcement</td>
<td>Stakeholder meetings and outreach</td>
<td></td>
</tr>
</tbody>
</table>
### GOAL: Vulnerable populations identification and protection steps to reduce climate-related risks

**SUBTASKS:**
1. Update State Health GIS Inclusion Project mapping data of vulnerable populations and hazard risk
2. Support emergency preparedness for long-term care facilities and other vulnerable pop. service locations
3. Subsidize energy-efficiency upgrades and weatherization for low-income homeowners and renters
4. Provide support during extreme events (e.g. utility bill assistance resources, shut-off prevention in heat waves or extreme cold, transportation for evacuations or to cooling Workcenters, etc.)

| State Health, Geographic Information Systems (GIS), Emergency Management, Human Service, Community Development and CORE | Staff Time | Q1 2018- Q4 2020 | Data to identify vulnerable populations is not always accurate or up-to-date. Connecting with vulnerable populations to provide protection have barriers such as language, geographic isolation, physical and cognitive disability.
Find updated data sources and ensure for reliability
Find resources (help with cultural competency, older adult friendly, disability friendly) to help with outreach and connections. |

---

### GOAL: Improved public health preparedness, response, and communication to adverse weather events, poor air quality, etc

**SUBTASKS:**
1. Update all Public Health Emergency Plans
2. Create Press Release templates to activate during events

| State Health, Regional Emergency Preparedness and Response Team, Emergency Support Function-8, Emergency Management | Staff Time | Q4 2017-Q2 2018 | Plans need to be tested once updated. Communication needs to be accessible to everyone in the population (easy to read and understand, in English and Spanish), in written and oral form. Schedule table top and events to exercise updated plans. Find resources (help with cultural competency, older adult friendly, disability friendly) to help with outreach and connections.

| Budget will be needed for communication strategies | $5,000 |
### GOAL: Improved disease education, surveillance and response to food-borne and zoonotic diseases

<table>
<thead>
<tr>
<th>Subtasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Create 2017 surveillance baseline data</td>
</tr>
<tr>
<td>2. Continue to do mosquito monitoring to inform mosquito control practices</td>
</tr>
<tr>
<td>3. Bring food safety trainings to Pitco</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State Health, Restaurant and other food retailers, Colorado State University Extension, Attorney</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff Time</td>
</tr>
<tr>
<td>Q2 2017-Q4 2020</td>
</tr>
<tr>
<td>Need funding for food safety trainings in both English and Spanish</td>
</tr>
<tr>
<td>Need continued funding for mosquito monitoring</td>
</tr>
<tr>
<td>Find and schedule appropriate trainings</td>
</tr>
<tr>
<td>Build annual budgets to reflect these costs</td>
</tr>
<tr>
<td>Food safety trainings: $5,000</td>
</tr>
<tr>
<td>Mosquito monitoring: $5,500</td>
</tr>
</tbody>
</table>
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: RESOLUTION AUTHORIZING, SUBMISSION OF A GRANT APPLICATION TO GREAT OUTDOORS COLORADO (GOCO) FOR CONSTRUCTION OF A PLAYGROUND AT THE BASALT VISTA AFFORDABLE HOUSING COMMUNITY AND IF AWARDED, APPROVING A GRANT AGREEMENT WITH GOCO TO ACCEPT THE FUNDS

STAFF RESPONSIBLE: Phylis Mattice, Deputy County Manager

ISSUE STATEMENT: The Basalt Vista Community has been designed with space provided for a playground. GOCO has funding available for Playgrounds and an application is being prepared by Habitat for Humanity of the Roaring Fork for submission by Pitkin County. Staff is requesting approval to submit a grant application of up to $160,000 to the GOCO and approval to accept the grant, if awarded, and enter into a grant agreement.

BACKGROUND: Habitat for Humanity of the Roaring Fork Valley (RFV) has been building affordable homes with low-income families for nearly 20 years. As a result of leadership and significant funding support from Pitkin County and the Basalt School District, Habitat for Humanity and the newly formed Basalt Vista Housing Partnership (BVHP) broke ground on the 27-unit Basalt Vista development this past May with 4 homes currently completed and sold.

The design of the Community has designed an area for a playground in between Phase 1 and 2 and adjacent to the community pavilion. This area is also the location of the bottom of the popular Basalt sledding hill.

The first draft of the GOCO application and budget are attached. The current figures identify a $142,694 grant request. The final application and budget will be presented at second reading. The current resolution identifies up to $160,000 grant request to provide for minor changes in the final calculations for the project.

LINK TO STRATEGIC PLAN:
Livable and Supportive Community: Diverse and livable housing solutions
Flourishing Natural and Built Environment: Well planned and livable environment

KEY DISCUSSION ITEMS:
Do you support the grant application for a playground at the Basalt Vista Community?

BUDGETARY IMPACT:
The funds received will all be spent for the project with no other funds being needed.
RECOMMENDED BOCC ACTION:
Approve the RESOLUTION AUTHORIZING, SUBMISSION OF A GRANT APPLICATION TO GREAT OUTDOORS COLORADO (GOCO) FOR CONSTRUCTION OF A PLAYGROUND AT THE BASALT VISTA AFFORDABLE HOUSING COMMUNITY AND IF AWARDED, APPROVING A GRANT AGREEMENT WITH GOCO TO ACCEPT THE FUNDS and set for second reading October 9, 2019

ATTACHMENTS:
- GOCO Grant Resolution
- GOCO Grant Application First Draft
- GOCO Budget
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS (“BOCC”) OF PITKIN COUNTY, COLORADO AUTHORIZING, SUBMISSION OF A GRANT APPLICATION TO GREAT OUTDOORS COLORADO (“GOCO”) FOR CONSTRUCTION OF A PLAYGROUND AT THE BASALT VISTA AFFORDABLE HOUSING COMMUNITY AND IF AWARDED, APPROVING A GRANT AGREEMENT WITH GOCO TO ACCEPT THE FUNDS

RESOLUTION NO. _____, 2019

RECITALS

WHEREAS, Pursuant to Section 2.8.3 (Actions) of the Pitkin County Home Rule Charter (“HRC”) official action by formal resolution shall be required for all actions of the Board not requiring ordinance power on matters of significant importance affecting citizens, and

WHEREAS, Pitkin County is requesting $160,000 from Great Outdoors Colorado (GOCO) to build a playground at the Basalt Vista Affordable Housing Community.

WHEREAS, the BOCC supports the grant application and has partnered with Habitat for Humanity of the Roaring Fork Valley who will provide matching funds for the grant.

WHEREAS, if the grant is awarded, Pitkin County strongly supports the completion of the project and authorizes the expenditure of funds necessary to meet the terms and obligations of the award.

WHEREAS, project site is owned by Basalt Vista Townhomes Association and will be owned by Basalt Vista Townhomes Association for the next 25 years and will continue to maintain the Basalt Vista Playground in a high quality condition and will appropriate funds for maintenance in its annual budget.

WHEREAS, the Basalt Vista Townhomes Association recognizes that as the recipient of a Great Outdoors Colorado Local Government grant the project site will provide reasonable public access as required.

WHEREAS, The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts a RESOLUTION AUTHORIZING, Submission of a Grant Application to Great Outdoors Colorado (GOCO) for Construction of a Playground at the Basalt Vista Affordable Housing Community and if awarded, approving a grant agreement with GOCO to accept the funds and, authorizes the Chair to sign the Resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.
INTRODUCED AND FIRST READ ON THE _____ DAY OF ___________, 2019
AND SET FOR SECOND READING AND PUBLIC HEARING ON THE _____ DAY
OF ___________ 2019.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE
RESOLUTION PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE _____ DAY
OF ___________, 2019.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION
POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com )
ON THE _____DAY OF _____________ 2019.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____
DAY OF ___________ 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE
ASPEN TIMES WEEKLY ON THE _____ DAY OF ___________, 2019.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY

ATTEST: BOARD OF COUNTY COMMISSIONERS

By _________________________ By: _____________________________
Jeanette Jones       Greg Poschman, Chair
Deputy County Clerk

Date: ______________

APPROVED AS TO FORM: MANAGER APPROVAL

_________________________ _________________________________
John Ely, County Attorney Jon Peacock, County Manager
## Basalt Vista Great Outdoors Colorado Grant First Draft

### Applicant Information (Eligible Entity)

<table>
<thead>
<tr>
<th>Contact Name</th>
<th>Phylis Mattice</th>
<th>Title: Deputy County Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization Name</td>
<td>Pitkin County</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>530 W. Main St.</td>
<td>City: Aspen Zip: 81611</td>
</tr>
<tr>
<td>Telephone</td>
<td>970-920-5208</td>
<td>Email: <a href="mailto:phylis.mattice@pitkincounty.com">phylis.mattice@pitkincounty.com</a></td>
</tr>
</tbody>
</table>

### Primary Contact Information (If Applicable)

Primary contact person for this proposal (if different from applicant, above)

<table>
<thead>
<tr>
<th>Contact Name</th>
<th>Kristen Wilmes</th>
<th>Title: Executive Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization Name</td>
<td>Habitat for Humanity Roaring Fork Valley</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>53 Calaway Ct.</td>
<td>City: Glenwood Springs Zip: 81601</td>
</tr>
<tr>
<td>Telephone</td>
<td>970.309.8179</td>
<td>Email: <a href="mailto:Kristenw@habitatroaringfork.org">Kristenw@habitatroaringfork.org</a></td>
</tr>
</tbody>
</table>

### Project Information

Project Title: Basalt Vista Playground

| Grant Request:       | $142,694              | Total Project Cost: $288,884 |

Requested Storytelling Amount (if applicable):
### Basalt Vista Great Outdoors Colorado Grant First Draft

**County or Counties:** Pitkin  
**City or Cities:** Basalt

**Brief Project Description (300 words or less, in the space provided, below):**

We are applying for assistance with a playground in a new net zero affordable housing development meant to address teacher and workforce housing problems in Basalt, CO. The playground will provide public access to a system of trails as well as a sledding hill, both of which are already being used by the larger community in Basalt. The playground will serve as a community gathering space, as well as a space that incorporates nature so that children can safely grow through play while developing an appreciation for nature and the outdoors. The park will consist of play structures, shade shelters, tables, benches, a small lawn, and trees. The area surrounding the park will utilize natural grass, and the entire project will be irrigated from non-potable ditch water.

I certify that I am authorized to sign on behalf of the applicant and that if awarded a Great Outdoors Colorado grant for this project, the applicant will comply with GOCO’s requirements for grant administration, including matching, financial reporting, and general requirements. I certify that the applicant owns, leases, or otherwise has control over the property on which this project will occur (collectively, “Control”) (or is applying on behalf of an entity that has such Control). Applicant has evidence of its Control of the property and will provide such documentation to GOCO upon request.

**Date:** 

An authorized person must sign here, such as the applicant’s executive director, county commission chair, or city council chair.

**Printed Name:** __________________________  
**Title:** __________________________

1. **YOUR COMMUNITY** Describe the greater community/neighborhood this project will serve. Include population and demographic data. Highlight any underrepresented populations this project is intended to serve. Who will this project benefit - individuals, organized sports leagues and teams, school and youth groups, etc.? Provide user numbers for each user group, noting how you arrived at that estimate. (10 pts.)

The Basalt Vista Playground will be located in the Basalt Vista Affordable Housing Community, which consists of 27 homes for teachers and others in our local workforce.
Basalt Vista Great Outdoors Colorado Grant First Draft

This development is being built to address the wide gap between our high resort area cost of living (especially for housing) and actual wages makes it difficult to recruit and retain teachers and essential personnel within our community—all who hold jobs that are key to the well-being of our children and community, but cannot afford to live close to where they work. The 2018 Greater Roaring Fork Valley Housing Study by Economics and Planning System Inc projected that by 2027 there would be a deficit of 5,700 housing units in the region. This need is what brought about an extraordinary collaboration with the Roaring Fork School District, Habitat for Humanity, Pitkin County and the Town of Basalt to build this community.

Basalt Vista will consist of four two-bedroom homes, 17 three-bedroom homes, and six four-bedroom homes and from this capacity we estimate that around 100 individuals will live in this community. We expect a little under half, 45, to be dependents under 18 years of age.

From this need we decided that it was necessary to build a space where children and adults could gather and build community in an outdoor setting. We decided to build a playground with shade shelters, picnic tables, and benches. The space is designed to not only be a place where children can play, but anyone can come and enjoy reading a book, or picnicking with friends.

In addition to Basalt Vista community members, we expect that other residents of Basalt will heavily use this space. Currently the town already uses this area as the local sledding hill and trail access. The town Basalt consists of 4,200 individuals (Colorado State Demographer’s Office). We expect people ages 5-55 to periodically travel to the site to access the playground, sledding hill and trail system.

2. SCOPE Describe the scope of the project – what exactly will be built? Be specific, explaining preparatory work, quantities, materials, etc. for each individual project component. How does your project scope reflect your community outreach? Describe consultations you have had with outside experts, other communities, or knowledgeable individuals about building this sort of project. The budget attachment will also be evaluated as part of this response. (15 pts.)

This Grant will fund the creation of a community park and playground for our homeowners and members of the surrounding community. The park will be designed to incorporate many of the natural features of the area and will serve as the entrance to the system of trails behind the park, as well as an entry point to access the town's sledding hill. For the playground and non-vegetative features, we are installing one shade shelter, two picnic tables, two park benches, a slide with stone steps on either side, climbing structure, a culvert (tunnel) with mine themed wood entrance, tree stump balance beams, engineered wood fiber as ground cover, and a chalk wall. For vegetation we are planting five trees, and a small patch of sod. These elements represent priorities identified by our conversations with our future home owners, and solidified by a survey.

Additionally, we will build a connecting access trail to a system of trails behind Basalt Vista. We will also incorporate access to the sledding hill. Both of these elements were identified as potential concerns for the people of Basalt when we asked about building Basalt Vista.
Basalt Vista Great Outdoors Colorado Grant First Draft

3. ACCESS Describe access to the proposed project. How many people live within a 10-minute walk of the project site (within one mile or less)? Is it accessible by means other than automobile? How do/will users access the site? How is it situated in relation to where users live: is it near or linked to schools, other recreational amenities, or community gathering spots? Are there obstacles to getting to the project site; if so, how do you intend to overcome them? Will ADA accessibility be incorporated? (5 pts.)

Besides the 27 seven families that will occupy the Basalt Vista Homes (we estimate that 100 individuals will reside in these houses) there are around 107 other homes within a 10 minute walk of the playground. The playground within Basalt Vista will act as the main access point to the sledding hill, which is a fixture to the community of Basalt (4200 individuals). The playground will be located near a major bike path (the Rio Grande trail), and will include access to a hiking trail system that already exists behind the site.

Basalt Vista is located behind Basalt High School, and as such the park will be within walking distance of soccer, football, and baseball fields.

The site will have ADA accessible elements.

4. NEED Why is the project needed? How will the project enhance connections to and experiences in the outdoors? What recreational opportunities will it provide? If this project is intended to enhance or replace existing facilities, discuss why existing facilities are no longer acceptable? Include site photos. How are potential users of the project compensating now for the lack of the project? (15 pts.)

The Basalt Vista Affordable housing project will provide housing for the teachers and workforce.

The Basalt Vista Playground will utilize outdoor play elements (logs, climbing structures, etc.), while incorporating the natural surroundings and beauty to introduce children to the joys of playing outdoors. It will provide access and be a gateway to a system of trails, a natural sledding hill of which both are currently already used by the local community. It is also near a bike park and bike trail. The Basalt Vista Playground is centrally located as to seamlessly introduce and transition children into other outdoor activities as they grow and develop into adulthood. The playground will be within walking distance of a community garden. In addition, it will provide a gathering place that will allow the residents of Basalt Vista to foster community.

In building the Basalt Vista Affordable Housing Partnership we knew that in order to make this a success.

The Basalt Vista area is already being heavily utilized for outdoor activities (sledding, hiking, biking, gardening); what’s missing is a space where the community can gather, and where children ages 4-13 can play and discover the outdoors.

5. PLANNING/OUTREACH How was your community involved in elevating this project as a priority for GOCO funding? Describe the public planning process that identified this specific project as a priority. Discuss specific plans or targeted public outreach efforts that prioritized this project and the opportunities the public
had to comment. Describe efforts to engage youth and underrepresented populations in the planning process. What priority is this project to the community? If a survey was distributed, how many people and what groups were surveyed? Provide one copy of a blank survey. Summarize the feedback received from the public and how it was determined that your constituents want and will use the project? What did you learn from the processes discussed above? (15 pts.)

Habitat spends many numerous hours talking one on one with our future homeowners. Through these conversations we are able to ask in depth questions about the community and get an understanding for what they want. Originally we were planning on building a community pavilion that would serve as a classroom and meeting space. After talking with our families we were able to establish that many of the families were much more interested in a park where children could play and community members could gather for picnics and other activities. We followed-up these conversations with a survey to help inform our design of the park. The Survey was sent to families who had applied and been approved for homes in the affordable community. We had X responses, and based on these responses we focused on several elements and priorities within the park.

Additionally we set up a table at the Basalt Farmers Market and had conversations with people about the community and the park. The number one worry was that Basalt Vista would cause the community to lose access to their sledding hill. Not only have we preserved the sledding hill with this project, but we have also designed the park to be the gateway to the sledding hill and integrated the natural features of the hill into the park.

6. **OPPOSITION** Are there neighbors, user groups, or other parties who are opposed to this project? Include any letters, petitions, news articles, etc. that document the opposition. What has been done to address concerns and how has the opposition responded? (5pts.)

There has been no opposition to this playground. The closest thing we had to opposition was members of the community of Basalt being worried that the Basalt Vista housing project would cause them to lose access to their sledding hill and trail system. The park mitigates that objection by providing access for the larger community to these features.

7. **TIMELINE** When will the project be ready for construction and when will it be complete? Discuss any design, engineering and/or permitting that is outstanding. (5 pts.)

The design and permitting for the project will be completed before March 2020, meaning that we will be ready to start construction, shortly after we receive an award. We expect the process to be done by October 2020.

8. **MAINTENANCE** Estimate the annual costs to maintain the project. How did you derive those numbers? Who is responsible for maintenance and how do they intend to fund it? (5 pts.)

We estimate that the ongoing cost of maintenance for the park will be $5,500 annually. This will include yard maintenance, reserve funds for replacement costs, and snow removal. The maintenance will be managed by the Basalt Vista Townhome Association and will be funded through Home Owner Association fees. The entire Basalt Vista site will be watered from an irrigation ditch (water rights donated by the school district).
9. **YOUTH INVOLVEMENT**

We value diverse voices, specifically youth. How will youth be involved in the project? Will a Youth Corps or other local youth organization be used to implement the project? Will they help or be engaged with planning? If so, describe what the youth organization will be doing and discuss the collaboration you’ve had with them. Submit a letter of support from the organization that you will be collaborating with. (5 pts.)

Currently we have engaged the shop class at Basalt High School to build a mine shaft façade to the tunnel play structure. They will also build the cover to the mailboxes which are located on the park. Additionally we are in the process of setting up volunteer days with the Buddy Program’s outdoor leadership class to work on the project. Lastly we are talking to Basalt High School about the possibility of setting up Key Club and National Honors Society volunteer days to work on the park.

10. **MATCH STATUS**

How much of your planned cash match is secured? How much of it is yet to be raised and what are your plans for raising those additional funds? What is your “Plan B” if you are unable to raise those funds? (“Plan B” only needed if matching funds are not secured.) Describe any partnerships established for this project. If cash or in-kind partnerships for this project were not possible, explain why. (10 pts.)

100% of our match has been secured through the donation of land from the Roaring Fork School District. The remaining 10% cash match is currently earmarked for this project.

11. **NEED FOR FUNDS**

What is compelling about your community’s need for GOCO funds? What opportunities are lost if this project is not undertaken now? Will the project (or components of it) get done if GOCO funds are not awarded? Will applicant or partner funds dedicated to the project be lost if GOCO doesn’t award a grant now? (5 pts.)

Basalt Vista is an affordable housing community. Because of the high cost of development in the Roaring Fork Valley, these homes are being sold at a significant loss in order to make them affordable to people who qualify as 80% of area median income. While we see the Basalt Playground as an important element of the project, our number one goal is to provide quality affordable housing to teachers and workforce in the area. If we do not receive the funding for this project, then we will have to put the playground on hold. In this instance we will likely split the project into phases and revegetate the area with native grass until we have raised enough funds to cover and implement the different stand-alone phases of the playground.
### Basalt Vista Great Outdoors Colorado Grant First Draft

#### Timeline

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<th>Activity</th>
<th>Week 1</th>
<th>Week 2</th>
<th>Week 3</th>
<th>Week 4</th>
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## Project Budget

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### Use of Funds

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<td>Partner Funds</td>
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**USE OF FUNDS - CASH SUBTOTAL**
- **Cash** $128,981.07
- **GOCO** $29,090.60
- **Applicant** $0.00
- **Total Funding** $158,071.67

**IN-KIND**

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<th>Cost Per Unit / Hour / Acre</th>
<th>GOCO Funds</th>
<th>Applicant Funds</th>
<th>Partner Funds</th>
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**USE OF FUNDS - IN-KIND SUBTOTAL**
- **Cash** $0.00
- **GOCO** $0.00
- **Applicant** $114,285.00
- **Total Funding** $114,285.00

**10% Contingency**
- **Cash** $13,714
- **GOCO** $2,813
- **Applicant** $0
- **Total Contingency** $16,527.26

**TOTAL PROJECT COST**
- **Cash** $142,694.95
- **GOCO** $31,903.98
- **Applicant** $114,285.00
- **Total Project Cost** $288,883.93

Remember: the Total Project Cost row must equal the Total Source of Funds row above

**CALCULATION OF MATCH REQUIREMENTS**

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<th>Item</th>
<th>Requirement</th>
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<th>Meets Requirement?</th>
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**CALCULATION OF GOCO %**

GOCO % of Total Costs

49.40%
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: First Reading of a Resolution of the Board of
County Commissioners Approving the Cancellation of Certain
Uncollectable Taxes Levied on Personal Property, Including but not
Limited to Mobile Homes in Pitkin County Colorado

STAFF RESPONSIBLE: Ann Driggers, Finance Director, Treasurer and Public Trustee

ISSUE STATEMENT: The Pitkin County Treasurer is requesting the cancelation of certain uncollectable taxes levied on personal property.

BACKGROUND: The BOCC has the authority under C.R.S. 39-10-114(2) (a) to determine any taxes levied on personal property, including but not limited to mobile homes, which are not collected within one year after the date of their becoming delinquent, are uncollectable and to cancel such uncollectable taxes.

The Treasurer has diligently attempted the collection of certain delinquent property taxes for the years 2013 through 2016 and has now deemed these taxes as uncollectable due to the taxpayers being out of business.

The total amount of uncollectable taxes is $5,954.94.

LINK TO STRATEGIC PLAN: The Treasurer is responsible for the collection of property taxes for all of Pitkin County. This falls into the “Responsible and accountable stewardship of County assets” are of the Strategic Plan.

KEY DISCUSSION ITEMS: Staff will be in attendance at the meeting to answer any questions the Board might have.

BUDGETARY IMPACT: None. The taxes were to have be collected in the years 2013-2016. If the amounts had been collected, the majority would have been distributed to other districts and municipalities.

RECOMMENDED BOCC ACTION: At First Reading approve the Resolution of the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, approving the cancelation of certain uncollectable taxes levied on personal property, including but not limited to mobile homes, in Pitkin County, Colorado, and send to Second Reading on October 9, 2019.

ATTACHMENTS: Resolution of the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, approving the cancelation of certain uncollectable taxes levied on personal property, including but not limited to mobile homes, in Pitkin County, Colorado.
RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS (“BOCC”) OF PITKIN COUNTY,
COLORADO APPROVING, THE CANCELATION OF
CERTAIN UNCOLLECTABLE TAXES LEVIED ON
PERSONAL PROPERTY, INCLUDING BUT NOT
LIMITED TO MOBILE HOMES, IN PITKIN COUNTY,
COLORADO

RESOLUTION NO. _____, 2019

RECITALS

WHEREAS, Pursuant to Section 2.8.3 (Actions) of the Pitkin County Home Rule Charter (“HRC”) official action by formal resolution shall be required for all actions of the Board not requiring ordinance power on matters of significant importance affecting citizens, and

WHEREAS, the Board of County Commissioners of Pitkin County, Colorado (BOCC) has the authority under the provisions of §39-10-114(2) (a), C.R.S, to determine any taxes levied on personal property, including but not limited to mobile homes, which are not collected within one year after the date of their becoming delinquent, are uncollectable and to cancel such uncollectable taxes; and

WHEREAS, the Pitkin County Treasurer’s Office (Treasurer) has provided a complete record to the BOCC regarding all personal property taxes currently determined by the Treasurer to be uncollectable pursuant to §39-10-114(2) (a), C.R.S, shown on the Record of Uncollectable Pitkin County Personal Property Taxes dated August 23, 2019, which is attached hereto as Exhibit “A” and hereby incorporated by this reference; and

WHEREAS the Treasurer has requested the BOCC cancel such taxes; and

WHEREAS, the BOCC has reviewed the information provided by the Treasurer and has determined the taxes levied on personal property, including but not limited to mobile homes, are hereby determined to be uncollectable and should be canceled; and

WHEREAS, Last Recital. The BOCC finds it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado it hereby adopts a Resolution of the Board Of County Commissioners (“BOCC”) of Pitkin County, Colorado approving the cancelation of certain uncollectable taxes levied on personal property, including but not limited to mobile homes, in Pitkin County, Colorado and authorizes the Chair to sign the resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.

1
EXHIBIT A

Record of Uncollectable Pitkin County Personal Property Taxes dated August 23, 2019

<table>
<thead>
<tr>
<th>ACCOUNT #</th>
<th>OWNER</th>
<th>AMOUNT</th>
<th>YEAR(S)</th>
<th>REASON</th>
</tr>
</thead>
<tbody>
<tr>
<td>P004210</td>
<td>El Rincon</td>
<td>715.76</td>
<td>2015,</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td></td>
<td>Ross Andrews</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P008716</td>
<td>Gold Jewelry</td>
<td>439.8</td>
<td>2015,</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td>P009134</td>
<td>Plum Media LLC</td>
<td>1062.36</td>
<td>2013,14,15</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td>P009277</td>
<td>Square Grouper</td>
<td>886.16</td>
<td>2014,</td>
<td>Out of business, never paid</td>
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<tr>
<td>P009299</td>
<td>Salon MVO</td>
<td>1623.58</td>
<td>2014,</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td>P009539</td>
<td>Aspen Dollar Bar</td>
<td>139.44</td>
<td>2015,</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td>P009634</td>
<td>Whiskey Rush</td>
<td>1087.84</td>
<td>2016,</td>
<td>Out of business, never paid</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>5,954.94</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
INTRODUCED AND FIRST READ ON THE _______ DAY OF ________________, 2019
AND SET FOR SECOND READING AND PUBLIC HEARING ON THE _______ DAY
OF ______________, 2019.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE
RESOLUTION PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE _______ DAY
OF ________________, 2019.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION
POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com)
ON THE _______ DAY OF ________________, 2019.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _______ DAY OF ________________, 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE
ASPEN TIMES WEEKLY ON THE _______ DAY OF ________________, 2019.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY

ATTEST:            BOARD OF COUNTY COMMISSIONERS

By _________________________  By: _____________________________
Jeanette Jones          Greg Poschman, Chair
Deputy County Clerk          Date: ______________

APPROVED AS TO FORM:            MANAGER APPROVAL

_________________________________________  _________________________________
John Ely, County Attorney          Jon Peacock, County Manager
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: Ordinances of the Board of County Commissioners Repealing Ordinance 035.2014 and Authorizing Execution of a License and Use Agreement with Four On-Airport Rental Car Operations at the Aspen/Pitkin County Airport

STAFF RESPONSIBLE: Chris Padilla

ISSUE STATEMENT: Approval for 4 on-site rental car operators to provide car rental operations at the Airport and use of office space, ready return spaces, storage & staging areas and use of the car rental car wash and fueling facilities.

BACKGROUND: Previously the Airport had 5 on-site Rental Car Operators and 1 off-site Operator. The previous agreements expired in November 30, 2018 and due to the peak season timing the companies operated under the holdover clause. An RFP was launched on April 14, 2019 and is scheduled for a start date of November 1, 2019. These contracts have an initial term of November 1, 2019 to October 31, 2023, and are eligible for additional five one year periods. Included in the contract are office areas, customer que area, ready return spaces and storage & staging areas.

LINK TO STRATEGIC PLAN: Prosperous Economy – Sustainable Economy and Employment

KEY DISCUSSION ITEMS: To offer continued Rental Car service at the Airport and preserve Airport revenue stream.

BUDGETARY IMPACT: Budgeted Revenue increase of $208,737.

RECOMMENDED BOCC ACTION: Staff recommends BOCC approve an Ordinance and lease agreement with car rental companies on first reading and set second reading and public hearing on October 9, 2019.

ATTACHMENTS:
1.) Presentation,
2.) Avis Ordinance
3.) Avis Lease
4.) Enterprise Ordinance
5.) Enterprise Lease
6.) Hertz Ordinance
7.) Hertz Lease
8.) Sixt Ordinance
9.) Sixt Lease
CAR RENTAL LEASE

Aspen/Pitkin County Airport

1st Reading

9/11/2019
PREVIOUS CONTRACTS

- 5 on-airport Rental Car companies
  - Hertz, Avis, Budget, National/Alamo and Go Rental
- 1 off-site Rental Car company
  - Enterprise
- Car Rentals Agreements Expired on November 30, 2018
  - Due to Peak Season Rental Car Companies operated under the Holdover Clause
  - RFP was launched on April 14th with a start date of November 1st.
- 2018 Actuals – $2,027,895 (17.5%)
- 2019 Budgeted - $1,903,000 (15%)
NEW OPERATORS

• 4 on-airport Rental Car companies
  • Enterprise, Hertz, Avis and Sixt

• 1 off-site Rental Car company
  • Go-Rentals
CONTRACT OVERVIEW

• Term
  • November 1, 2019 – October 31, 2023
  • Extensions – Five 1 year periods

• Fee and Charges
  • Customer Service and Office Areas – $75.81/square foot per year (Current Rate)
  • Ready Return Spaces – $200/month
  • Storage and Staging Area – $4.50/square foot per year
  • Customer Facility Charges (CFCs) - $5.50 per rental day

• 2020 Preliminary Budget - $2,111,737
STAFF RECOMMENDATION

• BOCC approve an Ordinance and lease agreement with car rental companies on first reading and set second reading and public hearing on September 25, 2019.

Questions?
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REPEALING ORDINANCE 035.2014 AND AUTHORIZING EXECUTION OF A LICENSE AND USE AGREEMENT WITH AVIS BUDGET CAR RENTAL, LLC FOR ON-AIRPORT RENTAL CAR OPERATIONS AT THE ASPEN/PITKIN COUNTY AIRPORT

ORDINANCE NO. ___________2019

RECITALS

1. WHEREAS, Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado a Home Rule County is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary, and

2. WHEREAS, Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended, and

3. WHEREAS, Pitkin County (“County”) owns, operates and sponsors the Aspen/Pitkin County Airport (“Airport”), and

4. WHEREAS, pursuant to ordinance 035.2014 the Board of County Commissioners, the Airport’s existing on-airport rental car license and agreements where executed December 1, 2014 and expired November 30, 2018 and

5. WHEREAS, a proposal were received on June 21, 2019 per the RFP, and

6. WHEREAS, the selection of the successful rental car operators was made through a combination of factors, including minimum annual guarantee bid, experience, and reputation, as out lined in the RFP and

7. WHEREAS, The BOCC finds that adoption of this ordinance is in the best interest of the citizens of Pitkin County.

8. NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance of the Board of County Commissioners of Pitkin County, Colorado, Repealing Ordinance 035.2014 and Authorizing Execution of a License and Use Agreement (attached hereto as Exhibit A) with Avis Budget Car Rental, LLC for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport and authorizes the Chair or the Chair’s designee to sign the Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.
INTRODUCED AND FIRST READ ON THE _____ DAY OF ____________, 2019 AND
SET FOR SECOND READING AND PUBLIC HEARING ON THE _____ DAY OF
______________, 2019.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE
ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF
______________, 2019.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED
ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com ) ON THE
_____ DAY OF ______________, 2019.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____ DAY
OF ______________, 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN
TIMES WEEKLY ON THE _____ DAY OF ____________, 2019.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY

ATTEST:                  BOARD OF COUNTY COMMISSIONERS

By: _____________________        By: _____________________________
    Jeanette Jones                Greg Poschman, Chair
    Deputy County Clerk

Date: ______________

APPROVED AS TO FORM:       MANAGER APPROVAL

________________________    _________________________________
John Ely, County Attorney   Jon Peacock, County Manager
LICENSE AND USE AGREEMENT

FOR A NON-EXCLUSIVE

ON-AIRPORT RENTAL CAR CONCESSION

AT

ASPEN-PITKIN COUNTY AIRPORT

BETWEEN

THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO

AND

AVIS BUDGET CAR RENTAL, LLC
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EXHIBITS

A – LICENSEE OPERATING AREA

A.1 – READY RETURN LOT AND RENTAL CAR STORAGE AND SERVICE FACILITY SPACE ALLOCATION

A.2 – RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE AREA

B – SAMPLE MONTHLY REPORTING STATEMENT

C – OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES

D – FORM OF CERTIFICATE OF INSURANCE

E – MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARENTEE
RENTAL CAR COMPANY LICENSE AND USE AGREEMENT

THIS LICENSE AND USE AGREEMENT, made as of the date last below signed, is by and between the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, (“County”), a Colorado Home-rule County, as Licensor/Permittor, and, Avis Budget Car Rental, LLC (herein “Licensee” or “Company”), a corporation authorized to conduct business in the State of Colorado and doing business at the Aspen-Pitkin County Airport only under the Avis, Budget, Payless brand/trade names which are owned or licensed to be used by Licensee.

RECITALS

WHEREAS, County is the owner, operator and sponsor of the Aspen/Pitkin County Airport (Sardy Field), located in Pitkin County in the vicinity of Aspen, Colorado (hereinafter the "Airport"), at which it has made available certain public airfield facilities, and airline terminal and facilities, a general aviation terminal and facilities, certain areas for public use, certain areas for exclusive and non-exclusive commercial use (subject to lease, license or permit) and certain reserved areas; and

WHEREAS, the County has the authority to operate and manage the Airport, to regulate commercial activities at the Airport and to lease and license space thereon, pursuant to, inter alia, C.R.S. Sections 30-11-107, 30-15-401, 30-35-201/202, 41-4-101 et seq., as amended, Title X of the Pitkin County Code, as amended and Section 8.7 of the Pitkin County Home Rule Charter; and

WHEREAS, on-airport rental car services at the Airport are necessary for the proper accommodation of customers arriving at and departing from the airline passenger terminal at the Airport (hereinafter the “Terminal”); and

WHEREAS, Licensee is engaged in the business of providing commercial rental car services and desires to occupy and use some of the areas and facilities of the Airport to make said services available at the Airport; and

WHEREAS, Licensee is qualified, ready, and able to perform or see to the performance of said services, and to furnish or see to the furnishing of proper facilities in connection therewith;

NOW, THEREFORE, in recognition and reliance upon the foregoing recitals, and in consideration of the mutual covenants and promises hereinafter set forth, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged by the parties hereto, County and Licensee agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following terms shall, unless the context requires otherwise, have the following meanings:
“Agreement” shall mean this License and Use Agreement between the Parties as described in this Agreement including all exhibits, attachments, appendices, schedules, and subsequent amendments thereto.

“Agreement Year” shall mean each period of twelve (12) months beginning on the commencement date.

“Airport” shall mean Aspen-Pitkin County Airport located in Pitkin County, Colorado.

“Airport Director” shall mean the chief executive officer of the Aspen-Pitkin County Airport or his/her designated duly recognized representative.

“Airport Snow Removal Plan” shall mean a plan developed by the Airport Director that addresses the means and methods for snow removal at the Airport.

“Automobile” shall mean, unless the context clearly requires otherwise, those types of self-propelled vehicles commonly used by Airport patrons for transportation of persons or property upon public highways and made available for rent to Airport customers.

“Collusion” shall mean the unlawful communication between unaffiliated competitors, but that coordination between brands owned by one company or an affiliated group of companies is permissible.

“Commencement Date” shall mean the date specified by the County for the commencement of this Agreement.

“County” shall mean Pitkin County, its Board of County Commission members, employees, agents and representatives, and shall include such public officials and public bodies as may, by operation of law, succeed to any or all of the rights, powers, or duties which lawfully reside in the Board of County Commissioners of Pitkin County Colorado.

“Customer” shall mean any person who comes to the Airport by any means of transportation and enters into a motor vehicle rental agreement with Licensee anywhere on the Airport.

“Customer Facility Charge” or “CFC” shall mean a fee used to fund certain capital projects and accomplish additional projects designed to facilitate major customer service improvements at the Airport.

“GAAP” means generally accepted accounting principles consistently applied.

“GAAS” means generally accepted auditing standards consistently applied.

“Gross Revenues” shall mean the total amount of monies paid to, or earned by, Licensee at, or from the Operating Area in its performance of this Agreement as further defined in Section 5.4 herein.
“License Fee” shall mean the greater of ten percent (10%) of Gross Revenue or the Minimum Annual Guarantee (MAG).

“License Recovery Fee” shall mean a separate statement of and charge for the Percentage Fee on Airport Customer invoices or rental agreements, which is not required, but will not be prohibited by the County as further defined in Section 5.6.

“Licensee” shall mean any rental car company entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensees” shall mean all rental car companies entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensee Operating Area” shall mean that portion of the Operating Area assigned to Licensee by the County for Licensee’s on-airport rental car operations as more specifically identified in Section 3.

“Minimum Annual Guarantee” shall have the meaning set forth in Section 5.2.

“Minor Preventative Maintenance” shall mean the changing of engine oil and other fluids, replacement of filters and bulbs, and changing and repair of tires, all in accordance with applicable law and regulations, and the County's adopted policies, plans and guidelines.

“Off-airport Rental Car Company” shall mean a car rental company that is not located at the Airport, but which does business at the Airport.

“On-airport Rental Car Company” shall mean a car rental company that is located at, upon, or within the Airport and is a party to an On-Airport Rental Car License and Use Agreement with the County.

“Operating Area” shall mean that portion of the Airport designated by the County for the use, occupancy, and operation of non-exclusive, on-airport rental car Licensees, and shall include:

a. “Ready/Return Area and Rental Car Storage and Service Facility Area” consisting of 61 ready and return automobile storage spaces; approximately 83,450 square feet of space for automobile storage and staging; and approximately 42,000 square feet of space for the washing, detailing, and fueling of automobiles; as depicted on Exhibit A.1 of this Agreement.

b. “Rental Car Counter/Office Area” consisting of four (4) designated ticket counter and office locations each consisting of approximately 163 square feet of space each and located within the Airport’s terminal building as depicted on Exhibit A.2 of this Agreement.

“Terminal” shall mean the County’s current air carrier terminal at the Airport.
“Transaction Day” shall mean a twenty-four (24) hour period or fraction thereof for which a rental car customer is provided the use of a rental car for compensation regardless of the duration or length of the rental term, except that a partial day that is a grace period of no more than two (2) hours after the last 24-hour day booked shall not be considered a Transaction Day. If the same rental car is rented to more than one customer within such continuous twenty-four (24) hour period, then each such rental shall be calculated as a “Transaction Day.”

“Yearly Financial Statement” means Licensee’s annual report and statement of Gross Revenues which shall specify in detail in accordance with the Yearly Financial Statement requirements set forth in this Agreement, all Gross Revenues and operating expenses associated with the operation of Licensee’s license at the Airport certified by an independent certified public accounting firm acceptable to County, and shall be acknowledged by an officer of Licensee as being accurate and complete based on such officer’s examination of the books, accounts and records of Licensee.

2. **TERM**

The term of this Agreement shall commence as of November 1, 2019 and shall expire on October 31, 2023, or the final day of operations at the current Terminal, whichever occurs first, or unless sooner terminated as provided herein.

2.1.1 **Extension.**

At the sole discretion of the County, the initial term may be extended for five, one-year periods commencing on the day following the expiration of the initial term.

2.1.2 **Holdover.**

If Licensee remains in occupancy and use of the Licensee’s Operating Area after the expiration of this term with the consent of County, Licensee’s interest in the Licensee’s Operating Area from and after that date shall be deemed to be month-to-month, pursuant to the terms and conditions of the License and Use Agreement (Other than the payment of the License Fee), or as the parties may otherwise agree in writing, or, if the parties shall fail to agree, upon such other terms and conditions as may be established by the County upon ten (10) days’ notice to Licensee.

3. **LICENSEE OPERATING AREA**

Licensee shall use its assigned portion of the Operating Area solely for its on-airport rental car activities and only for the purposes specifically described in this Section 3.

3.1.1 **Licensee's Operating Area**

Licensee’s Operating Area shall consist of those areas designated on the drawings attached as Exhibit “A”, and includes the following elements: (1) the Ready Return parking spaces (often referred to as ready-return parking spaces or “Ready/Return Spaces”); (2) the Rental Car Storage and Service Facility; and (3) customer service counter and office area and check-in counter space within the Airport Terminal (collectively, “Rental Service Counter”). The County may unilaterally change the Licensee’s Operating Area from time to time as deemed necessary by the County, at the County’s expense provided that the County shall give Licensee commercially reasonable advance written notice of each substantial change, and further provided that the County shall make
a reasonable effort to implement any changes that are made to minimize adverse impacts on Licensee’s airport business operations, to the extent minimization is commercially reasonable under the circumstances. The County shall not be responsible for any Licensee administrative, moving, or planning expenses.

3.1.2 Ready/Return Spaces

Licensee shall have the right to use those parking spaces designated on the attached drawing hereinafter referred to as Exhibit “A.1”, containing 28 surface spaces. Licensee may use its allocated Ready/Return Spaces for: (1) the parking of Licensee’s automobiles awaiting customer rental at the Airport and (2) the return of rental vehicles.

The County reserves the right during the term of this Agreement to relocate, reallocate, increase or reduce the ready/return spaces assigned to Licensee. Reallocation of the Ready/Return Spaces will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Ready/Return Spaces during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Parking spaces in the ready return lot is intended for use by rental vehicles only, and Licensee shall not permit or allow other vehicles, including those owned or operated by employees, the general public or others to park in these spaces. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.3 Rental Car Storage and Service Facility Area

Licensee shall have the use of 27,539 square feet of space at the Rental Car Storage and Service Facility Area as designated on the attached drawing hereinafter referred to as Exhibit “A.1”, for washing, cleaning, fueling, minor preventative maintenance, and storage of rental vehicles. The parties acknowledge that the Service Facility Area consists of one automatic car wash bay, three manual car wash bays, one external car wash bay, and a fuel island and vacuum system, including without limitation all related equipment, paving and utilities. Licensee further acknowledges that the use of the service facility area shall be on a first-come, first served basis with other similar Licensees.

Reallocation of the Rental Car Storage and Service Facility Area will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Rental Car Storage and Service Facility Area during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Licensee shall use the Rental Car Storage and Service Facility Area solely for the washing, servicing, detailing, maneuvering, queuing, and storage of its vehicles used in its on-airport rental car operation. In no event shall engine tune-ups, engine or chassis repair or overhaul, painting or body work be performed. All uses of the Rental Car Storage and Service Facility Area shall be subject to and conducted in strict accordance with the Airport Stormwater Management Plan.

Licensee shall not allow its customers or the public to enter the Rental Car Storage and Service Facility Area. Licensee shall ensure that only its rental vehicles are being serviced at the Rental Car Storage and Service Facility Area. No personal vehicles are permitted at the Rental
Car Storage and Service Facility Area unless otherwise authorized by the County. The Licensee may provide temporary staging and storage of its rental vehicles in the Rental Car Storage and Service Facility Area prior to their return to the Licensee’s Ready/Return parking spaces. Only Licensee employees will be permitted to park their vehicle at the Rental Car Storage and Service Facility Area. No other vehicle parking, including non-facility-based employee parking, shall otherwise be permitted in or about the Rental Car Storage and Service Facility Area except for fueling, maintenance, towing, or emergency services purposes. Licensee shall not allow parking of vehicles of passengers or flight crew intending to use the Airport’s main terminal building for commercial flights. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.4 Rental Car Counter/Office Space

Licensee shall have the use of that counter and office space in the Terminal Building designated on the attached drawing hereinafter referred to as Exhibit “A.2” consisting of 163 square feet of space. Licensee may use its Rental Service Counter space for customer rental, return, and related transactions approved by the County, and for an administrative office.

3.2 Condition of Licensee’s Operating Area

Licensee specifically acknowledges, agrees, accepts, and leases Licensee’s Operating Area from the County in “as is” condition with the exception of any Hazardous Substances conditions or contamination existing in, on, under or about the Licensee’s Operating Area prior to Licensee’s occupancy. Licensee is not relying on any representations or warranties of any kind whatsoever, express or implied from County or its agents, as to any matters concerning the condition of Licensee’s Operating Area. Licensee shall install proprietary equipment and personal property in its designated Licensee Operating Area as required by this Agreement, or as necessary for Licensee's operation of its rental car license, and as approved by the County.

All personal property, equipment, furnishings, decorations and trade fixtures placed upon the Licensee’s Operating Area by Licensee shall be at Licensee’s sole risk, and County shall not be liable for damage to or loss of such personal property or trade fixtures arising from the acts or omissions of any persons or from any causes whatsoever, except from the acts or omissions of County, its agents and employees. Licensee represents that it is (and will be for the entire term hereof) the owner of or fully authorized to use any and all services, processes, machines, articles, trade names, trademarks, logos or slogans to be used by it in its operations under or in any way connected with this Agreement. Licensee agrees to save and hold the County, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit, demand or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Licensee under or in any way connected with this Agreement.

3.3 Rights of Third Party Ingress and Egress

Licensee's use of the Operating Area is subject to reasonable concurrent ingress and egress by the County and its employees, contractors, and representatives, by the car-renting public, and by third parties for police, fire, safety, construction, maintenance, inspection, and other activities reasonably related to Airport business. Nothing in this subsection shall be deemed to interfere with
the County’s right to enforce the provisions of this Agreement, including but not limited to rules adopted by the County. Nothing in this subsection shall be deemed to interfere with the County’s ability to exercise its police powers.

3.4. Surrender of Licensee Operating Area

Upon the expiration or termination of the License, Licensee immediately shall surrender Licensee’s Operating Area as shown on Exhibit A to County in good condition and repair, ordinary wear and usage excepted; and Licensee shall remove all of its personal property, trade fixtures, equipment or improvements removable by prior agreement with County from the Licensee’s Operating Area and shall repair any damage to Licensee’s Operating Area caused by such removal. Excluding Licensee’s rental automobiles, any personal property of Licensee, or anyone claiming under Licensee, which shall remain upon Licensee’s Operating Area at the expiration or termination of this License shall be deemed to have been abandoned and may be retained by County as County’s property or disposed of by County in such manner as County sees fit without compensation to any party.

3.5 Operations After Termination

If this Agreement expires or is terminated for other than Licensee's default, the County, in its sole discretion, may allow Licensee to continue operating under this Agreement on a month-to-month basis. Licensee's continuation of operations after expiration or termination of this Agreement shall not operate or be construed to renew or extend this Agreement. The fees for continued operations after expiration or termination of this Agreement shall be calculated and payable in the same manner as under the Agreement, except that, if this Agreement expires or is terminated for other than Licensee's default, the reconciliation of payments shall occur at six-month intervals and at the end of the extended period of operation. If the reconciliation shows that Licensee paid more than was required during the extended period of operation, the County will rebate the amount of overpayment within 20 business days after the reconciliation. If the reconciliation shows that Licensee paid less than was required during the extended period of operation, Licensee shall pay the unpaid amount within 20 business days after the reconciliation. Licensee shall not continue operations after expiration or termination of this Agreement without the County's express written permission, Licensee shall be liable to the County for any loss or damage arising in connection with that continued operation, including but not limited to loss or damage not contemplated by the parties at the time this Agreement is executed. The County's acceptance of a payment made pursuant to this section shall not give Licensee any right to remain in possession, nor shall it constitute a waiver by County of its right to immediate possession. Nothing in this section shall preclude the County from exercising any rights or remedies it may have under this Agreement or otherwise. Except as expressly provided otherwise by this section, all provisions of this Agreement shall remain effective during any post-expiration or post-termination operation under this section.

4. OPERATING RIGHTS, PRIVILEGES AND OBLIGATIONS OF LICENSEE

4.1 Grant of Operating Rights and Privileges

4.1.1 Vehicle Rentals
Licensee shall have the right and obligation to rent non-chauffeured vehicles to passengers, tenants, and other patrons of the Airport. Licensee shall have an affirmative obligation, for the term of the Agreement, as it may be extended as provided above, to conduct a non-exclusive, on-airport commercial rental car operation at all times that such service is customarily provided to the traveling public at the Airport. In conjunction with its operation, Licensee may:

4.1.1.1 Offer personal accident insurance, personal effects insurance, and other insurance related to travel by car or the rental and use of Licensee's vehicles;

4.1.1.2 Rent or sell mobile and cellular phones;

4.1.1.3 Rent or sell other services or personal property approved in writing by the Airport Director, provided that (1) the services or personal property must be of a type that customarily are offered for sale or rent at other comparably-sized airport car rental facilities and (2) the sale or rental of the services or personal property must not conflict with a right or privilege of another Airport Licensee.

4.1.1.4 Store, stage, wash, fuel, and conduct minor preventive maintenance and repair of automobiles to be made available for rental, including movement of such vehicles necessarily incident to these activities.

4.1.2 Restrictions on Licensee’s Operations

Licensee, in the conduct of its operation shall be subject to the following limitations and restrictions:

4.1.2.1 Licensee shall park on, store on and rent from its assigned Operating Area only automobiles as defined herein and only automobiles available for rental exclusively from its Operating Area. No other automobiles, including trucks above 5,000 lbs. empty vehicle weight, motor homes, busses, motorcycles, trailers, or non-passenger registrations shall be permitted on the Airport, without express prior written permission of the County, in the discretion of the County, and under such fees, terms and conditions as the County may require.

4.1.2.2 Licensee shall not hold or control, directly or indirectly, any rights or obligations in the management, operations, premises, inventory, ownership, voting or financing of any other entity doing business on, at or through the Airport including, expressly, any On-Airport or Off-Airport Rental Car Company with a Location within upon full disclosure by Licensee of all such rights or obligations, the County will consent, in its reasonable discretion, to the existence and enforcement of such rights interests hereunder in the promotion of competition and the avoidance of revenue diversion, or that are made subject to such reasonable terms and conditions as are necessary to protect County’s interests. For purposes of the section, “Licensee” shall include all natural persons, corporations or other business entities holding or controlling, directly or indirectly, any rights or obligations in Licensee’s management, operations, premises, inventory, ownership, voting or financing. All revenues derived from the conduct of business prohibited or restricted by this Section shall be includable for purposes of percentage of gross revenue calculations and payments pursuant to this Agreement.

4.1.2.3 Licensee may not offer vehicles for sale to the public at any location at the Airport.
4.1.3 Other Licenses

Licensee must have the Airport Director’s prior written consent before engaging in any licensed operation not expressly and specifically permitted by this Agreement, including but not limited to the sale of food, beverages, maps, or newspapers, and may be required as a condition of that consent to pay the County a fee, which may include, but is not necessarily limited to, a percentage of gross revenue.

4.2 Rights of Ingress and Egress

Licensee shall have the right of ingress to and egress from its Licensed Area over public walkways and roadways. Licensee shall have the right to use common use roadways, following established speed and safety signage. Licensee's rights of ingress and egress and use of common use roadways shall be subject to all applicable laws and to regulations established by the Airport Director.

4.3 Other Licensees

The rights granted by this Agreement are non-exclusive. The County may grant similar rental car rights to other on-airport Licensees during the term of this Agreement.

4.4 Operating Obligations

4.4.1 Vehicle Rentals

Licensee shall provide rental car services continuously during the term of this Agreement and shall operate it in a first-class manner to serve passengers and other Airport users.

4.4.2 Automobiles

Licensee shall maintain on hand at the Airport an adequate number of vehicles to meet all reasonably foreseeable rental demands. The model year of the vehicles shall not be more than two (2) years older than the current model year. All vehicles shall be maintained in good mechanical condition, and shall be clean, well maintained, safe and contain all necessary safety equipment for mountainous terrain, including, during winter season, mud and snow tires rated “M/S” and accepted by the Colorado State Patrol under the then-existing “chain law” for mountain passes. It is understood that the winter season shall include, at a minimum, November 1 to April 15 of each year, though weather conditions may dictate lengthening this period.

The Airport Director may disapprove any vehicle provided by Licensee for public use at the Airport if the vehicle fails to comply with the requirements of this Agreement. Upon receipt of the Airport Director’s written notice of disapproval with a statement of grounds, Licensee shall immediately withdraw the disapproved vehicle(s) from use as rentals at this Airport and shall not return the vehicle(s) to rental use at the Airport until the grounds for disapproval have been eliminated to the Airport Director’s satisfaction.

4.4.3 Hours of Operation

Licensee shall provide customer service personnel and car rental services at the Rental Car Counter seven days per week, from a time each day sixty (60) minutes before the first scheduled airline departure or the time of the first scheduled airline arrival, whichever occurs earlier to a time thirty (30) minutes after the actual time of the last airline arrival or the time of the airline departure,
whichever occurs later. Licensee shall provide customer service personnel during periods of irregular flight operations that result in delayed or cancelled flights and the transport of customers to the Airport by other modes of transportation. In the event employees cannot be available during these periods, Licensee shall make every effort to accommodate the reasonable needs of its customers, which shall include providing a telephone, free of charge to the customer, with direct communication to employees who can provide service to the customer.

The Airport Director, upon Licensee's written request, may authorize deviations from the requirements of this subsection. The schedule of business hours so established is subject to periodic review by the County or upon written request from Licensee to the Airport Director. As a result of any such review, the Airport Director may require an expansion or allow a reduction of the hours of operation as public demand requires. In no event shall the hours of operation be curtailed to an extent that the service contemplated herein shall be diminished.

4.4.4 Quality of Service

Licensee shall furnish prompt, courteous, and efficient service on a fair, reasonable and nondiscriminatory basis to any member of the public commensurate with rental car operations of the size and traffic volume at first-class U.S. destination resort locations. Licensee shall keep its Operating Area in a safe, clean, orderly and inviting condition. All services and property sold or rented by Licensee must conform in all respects to federal, state, and County laws, ordinances, and regulations, and to any applicable rules adopted by the Airport Director. Licensee shall conduct its operations in an orderly and proper manner and so as not to annoy, disturb or be offensive to customers; patrons; County employees, employees, agents and representatives; or other tenants at the Airport.

4.4.5 Manager

Licensee shall engage a full-time manager who: (1) is qualified and experienced; (2) has full authority to control the day to day operation of the car rental license at the Airport; and (3) has authority to respond to and clean up a Hazardous Substance Release in a timely and appropriate manner (4) has authority to respond to accidents, both with personnel and property. The manager or the manager's designee shall be stationed at the Airport and shall be present at the Airport between 8 a.m. and 5 p.m. Monday through Friday. The manager or the manager's designee shall participate in all County Airport tenant meetings including an annual snow removal plan briefing. In the manager's absence, a subordinate shall be in charge and present at the Airport.

4.4.6 Staff

Licensee shall employ a sufficient number of trained personnel to handle customer service; vehicle cleaning, servicing, and handling; and office and administrative duties necessary for the efficient and effective operation of the rental car license. Employees shall be safety-conscious, environmentally-sensitive, helpful and courteous at all times, consistent with acceptable customer relations practices at first-class U.S. destination resorts.

4.4.7 Staff Conduct

Licensee shall be responsible for the conduct, demeanor, and appearance of its officers, agents, employees and representatives. Licensee’s officers, agents, employees and representatives
shall comply with all Airport rules and regulations, shall not act in a manner which will constitute a public or private nuisance, or which will disrupt the safe, efficient and normal operations of the Airport and shall strictly observe all posted speed limits and other traffic and safety signs. Employees on duty shall wear uniforms or appropriate business attire. Uniforms and business attire shall be kept neat, orderly, and clean. Customer service personnel, Rental Car Service Facility service personnel, and attendants shall be trained by Licensee to render high quality, courteous, and efficient service. Licensee shall closely supervise service personnel to assure a high standard of service to rental car customers. Upon receipt of a written objection from the Airport Director concerning the conduct of Licensee’s officers, agents, employees, contractors and representatives, Licensee shall promptly meet with the Airport Director or his/her designee to discuss the basis for the objection and take steps to eliminate the conduct, including if necessary the initiation of steps that could lead to the discharge of the offending employee in accordance with Licensee's employment policies and any applicable collective bargaining agreements.

4.4.8 Solicitation Prohibited

Licensee shall not permit its agents or employees to use pressure sales tactics or to overtly solicit for car rentals or related services offered by Licensee under this Agreement. The Airport Director shall be the sole judge of whether conduct amounts to a violation of this subsection. Upon written notice from the County, Licensee shall take all necessary steps to eliminate conduct in violation of this subsection and to prevent its recurrence.

4.4.9 Relationship with Competitors

Licensee shall maintain cooperative, albeit competitive, relationships with its competitors at the Airport, and shall not engage in open, notorious, or public disputes, disagreements, or conflicts with competitors that would tend to interfere with quality of the rental car services at the Airport.

4.4.10 Diversion of Customers Prohibited

Licensee shall not divert or allow the diversion of any prospective customers from the Airport to another location. If any such diversion does occur, the diverted transaction shall be deemed to have occurred at the Airport.

4.4.11 Signs

Licensee shall not erect, install, nor permit upon its Operating Area any sign or other advertising device without first having obtained the Airport Director’s written consent, which may be withheld in its sole discretion. Licensee shall remove all signs and sign hardware upon expiration or termination of this Agreement and restore each sign location to its former state, unless the Airport Director elects to retain all or any portion of the signage.

4.4.12 Compliance with Rules

In addition to complying with the requirements of this Agreement and with all applicable federal, state, and local laws, rules, and regulations, including but not limited to the requirements of the Americans with Disabilities Act, Licensee shall comply with reasonable rules adopted by the County or the Airport Director regarding the use of, entry on, and access to the County's property.
4.4.13 Branding

Licensee shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name or trade name listed in the Preamble of this Agreement. During the Term, Licensee shall operate and maintain all signage only under the brand or trade name listed in this Agreement. No other brand or trade name shall be used or displayed by Licensee at the Airport during the Term. Except as provided herein, the operation and display of any other brand or trade name(s) by Licensee is prohibited. If Licensee utilizes a brand or trade name under a license or franchise agreement, Licensee represents and warrants to the County that Licensee has been granted the right to use any such brand or trade name for the Term of this Agreement, pursuant to a franchise or license agreement (the “Franchise Agreement”) with the brand or trade name owner (a “Franchisor or Licensor”). At the County’s request, Licensee agrees to provide the County with a copy of the Franchise Agreement and reasonable evidence that such Franchise Agreement remains in full force and effect. Licensee agrees that a Franchisor’s or Licensor’s termination of Licensee’s right either to use Licensee’s brand or trade name, shall constitute an Event of Default under this Agreement.

4.4.14 Disincentive Fees

The following table sets forth a schedule of Disincentive Fees for Licensee’s violations of the operating standards or failure to adhere to contractual requirements. These Disincentive Fees shall be in addition to all other rents and fees required by Section 5, hereof. All Disincentive Fees shall be paid in full within ten (10) calendar days of written notice from the County.
<table>
<thead>
<tr>
<th>Infraction</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; (or further) Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking/Storage of vehicles in areas other than Licensee Operating Area depicted in Exhibit A.1</td>
<td>$15 per day per vehicle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking or storage of any vehicles in areas marked as a Fire Lane as set by the Fire Marshall</td>
<td>Cited by Fire Marshall</td>
<td>Plus</td>
<td>$15 per day per vehicle</td>
</tr>
<tr>
<td>Conducting any vehicle maintenance or cleaning activities in the Ready/Return or Storage Area. If trash is removed from a vehicle parking in the Ready/Return Area the trash mush be disposed of in proper receptacles located in the Rental Car Storage and Service Facility Area.</td>
<td>Written Warning</td>
<td>$250 per incident</td>
<td>$500 per incident</td>
</tr>
<tr>
<td>Storing any items other than Lessee's rental vehicles. Incidental items required by Licensee (i.e. child car seats, etc.) are permitted to be stored in the Licensee’s Operating Area.</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
<tr>
<td>Failure to maintain any portion of Operating Area in a safe clean, neat and orderly condition; or allowing any accumulation of rubbish, trash, or other waste</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
</tbody>
</table>
5. FEES AND FINANCIAL REPORTING

5.1 Fees

In addition to any other payments required under this Agreement, Licensee shall pay all of the following fees to the County:

5.1.1 A “License Fee” equal to the greater of: (1) the Minimum Annual Guarantee (“MAG”) or (2) ten percent (10%) of Licensee’s Gross Revenue for the applicable Agreement Year. The License Fee shall be paid in monthly installments which shall be the greater of the percent of monthly allocation of the MAG as depicted in Exhibit E or ten percent (10%) of Licensee’s Gross Revenue for the month.

5.1.2 For the use of the Rental Car Storage and Service Facility, Licensee shall pay $4.50 per square foot of space allocated to it or a total monthly fee of $10,327.13. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.3 For the use of the Rental Car Ready/Return Area, Licensee shall pay the monthly sum of $200.00 per space. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.4 For Customer Service Counter and Office Space allocated to Licensee, a monthly fee of $1,029.75 ($75.81 per square foot per year for 163 square feet) during the first Agreement Year. The fees for Counter and Office space shall be adjusted annually by County Resolution to reflect the same rate the airlines pay for counter/office space.

5.2 Minimum Annual Guarantee

For the first Agreement Year, the Minimum Annual Guaranteed Fee or "MAG" amount payable by Licensee to the County shall equal $653,825. Beginning with the second (2nd) Agreement Year and continuing thereafter, the MAG shall be adjusted for each Agreement Year to equal eighty-five percent (85%) of the License Fee paid in the prior Agreement Year. Notwithstanding the foregoing, the MAG will never be less than the first Agreement Year.
Although each new MAG will be effective as of the first day of each Agreement Year the County will not finalize calculation of the new MAG until sometime thereafter. Once the new MAG has been calculated by the County, based upon information supplied to the County by Licensee, the Airport Director will send Licensee written notice of the new MAG amount. Licensee shall then pay the County any additional License Fee due based on the difference between the License Fee as calculated under the previous Agreement Year’s MAG compared to the new MAG. The County will credit Licensee if there is a credit due based on that same calculation within thirty (30) days of the date of the Airport Director’s written notice.

Immediately upon the Licensee’s receipts of revenues from its activities hereunder, such funds representing the Minimum Annual Guarantee amounts or percentage fees, and other fees and charges payable to the County under the terms of this Agreement, shall be vested in and become the property of the County and the Licensee shall hold and be responsible for said funds as a Trustee thereof until the same are delivered to the County.

5.3 Minimum Annual Guarantee Abatement

In the event that the total number of scheduled deplaning airline passengers at the Airport for any month during the Term of this Agreement declines to a level lower than seventy-five percent (75%) of the number of deplaning passengers for the corresponding month of the previous Agreement Year, Licensee’s MAG shall be abated by a percentage equal to the percentage decrease in such deplaning passengers, for each month during which deplaning passengers remain at a level less than seventy-five percent (75%) of the deplaning passengers for the corresponding month of the previous Agreement Year. Licensee shall continue to pay the License Fee for each month for which the MAG is abated. When monthly deplaning passengers rise to a level at or above seventy-five percent (75%) of passenger deplanements for the corresponding month of the previous Agreement Year, Licensee’s full MAG shall be reinstated. Any MAG abatements under this Section shall be accounted for as part of the Agreement Year Adjustment under Section 5.8.3.

5.4 Gross Revenue

5.4.1 "Gross Revenue"

"Gross Revenue" shall be determined by the total of charges on the face of the customer's rental agreement, less any charges excluded in the definition of Gross Revenues, and shall mean, unless specifically excluded herein all amounts paid or payable to or considerations of determinable value received by Licensee, after any discounts are deducted at the time of rental, for:

(a) all charges, including, but not limited to, time and mileage charges and separately stated fees (including but not limited to license recovery or recoupment fees) for rental of vehicles and other related or incidental services or merchandise, including but not limited to, ski racks, navigation units, car seats, refueling charges and any other items or services, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned;

(b) all amounts charged to the customer for insurance offered by Licensee incidental to the rental of such vehicles, including but not limited to personal accident insurance;
(c) all charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location;

(d) all proceeds from the long-term lease of vehicles from any location on the Airport;

(e) all amounts charged to Licensee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Licensee of its right to recover from customer for damage to or loss of the vehicle rented;

(f) all amounts charged to Licensee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Licensee;

(g) all amounts charged by Licensee, and described under Section 5.6 as a pass-through to its customers of License Recovery Fees; and

(h) Membership fees associated with car-sharing brands operating at the Airport.

Gross revenues or gross receipts to the Licensee shall be deemed received at the time the sale, lease or service transaction occurs giving rise to Licensee’s right to collect said monies, regardless of whether said transaction was conducted in person, by telephone, electronically, by mail or by any other method of information transmission, whether the transaction was for cash or credit, and of for credit, regardless of whether the Licensee ultimately collects the monies owed for said transaction from the customer involved. Any gross revenues or gross receipts included in the formula for determining percentage fees owed the County and determined by Licensee at a later date to be uncollectible shall not offset future percentage fees owed the County. If the initial rental car contract entered into between Licensee and a rental car customer is subsequently amended, solely because the customer’s actual time and mileage usage contemplated by the original contract, and the charges to be paid by the customer are therefore different from the charges contemplated by the original contract, the percentage of gross revenues that the County is entitled as fees hereunder shall be based upon the gross revenues that the Licensee actually receives or is entitled to receive, under the amended rental car contract with its customer.

5.4.2 Exclusions from Gross Revenue

The following shall be excluded from Gross Revenues:

(a) any federal, state, City or County sales or other taxes or surcharges separately stated on the customer’s rental agreement and collected from customers of Licensee and paid in full by Licensee to the taxing authority;

(b) Amounts Licensee receives, or is entitled to receive, for the sale (other than "rent to own" program vehicle sales rental amounts), disposition, loss, conversion, or abandonment of Licensee’s used automobiles and other equipment, personal property, and trade fixtures not in the normal course of the commercial rental car business permitted hereunder;

(c) amounts which Licensee receives, for the repair of damages to its automobiles and other equipment, personal property, and trade fixtures; including revenue from the wholesale transfer of salvage vehicles;
(d) Customer Facility Charges;

(e) all non-revenue rentals to employees of Licensee;

(f) Payment and administration of parking tickets, tolls, towing and impound fees, traffic and red-light tickets;

(g) mandatory fees shown on the customer rental agreement, paid to other governmental agencies, excluding the County, relating to transactions at the Airport; and

(h) net corporate discounts applied at the time the rental contract is closed but only to the extent Licensee provides auditable proof to County that discount or rebate is specifically attributable to rental agreement with Airport customer.
5.4.3 Retroactive Adjustment of Gross Revenue Prohibited

The retroactive adjustment by Licensee of Gross Revenues designated by Licensee as volume discounts, corporate discounts or any other designation of any nature, or for any purpose, is prohibited.

5.5 Obligations Regarding Fees
5.5.1 Licensee shall:

5.5.1.1 Take all reasonable measures to maintain, develop and increase Licensee's car rental business at the Airport;

5.5.1.2 Not divert, or cause or allow the diversion of, any business from the Airport.

5.5.1.3 Permit inspection during ordinary business hours by the County or the County’s representatives of any sales equipment used by the Licensee, including but not limited to cash registers, recording tapes, point of sale equipment and computer sales terminals, provided that the County shall take all reasonable precautions to ensure that its inspections under this subsection do not unnecessarily disrupt Licensee’s business operations.

5.5.1.4 Maintain full and accurate books of account and records from which “gross revenue” and “gross receipts,” as defined herein, the amount and nature of all business transacted on or through the Airport location, and the amount of percentage rental owed the County hereunder, can be determined and verified, according to standards and accepted accounting and auditing practices. The books of account and records that Licensee must maintain shall include, but need not be limited to, legible, true and accurate copies of all written and electronic records and reports kept in the normal course of Licensee’s business including, without limitation, all motor vehicle rental contracts and cancelled contracts forms, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursements journals, general ledgers, bank statements, bank books, bank deposits slips, annual federal income tax returns, state sales tax returns and all Airport related revenues reported submitted by Licensee to its franchisor and all computer and/or electronic reproductions of the above. These books and records shall be maintained on a current basis and shall be stored for a period of at least thirty-six (36) months from the end of each monthly period, or for such longer period time as County reasonably may direct in writing. If such records are not stored within Pitkin County, it shall be Licensee’s responsibility, at its expense, to promptly make such records, upon request, available to County, or its representatives, in a time, manner and format to the satisfaction of the County, in its reasonable discretion.

5.5.2 Licensee’s financial record keeping and reporting systems for all business conducted on or through the Airport location or subject to this Agreement shall include, without limitation, as follows:

(a) Complete, accurate and legible copies of all automobile rental contracts.

(b) Adequate financial controls, under generally accepted accounting principles and auditing standards, to ensure complete and accurate recording and reporting of all revenues, including commissionable revenues.

(c) Any other documents or procedures which, in the reasonable discretion of the County, are necessary or useful to determine or verify Licensee’s obligations hereunder. Such new documents
or procedures shall be used or instituted a reasonable time after written notice thereof has been sent by County to Licensee.

5.5.3 The County may, annually, at the end of the term herein, or upon a request by Licensee of assignments of its rights hereunder, unless expressly waived by the County, conduct audits of Licensee’s books of accounts and records, which audits shall be conducted upon reasonable notice to Licensee and during normal weekday business hours. For purposes of this License and Use Agreement, the annual audit period shall be deemed to commence on January 1st of each year of the Agreement and to conclude on December 31st. In performing said audits, County shall be entitled to review, and Licensee shall be obligated promptly to provide to the County upon demand therefore, all of the books of account and records that Licensee is obligated to maintain pursuant hereto, as well as other records, documents and files in Licensee’s possession, custody or control during the term hereof that the County, or its auditor, determines, in its sole discretion, are useful, relevant or necessary to determine or verify the correct amount of reportable, includable and excludable revenues, and gross receipts enjoyed by Licensee, and the correct amount of percentage rental owed by Licensee to the County, for the period involved. Should Licensee fail to maintain the books of account and records required to be maintained pursuant hereto, or should License fail to deliver and enable the County or its auditor to review Licensee’s books and records, and other documents and files, as required by this subparagraph, said default is agreed by the parties to be a material breach of this License Agreement and Licensee shall pay, as liquidated damages for such breach, an additional amount equal to fifty (50%) percent of the verifiable costs, fee, payments and changes due from Licensee hereunder for the period in question; provided, however, that Licensee shall only pay these damages for failure to keep required records if such requirements are reasonable in light of Licensee’s business practices (as such practices may be modified by a County request hereunder) and generally accepted accounting principles and auditing standards.

5.5.4 If any audit shows percentage compensation and other fees and changes that should have been paid to the County by Licensee pursuant to this Agreement were understated or underpaid for any period involved (including, expressly, revenues from business), Licensee shall, within thirty (30) day notice by County of any such deficiency, pay to the County the full amount underpaid, plus two percent (2%) interest per month, calculated as provided above, and such underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. If the amount of underpayment exceeds two (2%) percent of the total percentage compensation that was owed by Licensee to the County for the period involved, Licensee, in addition to paying the County the underpayment owed and the interest accrued thereon, shall within thirty (30) days’ notice by County reimburse the County for the cost of the audit. If the audit discloses overpayment of the percentage compensation paid to the County by Licensee, the County shall refund the amount of overpayment to Licensee, within thirty (30) day of said audit.

5.5.5 The County shall hold all information obtained from any such audit in confidence, except as may be necessary to enforce the County’s rights under this Agreement, except with respect to tax proceedings, and except with respect to any legal requirements or Court Order to disclose said information.

5.5.6 One Hundred Eighty (180) days after Licensee’s annual audit report has been received by the County or, whichever is later, the date all supplemental documents requested by the County have been received by the County, the County shall release Licensee from any liability for underreporting or underpayment hereunder, unless the County shall have given written notice,
within that period, of any claims for inadequate or deficient reporting or payment. Once such notice is given, the parties shall expeditiously and in good faith cooperate to resolve the matters contained in the notice(s).

**5.5.7** Prior to any assignments, conveyance or transfer by License of this License or any rights or obligations hereunder requiring approval of the County as required below, the County shall be entitled to an audit as defined here in above at the sole expense of the Licensee.

**5.6 License Recovery Fee**

Licensee acknowledges that License Fee payments by Licensee to the County under this Agreement are for Licensee's privilege to access the Airport market and are not fees imposed by the County upon Licensee's customers. The County does not require, but will not prohibit, a separate statement of a License Recovery Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions:

(a) such Percentage Fee pass through must be titled "License Recovery Fee" or "License Recoupment Fee";
(b) the License Recovery Fee or License Recoupment Fee must be shown on the customer rental agreement and invoiced with other Licensee charges;
(c) the License Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven hundredth percent (11.11%) of Gross Revenues;
(d) Licensee shall neither identify, treat, or refer to the License Recovery Fee or License Recoupment Fee as a tax, nor imply that the County is requiring the pass through of such fee;
(e) if Licensee elects to include the License Recovery Fee or License Recoupment Fee on its customers' rental agreement, it will be considered part of Gross Revenue; and;
(f) Licensee shall comply with all applicable laws, including Federal Trade Commission requirements.

**5.7 Monthly Statements**

**5.7.1 General Requirements**

Licensee shall submit to the County a Monthly Statement of Gross Revenue to include a calculation of the License Fee and a report of the number of closed rental transactions ("Monthly Statement") by the twentieth (20th) day of each month following the month covered by the Monthly Statement. The Monthly Statement shall be submitted on a form substantially similar to the Monthly Statement form in Exhibit "B". The County reserves the right to revise the form and reporting requirements as needed. The accuracy of the Monthly Statement shall be certified by the affidavit of Licensee's chief financial officer, or the chief financial officer's designee. The certification shall be placed on the face of or attached to the Monthly Statement.

**5.7.2 Liquidated Damages**

The parties recognize that the County will incur additional administrative costs if Licensee is late in providing the monthly statements required by this Section 5, and that the amount of those costs is difficult to determine with certainty. Consequently, the parties agree that Licensee shall pay the County $100.00 as liquidated damages each time Licensee is more than 10 calendar days late in submitting the monthly statement required by this section. The sums set forth herein as
liquidated damages are not a penalty, but are reasonable estimates of the costs the County will incur for Licensee’s non-compliance.

5.8 Payments

5.8.1 Monthly Payment

By the first day of each month during the term of this Agreement, Licensee shall pay to the County in advance the monthly allocation of its MAG as shown in Exhibit E, plus all other fees due monthly under this Agreement.

5.8.2 Payment of Excess

By the twentieth (20th) day of each month during the term of this Agreement, and of the month following the expiration or termination of this Agreement, Licensee shall pay to the County any amount by which the monthly installment of the License Fee for the preceding month exceeds the MAG payment as provided in Section 5.8.1.

5.8.3 Annual Adjustment

An adjustment shall be made at the end of each Agreement Year so that Licensee's payment for the Agreement Year is the greater of the MAG for that year or ten percent (10%) of Licensee's Gross Revenue for that year. Any credit to which Licensee is entitled as a result of the adjustment shall be credited against the annual installment of the License Fee for the first month of the following Agreement Year, except that any credit to which Licensee is entitled at the end of the final Agreement Year shall be paid to the County within 30 calendar days after the County receives Licensee's final monthly Statement of Gross Revenue with License Fee Computation.

5.8.4 Method of Payment and Interest

Licensee shall make payments due under this Agreement automatically, including but not limited to interest accrued on late payments. Payments under this Agreement shall be by wire, draft, or check on a bank authorized to engage in banking in the United States, shall be payable to the County in U.S. dollars, and shall be delivered to the Aspen-Pitkin County Airport, 0233 Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. Payments shall be made without abatement, offset, or deductions.

Payments not received by the twentieth (20th) day of each month, as described above, shall be subject to a late penalty of ten (10%) percent of the amount due, or ten ($10) dollars, whichever is more, which shall be added to the principle then due and owing. If still unpaid for 30 days after the delinquency date, a late fee of 2.0% per month will be added. In the event of any delinquent fees or changes hereunder, and to the extent thereof, including late charges and interest, the Airport shall be entitled to a lien for such amounts on licensee’s trade fixtures, furniture, and equipment in use at or located at the Airport.
5.9 Annual Audit and Annual Statements

5.9.1 Annual Statement

Within ninety (90) calendar days after the end of each Agreement Year, Licensee shall, at its sole expense, shall prepare and deliver to the County an Annual Statement of Gross Revenue including a calculation of its License Fee ("Annual Statement"). The Annual Statement shall be prepared in accordance with generally accepted accounting principles. If an Annual Statement discloses that Licensee owes additional amounts to the County, Licensee shall pay those amounts when it delivers the Annual Statement to the County. Each Annual Statement shall be accompanied by the opinion of an independent Colorado Licensed certified public accountant ("CPA"); a state-licensed CPA acceptable to the County, in its reasonable discretion; or Licensee’s Chief Financial Officer establishing that the:

5.9.1.1 CPA or Licensee’s Chief Financial Officer has examined the Annual Statement and any supporting documentation in accordance with generally accepted auditing standards and the terms of this Agreement, and using appropriate tests of accounting records and other auditing procedures deemed necessary under the circumstances; and

5.9.1.2 Annual Statement fairly presents Licensee's Gross Revenue for the Agreement Year in question.

5.9.2 Within ninety (90) days after the end of each calendar year and at the expiration of the License term and prior to the assignment of Licensee's rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year, for the purpose of greenhouse gas emissions evaluations: the number of vehicles rented at the Airport and returned elsewhere, the number of vehicles rented elsewhere and returned to the Airport, amount of fuels dispensed on a quarterly basis at the Airport, the number of vehicles in Licensee's Airport inventory as of January 1/December 31 each year by vehicle class, either using EPA vehicle class or market class, and the number of miles traveled by each rental vehicle returned at the Airport by vehicle class, and average MPG per vehicle class for vehicles in the fleet inventory.

5.10 Customer Facility Charge ("CFC")

5.10.1 Collection of CFC

5.10.1.1 Licensee shall collect a Customer Facility Charge ("CFC") from its Airport Customers. All CFC revenue collected by Licensee shall be a debt owed to the County by Licensee.

5.10.1.2 County agrees to use CFC revenue to fund certain capital projects and to accomplish additional projects designed to facilitate major customer service improvements at the Airport. As of the date of this Agreement, the CFC rate is set at $5.50 per transaction day. The County reserves the right to adjust the CFC rate after consultation with the Licensees and providing a ninety (90) day written notice of adjustment.

5.10.2 Monthly Activity Report

On or before the twentieth (20th) day of each month following the first calendar month after the Commencement Date and every calendar month thereafter during the Term, Licensee shall provide to the Airport Director as part of the monthly Statement of Gross Revenue Report (see
Section 5.7.1 of this Agreement), Licensee’s total number of vehicle rental contracts, the total number of rental transaction days, and the total CFC revenue collected for the past monthly period. Licensee shall submit such report for each month during the Term, regardless of whether Licensee actually entered into any vehicle rental contracts during any such month. If the monthly activity report is not provided on or before the twentieth (20th) day of each month as required herein, Licensee shall pay a late reporting fee as provided in Section 5.7.2. County’s assessment of the delinquency fees shall be in addition to any other remedies that County may have in law or in equity, including termination and revocation of this Agreement and of all rights and privileges granted therein.

5.10.3 Payment to County of CFC Revenue

All CFC revenue collected by Licensee for the past monthly period are due and payable to County with the Monthly Activity Report on or before twentieth (20th) day of each month and shall be deemed delinquent if not received by County on or before the twentieth (20th) day. In the event that County does not receive payment on the due date, Licensee shall pay interest thereon from the due date until the date that full payment is received (“payment date”) at two percent (2.0%) per month or the maximum interest rate then allowed by law. County reserves the right to audit any monthly activity reports and payments based upon such reports. Acceptance of any payments hereunder shall not operate as a waiver of County's right to collect CFC revenue determined to be due and owing. County’s assessment of the late payment fee shall be in addition to any other remedies County may have in law or in equity, including termination and revocation of this Agreement and all rights and privileges granted therein.

All CFC revenue shall be paid by check made payable to “Pitkin County” and delivered to the Office of the the Aspen-Pitkin County Airport, 0233 Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. All such CFC revenue payable by Licensee shall be in lawful money of the United States of America and in same day funds as of the due date.

6. LICENSEE’S OTHER OBLIGATIONS

6.1 Capital Additions by Licensee

6.1.1 Duty to Provide and Maintain

Licensee shall provide and maintain, at its own expense, all proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, and furnishings necessary for the effective and efficient operation of its rental car business at the Airport.

6.1.2 County and Licensee Coordination

Licensee shall work with and coordinate its activities with the County, other rental car Licensees, and Airport planners, designers, architects, engineers, contractors and subcontractors.

6.2 Plans and Specifications; Compliance with Law; County Approval

6.2.1 County Approval of Proprietary Capital Additions

No Proprietary Capital Additions, improvements or installations shall be made, removed, demolished, or relocated in the Licensee Operating Area without the Airport Director’s prior written approval. The County may require plans and specifications and the issuance of a permit
from the County. All Proprietary Capital Additions, improvements and installations shall conform to the County's design criteria and architectural requirements of the County.

Any proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, furnishings, improvements or alterations to the Lessee’s Operating Area and to the buildings thereon with respect to which County has given its written consent, shall be done at Licensee’s sole cost and expense and Licensee shall not cause or permit any statutory claims or liens to be filed against the Lessee’s Operating Area or against the buildings or other improvements thereon by reason thereof and hereby does indemnify the County against all costs and liabilities arising from such claims or liens filed as a result of Licensee’s activities.

6.2.2 Compliance with Laws and Building Codes

Licensee shall ensure that all Proprietary Capital Additions, improvements, equipment, furnishings, fixtures and tenant finishes constructed or installed by Licensee, or Licensee's contractor, conform in all respects to applicable federal, state, and local laws, rules, and building codes; the County's approval shall not be construed as a representation or warranty of conformance. The County may withhold approval based upon, among other grounds, engineering, architectural, airport safety/security operational impact, or aesthetic considerations.

6.3 Taxes

6.3.1 Duty to Pay Taxes

Unless exempt, Licensee agrees to pay, before becoming due, all taxes, assessments, user fees and other charges, however named, which, during the term of this Agreement, may become due or a lien or which may be levied by the state, County, city, district or any other body upon the Licensee Operating Area or improvements in the Licensee Operating Area, or upon any taxable interest of Licensee acquired in this Agreement, or any taxable possessor right which Licensee may have in or to the Licensee Operating Area or the improvements thereon by reason of its occupancy thereof, as well as all taxes on all taxable property, real or personal, owned by Licensee in or about the Licensee Operating Area (collectively, "Taxes"). Upon request from the County, Licensee shall give to the County a copy of the receipts and vouchers showing such payment. Notwithstanding the foregoing, Licensee reserves the right to contest such taxes in good faith and Licensee will provide County with advance notice that it will be contesting such taxes.

6.4 Maintenance and Repairs

Except for the maintenance or repair obligations assigned to the County by the maintenance and repair responsibility matrix attached as Exhibit “C”, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly. Licensee shall not cause nor, when advised thereof by the County, permit any dangerous or hazardous condition or nuisance to exist related to the use and occupancy of its Operating Area as granted herein.
6.4.1 Airport Airline Terminal and Licensee Counter/Office Area

With respect to the maintenance and repair of the Airport Terminal and areas, including the rental car ticket counter and office locations, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the structure and exterior of the Terminal and the interior common areas including utilities and heating, ventilation and air conditioning systems in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain the remainder of its Operating Area, including the interior of the buildings and any structures or facilities used by Licensee, in good repair in a picked-up, neat, orderly and safe condition and in accordance with first-class maintenance practices and in common with other users of Licensee’s classification. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.2 Ready/Return Area

With respect to the maintenance and repair of the Ready/Return Area, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the pavement, pavement markings, lighting, landscaping and sidewalks in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain all signage in good condition and repair. Licensee shall promptly remove all rubbish, debris, or waste materials from the Ready/Return Area. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.3 Rental Car Storage and Service Facility Area

The entire cost of operation, management, maintenance, care and any necessary repair or replacement of the Service Facility or its equipment shall be borne jointly by Licensees. The Service Facility shall be kept in good order and Licensees shall make all necessary repairs and replacements thereof promptly and in a good workmanlike manner. No rubbish, debris, waste materials shall remain on any part of the Service Facility or be disposed of improperly.

Licensees agree to (1) share in the costs of operating and maintaining the automatic car wash and fuel farm, based on each Licensee's actual use of the cash wash and fuel farm on a per wash and per gallon basis; (2) share in other costs of operation and maintenance of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year and (3) share in the costs of repair and replacement of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year.

Within 45 days of the effective date of this Agreement, and on each anniversary date of the effective date of this Agreement, the Licensees will agree by a Majority-in-Interest vote on a Manager of the Service Facility and its duties (the "Manager") and enter into a Management Agreement with said Manager, the terms of which shall be subject to County approval, which approval shall not be unreasonably withheld. Manager shall be responsible for the day-to-day maintenance, oversight, and operation of the Rental Car Storage and Service Facility Area. Within sixty (60) days of the effective date of this Agreement, Manager shall prepare and implement a preventative maintenance program for the car wash, fuel facility, and associated equipment. The scope of this preventative maintenance program shall be subject to County approval, which
approval shall not be unreasonably withheld and a copy shall be retained for use by the County in determining Licensees obligations to maintain the Service Facility.

### 6.4.3.1 Special Conditions Regarding Fuel Facility

The Fuel Facility shall be used only for the purpose of dispensing fuel to automobiles authorized by a current or successor License and Use Agreement to be stored on and rented from the Airport. No fuel from the Fuel Facility shall be sold, bartered or exchanged or otherwise dispensed to anyone other than an authorized On-Airport rental car company.

In the maintenance and operation of the Fuel Facility on the Premises, the Licensees shall pay all tank fees and otherwise strictly comply with all applicable laws, regulations and guidelines, including Sections 8.-20.5-101 et seq. C.R.S. as they now exist and may hereafter be amended. Licensees shall maintain the Fuel Facility free of contamination and shall remove and properly and legally dispose of all contaminated material provided, however, that Licensee shall not be liable for such contamination or removal if not placed in, on or under the Fuel Facility directly by Licensee, its employees, agents, officials, agents, representatives, and guests.

Licensees shall, at their expense, take such actions and make such modifications, repairs and improvements on or to the Fuel Facility as may be necessary to comply with laws or regulations then in effect, and to qualify the Fuel Facility for federal and state sponsored insurance or indemnity coverage. To the extent that state or federal insurance coverage is not available, and to the extent of any deductible of such coverage, Licensees shall insure the Fuel Facility and its operation thereof against damages for personal injury or property damage to the limits specified in this Agreement.

### 6.4.4 Duty to Maintain

Except for the maintenance or repair obligations assigned to the County, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly.

### 6.4.5 Quality

All maintenance and repairs shall be of first-class quality in both materials and workmanship, and shall comply with all applicable federal, state, and local laws, rules, and codes.

### 6.4.6 Remedies

If Licensee fails to undertake maintenance, repairs, or replacements required under this Agreement, the Airport Director may give Licensee written notice of the failure. If Licensee fails to undertake the maintenance, repairs, or replacements described in the notice within a time that is reasonable under the circumstances, but in no event longer than 30 calendar days after receiving the notice, the County may perform the work and recover the cost of performance from Licensee. The cost of the County’s performance shall include direct costs and overhead. The County's remedy under this subsection is in addition to any other remedies the County may have under this Agreement or otherwise. If Licensee's failure to undertake maintenance, repairs, or replacements is a material breach of this Agreement, the County’s exercise of its remedy under this subsection shall not preclude the County from exercising remedies for Licensee's default.

### 6.5 Janitorial Costs

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Licensee shall at all times at its expense, keep its Operating Area, including all of the improvements installed by it, together with all of its fixtures, equipment and personal property therein clean from all trash and other debris and in an orderly condition and appearance and shall keep the areas immediately adjacent to its Operating Area and to the exits and entrances to the Operating Areas clean and free of obstructions.

Licensee shall be responsible for providing janitorial services in the Rental Customer Service Space. After written notice of a violation and failure of the Licensee to meet compliance, associated cost of any janitorial services and/or clean-up will be billed to the Licensee.

6.6 Utilities

County shall, at no additional cost to Licensee, provide electrical service, common heat, trash removal from areas open to the public, lighting and ventilation in connection with the Licensee’s counter in the Airline Terminal. All other utility services and charges, including telephones, shall be provided by Licensee at its own cost. Licensee shall permit no liens or claims against its Operating Area arising from unpaid or disputed utility bills and hereby does indemnify the County from costs or liabilities arising therefrom. If, during this License term, the Airport is required to increase its water, sewer, gas or electrical service and such increase requires a capital contribution from the Airport, Licensee, if it consumes the increased utility, agrees to pay a pro-rated, reasonably-amortized portion of said increase, which amount will be set by agreement or binding arbitration before the Pitkin County Hearing Officer.

6.7 Trash and Refuse

Licensee shall provide for the neat and sanitary handling of all trash and other refuse generated as a result of Licensee's rental car business and its use and occupancy of its Operating Area. Licensee shall provide and use suitable covered fireproof receptacles for all trash and other refuse. Licensee shall not permit boxes, cartons, barrels, pallets, or other similar items to be piled or stored in view of a public area. If Licensee allows dust or debris to be generated or accumulated in the Operating Area to the extent they may be blown about within the Operating Area or blown from the Operating Area to other parts of the Airport, Licensee shall pay to the County $50 in the first instance in an Agreement Year, $150 in the second instance, and $500 in each instance thereafter in the same Agreement Year. In addition, Licensee shall reimburse the County for any costs incurred by the County to remove or suppress the dust or debris.

6.8 Hazard, Potential Hazard, Nuisance, or Annoyance

Licensee shall correct any hazardous or potentially hazardous condition, nuisance, or annoyance caused by Licensee in its Operating Area immediately upon receipt of oral or written notice from the Airport Director, or his designee. The Airport Director, or designee, may order the closure of the Licensee’s Operating Area until the corrective action is complete. Licensee shall maintain adequate emergency spill equipment and absorbent material commensurate with the quantity and materials used in day to day operations to practically as possible remediate any negligent spill of hazardous, toxic, or environmentally threatening on site substances. The Licensee shall follow applicable environmental regulations along with the County prepared and maintained Storm Water Pollution and Prevention Plan (SWPPP) and Spill Prevention and Control and Countermeasure (SPCC) plan documents. Licensee shall be responsible for training its employees on all applicable environmental regulations along with the SWPPP and SPCC plan and maintain and coordinate emergency contact information with the County’s

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Public Safety Department Communication Center, in case of emergencies.
6.9  Snow Removal

Licensee shall at Licensee’s own expense, remove snow from all portions of its Operating Area, including the removal of snow on, under, and around parked vehicles, the buildings, walkways, and other portions of its Operating Area in accordance with the Airport Snow Removal Plan. County, at its sole discretion, may assist with snow removal from Licensee’s Operating Area; provided, that County shall not be required to move or relocate parked vehicles to accomplish such snow removal. The Airport Director shall authorize the County to assist with snow removal from Licensee’s Operating Area.

6.10  Security

The County provides law enforcement for the Airport. Licensee may provide whatever additional security it may wish at its own cost, provided that the additional security is subject to approval by the Airport Director. Security provided by Licensee shall be subject to the authority of the County Sheriff and shall in no way hinder or interfere with the duties of those officers.

6.11  Deliveries

All rental car fleet vehicle deliveries and transfers by Licensee at the Airport will be in a manner and location approved by Airport Director in writing. Costs to repair access road and driveway damages due to a Licensee’s delivery of fleet vehicles, or other airport facilities, shall be reimbursed to the County by the specific Licensee who is requiring such delivery.

7.  DISADVANTAGED BUSINESS ENTERPRISES

The County is required by 49 USC 47104(e) and 49 CFR Part 23 to ensure nondiscrimination in the provision of opportunities for disadvantaged business enterprises at the Airport. It is the policy of the County and the FAA that airport concession disadvantage business enterprises (ACDBE) shall have the maximum opportunity to participate in any activity, service or facility at the Airport under agreement, lease, contract with or franchise from the County. Licensee shall agree to make good faith efforts to ensure that business concerns owned and controlled by socially and economically disadvantaged individuals as defined in the U.S. Department of Transportation's regulations, 49 CFR Part 23 and 26, as amended, participate in at least 1% of the activity, service or facility provided by a Licensee during the entire term of this Agreement by means of a joint venture, partnership, franchise or any other legal arrangement that results in bona fide ownership and control of the activity, service or facility.

If the Licensee is unable to achieve this goal under joint venture, partnership, franchise or similar legal arrangement, the Licensee shall seek to obtain the required DBE participation by other means, such as the purchase of goods, services, supplies and/or products from certified ACDBE vendors. In the event that the Licensee qualifies as a certified ACDBE, the agreement goal shall be deemed to have been met.

Within ninety (90) days after the end of every calendar year, and at the expiration of the License term and prior to the assignment of Licensee’s rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year: the name and address of each certified ACDBE with which they have done business during the past year, a description of the nature of the services performed by and/or items purchased from each firm named, and the dollar value of each transaction. If Licensee fails to achieve the 1% goal stated
herein for the purchase of goods and services, it will be required to provide documentation demonstrating that it made good efforts in attempting to do so.

8. **RIGHT TO ENTER**

The County shall have the right to enter Licensee's Operating Area to:

(a) Inspect, at reasonable times during Licensee's regular business hours, or at any time in case of emergency, to determine whether Licensee is in compliance with the provisions of this Agreement;

(b) Perform any of Licensee's obligations under this Agreement that Licensee has failed to perform after reasonable notice to do so, including but not limited to maintenance, repairs, and replacements in Licensee's Operating Area. The County may recover the cost of non-performance from Licensee;

(c) Exercise County's police power; and

(d) Respond as appropriate to any emergency.

9. **COUNTY OBLIGATIONS**

9.1 **Warranty on Rights of Use**

The County warrants that it is the owner of the Licensee’s Operating Area and has the right to grant the rights to use the Licensee’s Operating Area under the terms of this Agreement. Provided that Licensee performs all of its obligations under this Agreement, and except as otherwise provided by this Agreement, Licensee's rights under this Agreement will not be disturbed by the County or the County's employees, contractors, or agents.

9.2 **Construction Disruption**

The County shall attempt to minimize but has no responsibility for disruptions of Licensee’s operations or temporary interruptions of Licensee's use of any part of its Operating Area due to construction activities by the County or the County’s contractors.

10. **INDEMNITY, INSURANCE, FINANCIAL SECURITY, AND ENVIRONMENTAL REQUIREMENTS**

10.1 **Indemnity**

10.1.1 **Duty to Indemnify**

Licensee (including, by definition here and hereinafter, its officials, employees, agents and representatives, sub, Licensees and suppliers), shall and hereby does release, discharge, indemnify and hold harmless the County of Pitkin and its officials, employees, agents and representatives from and against liability for any claim, demand, loss, damages, penalty, judgment, expenses, costs (including costs of investigation and defense), fees (including reasonable attorney and expert witness fees) or compensation in any form or kind whatsoever for any bodily injury, death, personal injury, or property damage arising out of or in connection with any negligent act, intentional act, error or omission by the Licensee, and for any consequential liability alleged to accrue against the County on account of the Licensee's acts, errors or omissions; provided, however, that such indemnity shall not be construed as an indemnity for death, personal
injury, bodily injury, or property damage arising from the sole negligence of the County or its employees.

The Licensee further shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the County, its officers, agents, and employees. Licensee shall indemnify and hold the County harmless from and against any hazardous materials or environmental requirements, damages or claims. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers, agents, and employees.

It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Agreement and the remaining language shall be given full force and effect.

10.1.2 Environmental Indemnity

Without in any way limiting the generality of any general indemnity required under this Agreement, Licensee shall be solely responsible for and agrees to defend (using legal counsel acceptable to the County), indemnify and hold harmless the County from and against all Environmental Costs claimed against or assessed against the County or incurred by the County arising, in whole or in part, directly or vicariously, from acts or omissions of Licensee, its agents, employees, or independent contractors at or about the Licensee’s Operating Area after the Effective Date of this Agreement or earlier if caused by Licensee. This indemnification shall require Licensee to reimburse the County for any diminution in value of its Operating Area or other adjacent or nearby County property, caused by Hazardous Substances arising out of or caused by, in whole or in part, directly or vicariously, from acts or omissions from Licensee's use of the its Operating Area, including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Licensee’s Operating Area, or any other County property, including damages arising from any adverse impact on marketing of space in or near the Licensee’s Operating Area, including other County property, including lost revenues. Licensee's obligations shall not apply if the Hazardous Substances were deposited on its Operating Area by the County or the County's agents, or any other person or entity other than Licensee. Notwithstanding the foregoing, Licensee shall not be responsible for, and does not indemnify the County for, environmental damage or a violation of any Environmental Law on the Licensee’s Operating Area due to the County’s sole negligence.

10.1.3 Scope of Duty

The claims, damages, suits, actions, liabilities, and expenses encompassed by Licensee's duty to indemnify, defend, and hold harmless under this section shall include without limitation civil and criminal fines or penalties, natural resource damages, response costs, health study costs,
and remediation costs imposed by a governmental agency or as the result of a citizen's suit brought under a federal, state, or local environmental law.

10.2 Insurance

10.2.1 Insurance Requirements

Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Licensee from liabilities that might arise out of this Agreement. Licensee is free to purchase such additional insurance as Licensee determines necessary.

10.2.2 Minimum Scope and Limits of Insurance

Licensee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and liability assumed under an Insured Contract including defense costs.

a. The policy shall be endorsed to include the following additional insured language: "The County, its elected officials, trustees, employees, agents, and volunteers shall be named as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Licensee”.

b. A Waiver of Subrogation shall apply in favor of the County, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers.

Minimum Limits:

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<tr>
<td>General Aggregate</td>
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<td>Products/Completed Operations Aggregate</td>
<td>$ 5,000,000</td>
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<tr>
<td>Each Occurrence Limit</td>
<td>$ 2,000,000</td>
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<tr>
<td>Personal/Advertising Injury</td>
<td>$ 2,000,000</td>
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<tr>
<td>Fire Damage Expense</td>
<td>$ 2,000,000</td>
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<tr>
<td>Premises Medical Expense (Each Person)</td>
<td>$ 10,000</td>
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2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles.
Minimum Limits:

Bodily Injury/Property Damage (Each Accident) $ 1,000,000

3. Property Insurance

Policy shall include the following:

a. Property insurance shall be written on a Covered Cause of Loss-Special Form, replacement cost coverage, including coverage for flood and earth movement for Licensee’s improvements and betterments.

b. The County shall be named as a loss payee on property coverage for tenant improvements and betterments.

c. If property coverage on the building is required, "the County shall be named as an Additional Insured-Owner/ loss payee".

d. A waiver of subrogation applies in favor of the County for any Lessor Property.

Coverage for Licensee’s Tenant Improvements, 100% replacement cost
Fixtures
Coverage on Building (required if Licensee is sole occupant) 100% replacement cost
Coverage for Loss of Rents: Amount equal to all Minimum Annual Rent and other sums payable under this Agreement.

4. Business Interruption Insurance

Insuring that the Base Rent will be paid to County for a period of at least one (1) year if Licensee is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Base Rent during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

5. Worker's Compensation and Employers' Liability

Minimum Limits:

Coverage A (Workers’ Compensation) Statutory
Coverage B (Employers Liability) $100,000/each accident
$100,000/Disease –
employee$500,000/Disease – Policy Lim

10.2.3 Additional Insured Requirements

The policies shall include, or be endorsed to include, the following provisions:
On insurance policies where the County is named as an additional insured, the County shall be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this Agreement.

10.2.4 Notice of Cancellation

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to: **Pitkin County Attorney, 530 E. Main Street, Suite 301, Aspen, CO 81611** with duplicate copy to: **Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611**. If any insurance company refuses to provide the required notice, the Licensee or its insurance broker shall notify the County of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers’ notification to that effect.

10.2.5 Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Colorado and with an “A.M. Best” rating of not less than A- VII. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Licensee from potential insurer insolvency.

10.2.6 Verification of Coverage

Licensee shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before this Agreement commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall be sent directly to: **Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611**. The Airport, Agreement number, and location description are to be noted on the certificate of insurance.

10.2.7 Approval

Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or County Attorney, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
10.2.8 Other Requirements

1. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis.

2. The Licensee shall provide the Public Entity a Certificate of Insurance evidencing all required coverages, before commencing work or entering public entity premises. A sample of a completed Certificate of Insurance is attached as Exhibit D.

3. The Licensee shall name The Public Entity, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns; its elected officials, trustees, employees, agents, and volunteers as “Additional Insureds” for work that is being performed by the Licensee.

4. Upon request by the County, Licensee must provide a copy of a Certificate of Insurance required by the Agreement.

5. The Public Entity requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the Public Entity.

6. The Licensee shall advise the County in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Licensee will reinstate the aggregate limits to comply with the minimum requirements and shall furnish the County with a new certificate of insurance showing such coverage is in force.

7. Certificates of insurance shall state that on the policies that the Public Entity is required to be named as an Additional Insured, the insurance carrier shall provide a minimum of 30 days advance written notice to the Public Entity for cancellation, non-renewal, or material changes to policies required under the Agreement. On all other policies it is the Licensee’s responsibility to give the Public Entity 30-day’s notice if policies are reduced in coverage or limits, cancelled or non-renewed. However, in those situations where the insurance carrier refuses to provide notice to County, the Licensee shall notify County of any cancellation, or reduction in coverage or limits of any insurance within seven (7) days or receipt of insurer’s notification to that effect.

8. The Licensee agrees that the insurance requirements specified in the Agreement do not reduce the liability Licensee has assumed in the indemnification/hold harmless section of the Contract.

9. Failure of the Licensee to fully comply with these requirements during the term of the Agreement may be considered a material breach of contract and may be cause for immediate termination of the Agreement at the option of the County. The County reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

10.3 Environmental Requirements

10.3.1 Definitions

For the purposes of this Agreement, the following definitions shall apply:

10.3.1.1 "Environmental Laws" shall be interpreted in the broadest sense to include any and all federal, state and local statutes, regulations, rules, permit terms, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals
or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

10.3.1.2 "Hazardous Substances" shall be interpreted in the broadest sense to include any and all substances, emissions, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Laws. “Hazardous Substances” shall also include, but not be limited to, fuels, petroleum and petroleum derived products.

10.3.1.3 "Environmental Costs" shall be interpreted in the broadest sense to include, but not be limited to costs and damages arising from or relating to: (i) any actual or claimed violation of or noncompliance with any Environmental Law; (ii) claims for damages, response costs, fines, fees or other relief relating to matters addressed in any Environmental Law; (iii) injunctive relief relating to matters addressed in any Environmental Law; (iv) Hazardous Substance; and (v) violations of any environmental provisions of this Agreement. Costs and damages as used in this section shall include but not be limited to: (a) costs of evaluation, testing, analysis, clean-up, remediation, removal, disposal, monitoring and maintenance; (b) costs of reporting to or negotiating with any government agency; (c) fees of attorneys, engineers, consultants, and experts, whether or not taxable as costs, incurred at, before or after trial, appeal or administrative proceedings; (d) lost revenue; and (e) diminution of value, loss, or restriction on use of property.

10.3.1.4 "Hazardous Substance Release" shall be interpreted in the broadest sense to include the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except as authorized by a then current permit issued under applicable Environmental Laws.

10.3.2 General Environmental Obligation

Licensee shall manage and conduct all of its activities, and the activities of its employees, agents, contractors and invitees, on or relating to its Operating Area (i) in compliance with all Environmental Laws and the Environmental provision of this License and Use Agreement, (ii) in a manner designed to protect the environment, (iii) in cooperation with the County in the County’s efforts to comply with all Environmental Laws, and (iv) in adherence with best management practices of Licensee’s industry and activities. As used herein, “Best Management Practices” shall mean those environmental or operational standards applicable to a particular business or industry group as a matter of common and accepted practice or as articulated by all or some of the following: Trade associations or professional associations for the particular business or industry group; the business or industry group’s own standard operating procedures; and those Best Management Practices specifically defined or identified for a particular business operation or industry group by regulatory agency guidelines. Licensee shall be responsible for ascertaining which Environmental Laws govern its activities on or relating to its Operating Area and shall be responsible for maintaining a current understanding of such Environmental Laws throughout the Term. Licensee shall manage and, as appropriate, secure its Operating Area and its occupation or use of the same so as to prevent any violation of Environmental Law by Licensee, its employees, agents, contractors, vendors and invitees on or relating to its Operating Area.
10.3.1 Storage Tanks

No underground or above ground tanks for the storage of Hazardous Substances shall be installed or operated on the Operating Area, except with the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion.

10.4 Environmental Audits
10.4.1 Special Audit.

If the County, at any time during the term of this Agreement or any extension thereof, has reason to suspect that Hazardous Substances are being or have been used, handled, stored, generated, created, disposed, placed and/or transported contrary to the requirements of this Agreement, in violation of Environmental Laws or in any manner that has resulted, or is likely to result, in a Hazardous Substance Release, the County may, without limiting its other rights and remedies, require Licensee to conduct, and furnish to the County, at Licensee's sole expense, an environmental audit of its Rental Car Service Facility, and/or Ready Return Spaces with respect to the environmental matters of concern to the County (each, a "Special Audit"). If a Special Audit finds no Hazardous Substance Release, no violation of the environmental provisions of this Agreement and no violation of Environmental Laws, the County shall reimburse Licensee for the reasonable costs paid by Licensee for such Special Audit.

10.4.2 Exit Audit.

Licensee shall conduct an exit environmental audit (the "Exit Audit") of its Operating Area to determine (i) its environmental condition, (ii) whether any Hazardous Substance Release has occurred or exists on or about its Operating Area, and (iii) whether there have been any violations of Environmental Laws or the environmental provisions of this Agreement. The Exit Audit shall be performed not more than sixty (60) days prior to the scheduled expiration or termination date of this Agreement. Licensee shall provide to the County a written update to the Exit Audit, as of the last day of the Agreement Term, within thirty (30) days of the actual termination of this Agreement. In the event this Agreement expires or terminates unexpectedly for any reason, Licensee shall cause the Exit Audit to be completed within sixty (60) days of the actual termination date of this Agreement.

10.4.3 Audit Requirements.

The scope and procedures of any audit required by this Agreement shall be determined solely by the County. Such audits shall (i) include an analysis of Licensee’s operations on the Combined-Maintenance Area and Ready Return Spaces and (ii) be no less comprehensive in scope or procedures than those typical, at the time of such audit, of comparable purpose audits of similarly situated properties with comparable uses and operations. If any audit performed under this Agreement recommends additional testing or analysis or recommends an additional audit (the “Additional Testing”), then, unless otherwise agreed in writing by the County and Licensee, Licensee shall perform and pay for the Additional Testing and the records and results of such Additional Testing shall be considered a part of the underlying audit that triggered the need for the Additional Testing. If additional testing does not disclose any Hazardous Substance Release, the reasonable cost of the additional testing shall be paid for by the County. The County shall have the right to approve the company or individual conducting any audits performed pursuant to this
Agreement. The County and Licensee shall each receive a signed copy of any environmental audit report prepared pursuant to this Agreement.

10.5 Environmental Inspection

The County reserves the right, at any time, and from time to time, after notice to Licensee, to inspect the Combined-Maintenance Area and Ready Return Spaces and Licensee’s operations on and use of the Combined-Maintenance Area and Ready Return Spaces: (i) for the presence of and/or Licensee's management of Hazardous Substances; (ii) for compliance with Environmental Laws or the environmental provisions of this Agreement and (iii) to facilitate the County’s environmental management, permitting and analysis related to the Operating Area or any other property of the County.

10.6 Licensee’s Liability

10.6.1 Hazardous Substance Releases.

Licensee shall be liable for any Hazardous Substance Release which occurs during the Agreement Term on the Operating Area arising out of or caused by, in whole or in part, directly or indirectly, from acts or omissions from Licensee's use of the Operating Area. Licensee shall also be liable for any Hazardous Substance Release on the Operating Area or on other properties or in the air or in adjacent or nearby waterways (including groundwater) as a result of or in connection with Licensee’s occupancy or use of the Operating Area which occurs during the Agreement Term or which occurs or continues after the Agreement Term.

10.6.2 Licensee’s Liability for Environmental Costs.

Except as expressly provided in this Agreement, Licensee shall be liable for all Environmental Costs arising under this Agreement. Any Environmental Cost for which Licensee is obligated under this Agreement shall be paid by Licensee on or before the date such Environmental Costs are due. Any Environmental Cost incurred by, paid by or assessed against the County, for which Licensee is responsible under this Agreement, shall be paid by Licensee within thirty (30) days after the date of written notice or invoice from the County, together with interest at the rate of 1.5 percent per month from the date the expense was incurred by the County. The County shall promptly notify Licensee of any Environmental Costs for which Licensee is liable. If the County negligently fails to promptly notify Licensee of an Environmental Cost for which Licensee is liable, and if Licensee does not have actual knowledge of the Environmental Cost, Licensee’s obligation to pay interest shall be excused for that part of the delay beyond the date the Environmental Cost is incurred, paid or assessed attributable to the County’s negligence.

10.6.3 Limitation of Licensee’s Liability.

Notwithstanding anything to the contrary provided in this Agreement, Licensee shall have no liability for Hazardous Substances or Hazardous Substance Releases, or Environmental Costs arising therefrom, that (i) existed on the Operating Area prior to the Effective Date of this Agreement (except if caused by Licensee or Licensee's agents, employees or contractors), (ii) were caused by the County or the agents, employees or contractors of the County (or other party other than Licensee, its agents, employees, contractors, vendors or invitees) after the Effective Date of this Agreement, or (iii) is the result of a Hazardous Substance Release occurring on property other than the Operating Area which has migrated to the Operating Area through no fault of the Licensee,
its employees, agents, contractors or invitees and the Hazardous Substance Release has not been worsened by any action of the Licensee, its employees, agents, contractors or invitees.

10.7 Environmental Remediation

10.7.1 Releases and Violations.

In the event of a violation of an Environmental Law, a violation of an environmental provision of this Agreement, or a Hazardous Substance Release or the threat of or reasonable suspicion of the same for which Licensee is responsible under this Agreement, Licensee shall immediately undertake all acts necessary or appropriate to cure or correct the violation or investigate, contain and stop the Hazardous Substance Release.

10.7.2 Remediation and Removal.

Licensee shall promptly undertake all remedial and/or removal actions necessary or appropriate to ensure that any Hazardous Substance Release is eliminated and that any violation of any Environmental Law or environmental provision of this Agreement is cured or corrected. Licensee shall remove, at Licensee's sole expense, all Hazardous Substances for which Licensee is liable under this Agreement or under any Environmental Law and shall restore its Operating Area or other affected property or water to its baseline condition as established in the Baseline Audit. In the event that any remediation or removal required by this Agreement cannot reasonably be completed prior to the termination or expiration of this Agreement, Licensee shall not be in default of its remediation obligations so long as Licensee immediately commences all investigation, containment, remediation and removal activities within thirty (30) days (or sooner if required by Environmental Laws) and diligently and continuously pursues such activities until completion.

10.7.3 Report to the County.

Within thirty (30) days following completion of any investigatory, containment, remediation and/or removal action required by this Agreement, Licensee shall provide the County with a written report outlining in detail what has been done and the results thereof.

10.7.4 The County’s Right to Approve.

The County shall have the right to approve or disapprove all investigatory, containment, remediation and removal procedures and the company(ies) and/or individuals conducting such procedures which are required by this Agreement or by any Environmental Laws whether on the Operating Area or any affected property or water. Licensee shall not initiate any risk assessment-based remediation or closure without the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion. The County will have the right to require Licensee to request oversight from the Colorado Department of Environmental Quality (“DEQ”) of any investigatory, containment, remediation and removal activities and/or require Licensee to seek a statement from DEQ of No Further Action.

10.8 Notice to the County

Licensee shall promptly notify the County upon becoming aware of (i) a violation or alleged violation of any Environmental Law related to the Operating Area or to Licensee’s occupation or use of the Operating Area or any environmental provision of this Agreement, (ii)
any Hazardous Substance Release on, under or adjacent to the Operating Area or threat of or reasonable suspicion of any of the same, (iii) any notice or communication from a governmental agency or any other person directed to Licensee relating to any Hazardous Substance Release or any violation or alleged violation of any Environmental Laws which relate to the Operating Area or to Licensee’s occupation or use of the Operating Area, and (iv) any Hazardous Substance Release or violation of Environmental Law discovered by Licensee on property or in the air or water adjacent to the Operating Area.

10.9 Licensee’s Documentation of Environmental Conduct

10.9.1 Annual Certification.

If requested in writing by the County, Licensee shall provide on or before each anniversary of the Effective Date of this Agreement, a written statement, certified by Licensee as true and complete to the best of Licensee’s knowledge, that during the preceding year with respect to the Operating Area and Licensee’s occupation and use of the Operating Area: (i) Licensee has complied with applicable Environmental Law; (ii) Licensee has not received any notice from any government agency regarding a violation of any Environmental Law; and (iii) Licensee has obtained and has in force all permits required under all Environmental Laws. If Licensee is unable to provide such certification at the time requested by the County, then Licensee shall provide the County with a written statement of the steps Licensee is taking to enable it to provide a certification of compliance. Upon the County’s written request, Licensee shall provide to the County a copy of any permit or notice described in this subsection.

10.9.2 Record Keeping.

Licensee shall maintain for the duration of the Agreement term or for a period as required by Environmental Laws, whichever is greater, for periodic inspection by the County, and deliver to the County, at the County’s request, true and correct copies of all records required to be maintained pursuant to any Environmental Laws related to the Operating Area or to Licensee’s occupation or use of the Operating Area. Such records shall include, but not be limited to, Material Safety Data Sheets ("MSDS"), for all Hazardous Substances used or stored on the Operating Area. MSDS information shall be kept current and, in a place, known to and accessible to the County.

10.10 The County’s Right to Perform

In the event Licensee fails to perform any of its obligations under this section or any Environmental Laws, the County shall have the right, upon giving Licensee ten (10) business days written notice, except no prior notice shall be required in the event of an emergency, to perform such obligations and charge Licensee all resulting Environmental Costs. The County may not commence performance on behalf of Licensee under this section, if during the ten (10) business day period, Licensee promptly begins and diligently pursues to completion the performance of the obligations set forth in the County’s notice. In the event the County determines that an emergency exists, and Licensee is unavailable, unwilling or unable to take immediate and appropriate action, the County may take whatever immediate action it deems necessary and charge Licensee the resulting Environmental Cost.
10.11 **Survival of Obligations**

Licensee’s obligations herein shall survive any termination of this Agreement or Licensee’s activities at the Airport.

11. **THE COUNTY'S RIGHT TO IMPROVE AIRPORT**

County reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, including the Operating Area and existing vehicle and pedestrian traffic patterns, as County deems appropriate without interference or hindrance by the Licensee, and County shall have no liability hereunder to Licensee by reason of any interruption to Licensee’s operations on the Airport occasioned by such County activities; provided, however, that County shall consult in advance with Licensee on such changes. Additionally, possibility of terminal and airfield closures due to construction, security or bad weather might occur. Good faith efforts will be attempted by County to minimize the effects on operations.

12. **TITLE TO CAPITAL ADDITIONS AND IMPROVEMENTS**

Upon termination or expiration of this Agreement, other than for Licensee's default, and upon reimbursement of Licensee by the successor Licensee in accordance with this Agreement, title to all Capital Additions, structures, installations, and improvements placed upon the Operating Area shall automatically vest in the successor Licensee. If there is no successor Licensee, title to all Capital Additions except underground storage tanks shall vest in the County; title to underground storage tanks shall remain in Licensee under all circumstances. Nothing in this section shall be deemed to prevent Licensee from removing its trade fixtures and moveable equipment and furniture, including but not limited to car wash equipment, maintenance racks, and counter inserts.

13. **DAMAGE TO THE OPERATING AREA**

13.1 **Repairs**

If all or part of the Operating Area, offices and/or check-in counter space only, is damaged, the County shall repair the Operating Area at County’s expense, except for any Capital Additions made by Licensee; Licensee shall be responsible for repairing its Capital Additions at Licensee's own expense. If the waiver of subrogation does not apply, Licensee shall reimburse the County for the reasonable cost of repairs to the extent damage to the Operating Area is caused by Licensee or by Licensee’s employees, agents, contractors, or invitees. If the waiver of subrogation does not apply, the County shall reimburse Licensee for the reasonable cost of repairs to the extent Licensee’s Capital Additions are damaged by the County or its employees.

13.2 **Fees During Repairs**

If repairs can be completed and the Operating Area made tenable within 30 calendar days after the damage occurs, Licensee shall continue to pay all fees due during the period of repairs. If the Operating Area cannot be made tenable within 30 calendar days, or if the parties sooner agree that the Operating Area cannot be made tenable within 30 days, the fees due under this Agreement shall be suspended between the date the damage occurred and the date the Operating Area is returned to tenable condition. If the Operating Area cannot be made tenable within 12 months after the damage occurred, or if the parties sooner agree that the Operating Area cannot be made tenable within 12 months, either party may terminate this Agreement upon written notice to the other. Notwithstanding any other provision of this section, if the damage was caused in part
by the negligence or other fault of Licensee or Licensee's employee, contractor, agent, customer, or business invitee, the fees due under this Agreement shall not abate sooner than the end of the 12th month following the occurrence of the damage, and then only if the Agreement is terminated pursuant to this section.

13.3 Liability for Repair Costs

To the extent the damage was caused by the negligence or other fault of Licensee or Licensee's employees, contractors, agents, customers, or business invitees, Licensee shall reimburse the County for the cost of the repairs, subject to any express waiver of subrogation under this Agreement.

13.4 Limits of County's Obligation to Repair

Notwithstanding any other provision of this Article, the County's obligation to make repairs under this Article shall be limited to repair of the Operating Area to the extent necessary to return the Operating Area to its condition prior to the damage and shall not exceed the amount of insurance proceeds available to the County for repairs. The County shall have no duty to redecorate or to replace furniture, equipment, or supplies. Notwithstanding any other provision of this Article, the County may decline to make repairs upon determining that demolition and reconstruction is in the County's best interest, in which case the County may terminate this Agreement by written notice to Licensee.

13.5 Damage to Licensee's Capital Additions and Improvements

Licensee shall repair at its own expense, whether covered by insurance or not and notwithstanding any waiver of subrogation, any of Licensee's Capital Additions or improvements that may be damaged during the term of this Agreement. If Licensee fails to repair Licensee's damaged Capital Additions or improvements within 30 days, or a commercially reasonable time, and the damaged Licensee Capital Additions or improvements interfere with the efficient and effective provision of rental car services, the County may make the repairs and recover the cost of the repairs from Licensee, including the County's overhead.

13.6 No Duty to Protect

The County shall have no duty to protect or insure against loss of Licensee's Capital Additions or improvements or property in the Operating Area by fire or otherwise.

14. DEFAULT

14.1 Events of Default by County

The County shall be in default under this Agreement if, after reasonable written notice from Licensee, the County fails without excuse to remedy any of the following occurrences:

14.1.1 The permanent abandonment of the Airport for scheduled certificated airline service;

14.1.2 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport for 60 calendar days or more in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;
14.1.3 The exercise by an agency of the United States Government for 90 calendar days or more of control over the Airport and its facilities in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;

14.1.4 The County’s failure to substantially comply with a material provision of this Agreement for more than 60 calendar days after written notice of the failure from Licensee.

14.2 Remedies for County's Default

In addition to any other remedies Licensee may have at law or in equity, if the County is in default under this Agreement, Licensee may terminate this Agreement by written notice to the County. The County shall not be deemed in default if the County has initiated appropriate remedial action prior to the notice of termination and diligently pursues that remedial action to completion. In no event shall Licensee be entitled to recover lost profits or consequential damages from the County for a default under this Agreement.

14.3 Events of Default by Licensee

Licensee shall be in default under this Agreement if, after 10 calendar days written notice from the County, Licensee fails to remedy, or to commence remediation if the remedy cannot reasonably be completed within 10 days, any of the following occurrences:

14.3.1 Licensee's failure to comply with a material provision of this Agreement, including but not limited to a failure to pay any fee or other amount due under this Agreement within 10 business days after it is due, or any different period expressly provided by this Agreement or by applicable law; or

14.3.2 To the extent permitted by the United States Bankruptcy Code:

14.3.2.1 Licensee's insolvency;

14.3.2.2 An assignment by Licensee for the benefit of creditors;

14.3.2.3 Licensee's filing of a voluntary petition in bankruptcy;

14.3.2.4 An adjudication that Licensee is bankrupt;

14.3.2.5 The appointment of a receiver with respect to Licensee's property, and the receiver is not discharged within 30 calendar days;

14.3.2.6 The filing of an involuntary petition of bankruptcy and Licensee's failure to secure a dismissal of the petition within 30 calendar days after filing;

14.3.2.7 Attachment of or the levying of execution on any interest in this Agreement and Licensee's failure to secure discharge of the attachment or release of the levy of execution within 10 calendar days;

14.3.2.8 Licensee becomes a corporation in dissolution or voluntarily or involuntarily forfeits its corporate charter; or
14.3.3 Licensee's failure to comply with all applicable federal, state, and local laws and rules, including but not limited to County ordinances and reasonable rules established by the Airport Director, for more than 30 calendar days after Licensee's receipt of written notice of the failure, or a reasonable longer period if Licensee promptly undertakes and works diligently toward effecting a cure of the breach; or

14.3.4 Licensee's failure to timely commence operating a rental car concession in its Operating Area; or

14.3.5 Licensee's abandonment of rental car concession operations in all or any part of its Operating Area; or

14.3.6 The creation, maintenance, failure to correct or sufferance of a dangerous or hazardous condition on or emanating from its Operating Area; or

14.3.7 Failure to provide and maintain current, all required types and amounts of insurance and proof thereof; or

14.3.8 Loss or surrender by Licensee of its franchise rights under its national system license.

14.3.9 Making an assignment, conveyance or transfer of Licensee’s rights and obligations hereunder without the consent of County; or

14.3.10 Failure to comply with any other obligation under this License and Use Agreement.

14.4 Notice of Defaults/Right to Cure

The party aggrieved by an Incident of Default hereunder shall declare a default hereunder by delivering a written Notice of Default to the other party (and its surety, if applicable), which Notice shall specify the Incident(s) of Default asserted and a specific cure therefore. After the effective date of such Notice, the time periods for cure shall be:

1) Within three (3) business days if the default is maintenance of a hazardous condition or failure to maintain and/or prove required insurance coverage(s); or

2) Within ten (10) calendar days if the default is failure to make full and timely payments hereunder; or

3) Within twenty (20) calendar days if the default is in the performance of any other obligation or conditions to be performed under the provisions of this Agreement.

If, in the discretion of the aggrieved party, the cure required cannot reasonably be completed within the foregoing time periods and the cure is promptly undertaken by the defaulting party and diligently prosecuted, the aggrieved party will, upon request and proof of these mitigating circumstances, extend the period to cure by a reasonable time. In the event of multiple Incidents of Default, the cure periods above shall be concurrent, not consecutive.

c. Notice of Termination/Right to Re-enter. If such Incident(s) of Default are noticed as provide herein and remain uncured after the cure period specified, the aggrieved party may thereafter terminate this Agreement and the defaulting party’s rights hereunder by delivery of written Notice of Termination to the defaulting party, which Notice shall be effective on the date delivered to the defaulting party. Upon termination of this Agreement by County, County may re-
enter the Licensee’s Operating Area and remove all persons and property there from, using all necessary force to do so.

d. Remedy Not Exclusive. The parties shall have such other rights and remedies as may be provided for by law or in equity, including damages.
14.4.1 Suit

If Licensee is in default under this Agreement, the County may sue Licensee to recover fees due under this Agreement or damages arising from Licensee's breach of this Agreement, or to bar Licensee from operating a rental car concession in the Operating Area or elsewhere on the Airport. Nothing in this Agreement shall be deemed to require the County to await the expiration of this Agreement before suing Licensee under this subsection.

14.4.2 Remedies Nonexclusive

The remedies provided by this subsection are in addition to any remedies the County may have at law or in equity.

14.5 Cumulative Nature of Remedies

The remedies provided by this Article are nonexclusive and in addition to any other remedy provided by this Agreement and any remedy to which a party otherwise may be legally or equitably entitled.

15. GENERAL PROVISIONS

15.1 Coordination with other Airport Users.

County and Licensee acknowledge that each has rights and obligations arising from various third-party agreements with other Airport users. County and Licensee agree to cooperate with each other to effectuate these third-party agreements, so as long as such agreements are not illegal, impossible or do not reasonably interfere with Airport operations or conflict with the right and obligations of the various parties hereunder. County and Licensee acknowledges their respective obligations as signatories under the following agreements:

(a) Those certain on-Airport non-exclusive rental car License and Use Agreements, between the County and other Licensees.

(b) Those certain lease and use agreements between the County and the Airport’s airlines.

(c) Those certain Lease and Use and Redevelopment Agreements between the County and the Airport’s full-service fixed-base operator.

(d) Those certain agreements or permits for off-Airport rental car operators entered into from time to time between the County and the various off-Airport rental car companies.

(e) Those certain License and Use Agreements and Operating Permits between the County and the Airport’s various specialized fixed-base operators.

(f) Those certain agreements for commercial ground transportation including taxis, limousines and buses.

(g) Such further and other agreements or permits as the County may amend or enter into from time to time in the normal operation of the Airport; provided that Licensee shall, upon request, be provided with copies of any agreements that are connected to this obligation to cooperate, as set forth herein.

The County reserves the right to direct Lessee's operations in the event that such operations are unreasonably interfering, in the reasonable discretion of County, with the use by others of the
Airport; e.g., to restrict the use of "public" areas of the Terminal and public-access curbs, sidewalks and roadways in favor of the public.

15.2 Off-Airport Rental Car Operators

The County reserves the right, but shall not be obligated, to permit other rental car companies, with whom the Airport has not executed On-Airport License and Use Agreements, to enter upon the Airport in general, and the Airline Terminal in particular, to pick up and drop off customers, to purchase advertising space on the Airport and within the Airline Terminal, and to establish a courtesy phone system on the Airport and within the Airline Terminal, all subject to fees and charges in common with other users of that classification.

15.3 Compliance with Applicable Laws and Regulations

In connection with its occupancy and use of its Operating Area and the conduct of its operation thereon, the Licensee acknowledges that the County reserves the right to establish and enforce reasonable rules and regulations for the conduct of activities and uses permitted herein and also to promulgate minimum standards for the conduct of commercial activities related hereto including, without limitation, minimum hours of operation if County determines that the needs of the traveling public are not being met. Licensee shall:

15.3.1 Comply with all applicable laws, rules and regulations of the United States of America, the State of Colorado and the County of Pitkin and any and all departments and agencies thereof, as the same may now exist or may be hereafter promulgated or amended from time to time. Licensee acknowledges that Pitkin County has the continuing authority to enact general legislation pursuant to its power to protect the health, welfare and safety of its citizens, as well as the continuing authority, in its executive capacity, to enact Airport regulations. Present applicable Airport regulations are as follows:

   a. Airport Regulations, Title X, Pitkin County Code;
   b. Aspen-Pitkin County Airport Certification Manual;
   c. Aspen-Pitkin County Airport Security Program
   d. Off-airport rental car regulations
   e. Ground transportation regulations
   f. Airport Financial Policy (Resolution 87-56-A)

15.3.2 Comply with the notification and review requirements of Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the location, or in the event of any planned modification or alteration of any present or future structure or building situated on the locations.

15.3.3 Not discriminate against any person or class of persons by reason of race, color, sex, creed, religion, handicap or national origin in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation, and shall comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations with respect to discrimination in unfair employment practices, and shall comply with such enforcement
procedures as any governmental authority might demand that the County take for the purpose of complying with any such laws and regulations.

15.3.4 With respect to the parking regulations of the City of Aspen and the Town of Snowmass Village, Licensee agrees that pursuant to Section 42-4-1209, C.R.S. (2005), as amended, a “reasonable time” within which the Licensee furnish to the City and Town the name and address of the person who had custody of the vehicle at the time of a violation, shall be deemed to be forty five (45) days. As a condition precedent to the enforcement of this interpretation, the City and the Town will be required to make every effort to provide notification to the Licensee of any violation as soon as practical after the date of said violation.

15.4 Assignment

15.4.1 Consent

Except for an assignment, sublease or transfer to Licensee’s principal, affiliate, parent, subsidiary of its principal, member or partner, so long as such transferee has the qualifications and financial responsibility necessary and adequate to fulfill the obligations of this Agreement, or as a result of a merger, sale or other business reorganization of substantially all of Licensee’s assets in the market in which the Airport is located (“Permitted Assignment”), Licensee shall not assign or transfer this Agreement or any interest herein, without the prior written consent of County which shall not be unreasonably withheld, conditioned or delayed; provided, however, that Licensee shall notify County in writing of a Permitted Assignment within thirty (30) days thereafter. For purposes of this provision, an “assignment” shall include any sale, grant, conveyance, transfer, sublicense, encumbrance or similar transaction, however styled, disposing of or creating rights or obligations in third parties affecting this Agreement. Examples of transactions covered by this restriction include, without limitation: any assignment for security purposes; any assignment to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; any assignment of all or substantially all of Licensees’ assets; and the assignment, in one or a series of related transactions, of 15% (fifteen percent) or greater of the Licensee’s voting stock.

15.4.2 Automatic Termination

Unless otherwise agreed in writing by the County, this Agreement shall terminate automatically upon:

15.4.2.1 Any transfer of an ownership interest in Licensee, other than the ordinary purchase and sale of stock if Licensee is a publicly held corporation;

15.4.2.2 The transfer of fifteen percent (15%) or more of the outstanding stock if Licensee is a corporation; or

15.4.2.3 The transfer of any partnership or joint venture interest, if Licensee is a partnership or joint venture.

15.4.3 Requests for Approval

Any request by Licensee for approval under this section shall be made in writing at least thirty (30) calendar days before the assignment would occur, and must be accompanied by a full description of the assignment, including copies of relevant documents. The County shall not unreasonably withhold its approval of an assignment or transfer, provided that: (1) immediately
prior to the assignment or transfer, the quality of the successor's management staff and the successor's financial condition equal or exceed the quality of Licensee's management staff and Licensee's financial condition; (2) the assignee assumes all of the obligations under this Agreement, and (3) if determined necessary by the County in the reasonable exercise of its sole discretion, Licensee guarantees the performance of the successor under this Agreement.

15.5 Choice of Forum

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and venue is agreed to be exclusively in the courts of Pitkin County, Colorado.

15.6 Nondiscrimination

Licensee shall not permit discrimination in employment or in the provision of rental car services on the grounds of race, color, creed, national origin, political ideas, sex, age, or physical or mental handicap.

15.7 No Exclusive Rights

Nothing in this Agreement shall be deemed to grant Licensee any exclusive right or privilege within the meaning of Title 49 USC Section 40103(e).

15.8 Most Favored Nations

In the event that any Agreement granted by the County to any other Licensee shall contain any terms and conditions more favorable to such Licensee than the terms and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other Licensee.

15.9 Subordination to Agreements with the United States

This Agreement is subject and subordinate to the provisions of any agreement already made or to be made in the future between County and the United States relative to the operation or maintenance of the Airport, the execution of which is a condition precedent to the transfer of federal rights or property to County for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended.

15.10 Nonwaiver of Rights

The Failure of either party hereto to exercise any right or remedy hereunder shall not be deemed a waiver thereof or a waiver of the right to exercise the same at any future time, or the waiver of any other right or remedy hereunder. No waiver by either party or any right of remedy hereunder shall be effective unless in writing signed by the party.

15.11 Notices

15.11.1 Method

All notices required or authorized to be given hereunder shall be in writing and shall be served upon the party entitled thereto either by personal delivery to such party, or by overnight courier service, or by certified mail, return receipt requested, addressed to such party pursuant to Section 14.11.2 of this Agreement, or at such other address as either party may so notify the other.
party of in writing. Any such notice shall be deemed to have been received on the date so delivered personally to the party entitled thereto or three (3) business days after the same has been properly deposited in the United States mail, with postage thereon fully prepaid, as aforesaid.
15.11.2 Addresses

Until the addressee gives written notice of a change, notices shall be delivered to:

THE COUNTY: 
Airport Director 
Aspen – Pitkin County Airport 
0233 E. Airport Road – Suite A 
Aspen, CO 81611

LICENSEE: 
Anne D. Morrison 
Avis Budge Car Rental, LLC 
6 Sylvan Way, 3rd Floor 
Parsippany, NJ 07054

15.12 Headings

The headings in this Agreement are for convenience of reference, and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

15.13 Severability

If a provision of this Agreement is held to be unlawful, invalid, or unenforceable, the remainder of this Agreement shall remain in effect and fully enforceable.

15.14 Waiver of Claims

Licensee waives any claim against County or the County's employees, contractors, or agents for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of any part of this Agreement, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying performance of any part of this Agreement.

15.15 Incorporation of Exhibits

All Exhibits and documents referred to in this Agreement are incorporated into this Agreement by this reference.

15.16 Incorporation of Required Provisions

The parties incorporate into this Agreement by this reference all provisions lawfully required in this Agreement by any unit of federal, state, or local government.

15.17 Successors and Assigns Bound

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their properly qualified successors and assigns.

15.18 Right to Amend

If the U.S. Department of Transportation Federal Aviation Administration, or its successor, requires changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, Licensee agrees to consent to those changes subject to any additional changes to this Agreement required by equity.
15.19 **Time of Essence**

Time is of the essence of this Agreement.

15.20 **Force Majeure**

The County shall not be liable to Licensee for any breach of this Agreement due to causes beyond the County's control, including but not limited to strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, and sabotage. Nothing in this section shall be deemed to excuse any part of Licensee's obligations to make any payments due under this Agreement.

15.21 **Gender and Number**

Words of any gender used in this Agreement shall include any other gender. Words in the singular shall include the plural, unless the context clearly requires otherwise. The words “hereof,” “herein,” “herewith,” “hereunder,” and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of the Agreement.

15.22 **Avigation Easement**

Licensee's right to use the Operating Area for the purposes as set forth in this Agreement shall be secondary and subordinate to the operation of the Airport. The County specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the air space above the surface of the Operating Area together with the right to cause noise in the air space as may be inherent in the present or future operation of aircraft.

15.23 **Attorney's Fees**

If either party to this Agreement incurs attorney’s fees and/or costs in connection with the declaration of a Default hereunder or any other legal proceeding to interpret, protect or enforce any of its rights hereunder, the party prevailing in such proceeding shall be entitled to recover its reasonable attorney’s fees and costs in connections with such proceeding.

15.24 **Amendment**

This Agreement may be modified or amended or supplemented only by an instrument in writing signed by the parties hereto. The County’s representative for the administration of this Agreement shall be the Director of Aviation or his/her designee in writing; provided, however, that all matters affecting material terms of this Agreement, including term, fees and charges and use of Operating Area by Licensee, shall only be modified or amended by a writing approved by a Resolution of the Board of County Commissioners at a duly-noticed public meeting.

15.25 **Relationship of Parties**

It is the intent and agreement of the County and the Company that they shall have the relationship respectively of Licensor/Licensee and Permittor/Permittee hereunder, and nothing contained herein shall be deemed or construed to constitute the parties as partners or joint ventures, and in no event shall County be liable for any loss which may result from the operations of
Licensee upon its Operating Area or for any indebtedness incurred by Licensee in the operation of its business from its Operating Area or for the claims of third parties against Licensee in the conduct of its business. In addition, County shall not be liable in any manner to the Licensee for any damages the Licensee may incur due to the inability of the County to deliver possession of Licensee’s Operating Area, or any part thereof, to the Licensee for reasons beyond the reasonable control of the County.

15.26 Non-Liability of County’s Agents and Employees
No official, agent, or employee of County shall be personally liable to Licensee in the event of any default or breach hereunder by County.

15.27 Entire Agreement
This License contains the entire agreement of the parties and there have been no oral or written promises, representations or agreements, either express or implied, except as expressly set forth herein. Any and all prior agreements or understandings between the parties are expressly agreed to have merged herein.

15.28 Representations of Licensee
Licensee represents and warrants to County as follows:

a. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that they are familiar with Section 18-8-301, et seq. of the Colorado Revised Statutes (Bribery and Corrupt Influences) and Section 18-8-401, et seq. of the Colorado Revised Statutes (Abuse of Public Office) and that no violations of the provisions thereof are present.

b. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that to the best of their knowledge no employee of Pitkin County has personal or beneficial interest whatsoever in this License or in the business to be conducted upon the Location by the Licensee.

15.29 Execution in Duplicate
This Agreement shall be executed in duplicate originals, with one original to be held by each party.

15.30 Authority to Sign
As an inducement to the County to execute this Agreement, the undersigned officer of Licensee represents that he/she is expressly authorized to execute this Agreement and to bind Licensee to the terms and conditions hereof and acknowledges that the County is relying on this representation, authorization and execution.

/////////////////////////////////////////////////////////////////NOTHING FURTHER FOLLOWS EXCEPT SIGNATURES////////////////////////////////////////////////////////////////
LICENSEE

________________________

By:________________________________________________

Printed Name/Title:___________________________________

LICENSOR
PITKIN COUNTY, COLORADO
0233 E. Airport Rd., Suite A
Aspen, Colorado 81611

ATTEST:

Jeanette Jones
Deputy Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS OF
PITKIN COUNTY, COLORADO

________________________

Chair

Date: _________________________

APPROVED AS TO FORM:

________________________

John Ely
County Attorney

APPROVED AS TO CONTENT:

________________________

John Kinney
Airport Director
EXHIBIT A

OPERATING AREA

Exhibit A consists of Exhibits A.1 & A.2
EXHIBIT A.1

READY RETURN LOT

AND

RENTAL CAR STORAGE AND SERVICE FACILITY AREA

SPACE ALLOCATION
EXHIBIT A.1
READY RETURN PARKING AREA AND RENTAL CAR STORAGE
AND SERVICE FACILITY AREA


LEGEND
- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC
- Shared Use Area
EXHIBIT A.2

RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE

SPACE ALLOCATION
EXHIBIT A.2
CUSTOMER SERVICE COUNTER


LEGEND
- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC
- Aspen Pitskin County Airport

Drawing: P:\Project-Cincinnati\Clients\Aspen\Task 03 - Rental Car Concessions\ASE Rental Car\CAD\ASE Rental Car Program Areas.dwg
Layout: Exhibit E
Plotted: Jul 24, 2019, 02:50PM

JULY 2019
EXHIBIT B

SAMPLE MONTHLY REPORTING STATEMENT
On-Airport Licensee Monthly Statement
Of
Gross Revenues and Customer Facility Charge Revenue

Date: ________________

Period Covered (Month/Year): ________________

Rental Car Company: ___________________________

Gross Revenue Statement

Gross Revenues: $________________

10% of Gross Revenues: $________________

Customer Facility Charge Statement

Total Number of Vehicle Contracts: __________

Total Number of Vehicle Contract Days: __________

Total CFC Collections: $________

Certification by Licensee's Chief Financial Officer or the Chief Financial Officer's designee:

Signature: _________________________ Print Name: _________________________

Title: ___________________________

Date: ___________________________

Remit by the 20th day of each month to:

Jennifer Mitchley
Aspen/Pitkin County Airport
0233 E. Airport Road, Suite A
Aspen, CO 81611
EXHIBIT C

OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES
EXHIBIT C

LICENSEE OPERATING AREA MAINTENANCE RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Rental Car Service Counter/Office Space</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shell Building (structural, mechanical &amp; electrical)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Monthly Utility Costs (electrical, water, sanitary sewer, and natural gas)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>General Maintenance (HVAC &amp; fire suppression)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Janitorial Services</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Monthly data &amp; telecommunications services</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Overall Cleanliness &amp; Appearance</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Cleaning of Floors, Walls, Ceilings &amp; Surfaces</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Carpet Cleaning (Minimum of Twice per Year)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Proprietary Operating Systems, furnishings, signage, fixtures, &amp; equipment specific to Concessionaire</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

Parking Spaces (Ready/Return)

| Repair and maintenance of paved surfaces                                 |        | x        |
| Pavement Markings                                                       |        | x        |
| Common Area Lighting                                                    |        | x        |
| Directional Signage                                                     |        | x        |
| Code-required Signage                                                   |        | x        |
| Landscape Maintenance                                                   |        | x        |
| Monthly Utility Costs – electrical                                      |        | x        |
| Stormwater management system                                            |        | x        |
| Parking Space Stall Signage & Concessionaire Branding                   |        | x        |
| Snow Control                                                            |        | x        |
| Snow Removal                                                            |        | x        |
| Disposal of Trash, Refuse, Debris and Recycling                         |        | x        |

Storage & Service Facility Area

Storage Area and Vehicular Common Area

<p>| Perimeter security fence                                                |        | x        |
| Perimeter security fence gates                                          |        | x        |
| Common Area Lighting                                                    |        | x        |
| Delineation barriers between brands                                     |        | x        |
| Monthly Utility Costs – electrical                                      |        | x        |
| Snow Control                                                            |        | x        |
| Snow Removal                                                            |        | x        |</p>
<table>
<thead>
<tr>
<th>Facility</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entry/Exit security</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common circulation striping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common circulation paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Landscaping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel Islands</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel area paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel area drainage and drainage system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Bollards</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
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<tr>
<td>Fueling System</td>
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<tr>
<td>Facility fueling system</td>
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<tr>
<td>Fuel dispenser including nozzles</td>
<td></td>
<td>x</td>
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<tr>
<td>Fuel accounting system</td>
<td></td>
<td>x</td>
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<tr>
<td>Fuel monitoring system</td>
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<td>x</td>
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<tr>
<td>O/H Hose reel system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>O/H fluid distribution system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common-use, vehicle vacuum system</td>
<td></td>
<td>x</td>
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<tr>
<td>Service Facility Utilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire/Life/Safety systems</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Lighting</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Electrical Conduit</td>
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<td>x</td>
</tr>
<tr>
<td>Electrical Wiring</td>
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</tr>
<tr>
<td>Electrical outlets (Outlets provided as part of overhead hose reel system)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Data/Comms conduit Fuel management system</td>
<td></td>
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<tr>
<td>Data/Comms wiring Fuel management system</td>
<td></td>
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<tr>
<td>Data/Comms systems Fuel management system</td>
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<td>x</td>
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<tr>
<td>Car Wash Building</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building roof system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Building structural</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior walls</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior glazing</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior doors Includes fast-closing overhead doors at car wash bay ends</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Roll-up doors Automatic, fast-acting roll-up doors</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Directional signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>General circulation striping</td>
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EXHIBIT D

SAMPLE FORM OF CERTIFICATE OF INSURANCE
# EXHIBIT D: SAMPLE DOCUMENT

## CERTIFICATE OF LIABILITY INSURANCE

**Date:** 9/12/2019

### This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder.

### Important: If the certificate holder is an additional insured, the policy(ies) must have additional insured provisions or be endorsed. If subrogation is waived, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### Producer

**Aon Risk Services Central, Inc.**

5600 West 83rd Street, 8200 Tower, Suite 1100

Minneapolis, MN 55437-1027

**Contact**

**Name:**

**(866) 283-7122**

**Fax:**

**(847) 953-5390**

**Address:**

**Insurer(s) Affording Coverage**

- CONTINENTAL CASUALTY COMPANY
  - NAIC #: 20443

- PV HOLDING CORP. / BUDGET TRUCK RENTAL, LLC.
  - NAIC #: 90029

- AMERICAN CASUALTY COMPANY OF READING, PA
  - NAIC #: 20427

- TRANSPORTATION INSURANCE COMPANY
  - NAIC #: 20484

- ACE PROPERTY & CASUALTY INSURANCE COMPANY
  - NAIC #: 20699

### Insureds

**Car Rental Company**

DBAS

ADDRESS, CITY, STATE, ZIP CODE

### Coverages

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<th>Additional Sub Limit</th>
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### Description of Operations / Locations / Vehicles (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See Attached

### Certificate Holder

**Insurance Certificate Enclosed**

Aspen/Pitkin County Airport

ATTN: Accounting/Procurement

233 E. Airport Road, Suite A

Aspen, CO 81611

USA

C/O Property / Airport Manager

### Cancellation

**Aon Risk Services Central, Inc.**

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Authorized Representative**

© 1988-2015 ACORD CORPORATION. All rights reserved.
Certificate Holder: ASPEN/PITKIN COUNTY AIRPORT
Cert Number: XX

RE: ASPEN/PITKIN COUNTY AIRPORT, 233 E. AIRPORT ROAD, ASPEN, CO 81611.
ASPEN/PITKIN COUNTY AIRPORT IS ADDITIONAL INSURED TO THE GENERAL LIABILITY POLICY WITH RESPECT TO THEIR INTEREST IN THE WRITTEN CONTRACT AGREEMENT WITH AVIS BUDGET CAR RENTAL, LLC. THIS CERTIFICATE OF INSURANCE (COI) RELATES TO A POLICY (POLICIES) ISSUED TO THE INCLUDED INSURED AND IS INTENDED TO DEMONSTRATE COVERAGE AS PROVIDED SOLELY TO THE INCLUDED INSURED AND IS FOR INFORMATIONAL PURPOSES ONLY. THE CERTIFICATE HOLDER LISTED ON THIS COI MAY BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES) ONLY TO THE LIMIT THAT SUCH CERTIFICATE HOLDER'S INTEREST APPEARS ONLY IF SUCH INCLUSION IS REQUIRED IN WRITING SPECIFICALLY AND EXPRESSLY STATING THAT SUCH CERTIFICATE HOLDER BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES). UMBRELLA COVERAGE MAY BE SUBJECT TO DEDUCTIBLE AND/OR SELF INSURANCE.
EXHIBIT E

MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARANTEE
MONTHLY ALLOCATION OF
MINIMUM ANNUAL GUARANTEE

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REPEALING ORDINANCE 035.2014 AND AUTHORIZING EXECUTION OF A LICENSE AND USE AGREEMENT WITH ENTERPRISE LEASING COMPANY OF DENVER, LLC D/B/A ALAMO RENT A CAR, ENTERPRISE RENT-A-CAR AND NATIONAL CAR RENTAL FOR ON-AIRPORT RENTAL CAR OPERATIONS AT THE ASPEN/PITKIN COUNTY AIRPORT

ORDINANCE NO. __________-2019

RECITALS

1. WHEREAS, Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado a Home Rule County is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary, and

2. WHEREAS, Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended, and

3. WHEREAS, Pitkin County (“County”) owns, operates and sponsors the Aspen/Pitkin County Airport (“Airport”), and

4. WHEREAS, pursuant to ordinance 035.2014 the Board of County Commissioners, the Airport’s existing on-airport rental car license and agreements where executed December 1, 2014 and expired November 30, 2018 and

5. WHEREAS, a proposal were received on June 21, 2019 per the RFP, and

6. WHEREAS, the selection of the successful rental car operators was made through a combination of factors, including minimum annual guarantee bid, experience, and reputation, as out lined in the RFP and

7. WHEREAS, The BOCC finds that adoption of this ordinance is in the best interest of the citizens of Pitkin County.

8. NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance of the Board of County Commissioners of Pitkin County, Colorado, Repealing Ordinance 035.2014 and Authorizing Execution of a License and Use Agreement (attached hereto as Exhibit A) with Enterprise Leasing Company of Denver, LLC D/B/A Alamo Rent A Car, Enterprise Rent-A-Car and National Car Rental for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport and authorizes the Chair or the Chair’s designee to sign the
Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON  THE ______ DAY OF _________________ 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF _________________, 2019.


ATTEST:                        BOARD OF COUNTY COMMISSIONERS

By _________________________  By: _____________________________
   Jeanette Jones             Greg Poschman, Chair
   Deputy County Clerk       Date: ______________________

APPROVED AS TO FORM:  MANAGER APPROVAL

___________________________ _________________________________
John Ely, County Attorney    Jon Peacock, County Manager
LICENSE AND USE AGREEMENT

FOR A NON-EXCLUSIVE

ON-AIRPORT RENTAL CAR CONCESSION

AT

ASPEN-PITKIN COUNTY AIRPORT

BETWEEN

THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO

AND

ENTERPRISE LEASING COMPANY OF DENVER, LLC
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A.2 – RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE AREA

B – SAMPLE MONTHLY REPORTING STATEMENT

C – OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES

D – FORM OF CERTIFICATE OF INSURANCE

E – MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARENTEE
RENTAL CAR COMPANY LICENSE AND USE AGREEMENT

THIS LICENSE AND USE AGREEMENT, made as of the date last below signed, is by and between the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, (“County”), a Colorado Home-rule County, as Licensor/Permittor, and, Enterprise Leasing Company of Denver, LLC (herein “Licensee” or “Company”), a corporation authorized to conduct business in the State of Colorado and doing business at the Aspen-Pitkin County Airport only under the Enterprise, Alamo, National brand/trade names which are owned or licensed to be used by Licensee.

RECITALS

WHEREAS, County is the owner, operator and sponsor of the Aspen/Pitkin County Airport (Sardy Field), located in Pitkin County in the vicinity of Aspen, Colorado (hereinafter the "Airport"), at which it has made available certain public airfield facilities, and airline terminal and facilities, a general aviation terminal and facilities, certain areas for public use, certain areas for exclusive and non-exclusive commercial use (subject to lease, license or permit) and certain reserved areas; and

WHEREAS, the County has the authority to operate and manage the Airport, to regulate commercial activities at the Airport and to lease and license space thereon, pursuant to, inter alia, C.R.S. Sections 30-11-107, 30-15-401, 30-35-201/202, 41-4-101 et seq., as amended, Title X of the Pitkin County Code, as amended and Section 8.7 of the Pitkin County Home Rule Charter; and

WHEREAS, on-airport rental car services at the Airport are necessary for the proper accommodation of customers arriving at and departing from the airline passenger terminal at the Airport (hereinafter the “Terminal”); and

WHEREAS, Licensee is engaged in the business of providing commercial rental car services and desires to occupy and use some of the areas and facilities of the Airport to make said services available at the Airport; and

WHEREAS, Licensee is qualified, ready, and able to perform or see to the performance of said services, and to furnish or see to the furnishing of proper facilities in connection therewith;

NOW, THEREFORE, in recognition and reliance upon the foregoing recitals, and in consideration of the mutual covenants and promises hereinafter set forth, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged by the parties hereto, County and Licensee agree as follows:

1.  DEFINITIONS

For the purpose of this Agreement, the following terms shall, unless the context requires otherwise, have the following meanings:
“Agreement” shall mean this License and Use Agreement between the Parties as described in this Agreement including all exhibits, attachments, appendices, schedules, and subsequent amendments thereto.

“Agreement Year” shall mean each period of twelve (12) months beginning on the commencement date.

“Airport” shall mean Aspen-Pitkin County Airport located in Pitkin County, Colorado.

“Airport Director” shall mean the chief executive officer of the Aspen-Pitkin County Airport or his/her designated duly recognized representative.

“Airport Snow Removal Plan” shall mean a plan developed by the Airport Director that addresses the means and methods for snow removal at the Airport.

“Automobile” shall mean, unless the context clearly requires otherwise, those types of self-propelled vehicles commonly used by Airport patrons for transportation of persons or property upon public highways and made available for rent to Airport customers.

“Collusion” shall mean the unlawful communication between unaffiliated competitors, but that coordination between brands owned by one company or an affiliated group of companies is permissible.

“Commencement Date” shall mean the date specified by the County for the commencement of this Agreement.

“County” shall mean Pitkin County, its Board of County Commission members, employees, agents and representatives, and shall include such public officials and public bodies as may, by operation of law, succeed to any or all of the rights, powers, or duties which lawfully reside in the Board of County Commissioners of Pitkin County Colorado.

“Customer” shall mean any person who comes to the Airport by any means of transportation and enters into a motor vehicle rental agreement with Licensee anywhere on the Airport.

“Customer Facility Charge” or “CFC” shall mean a fee used to fund certain capital projects and accomplish additional projects designed to facilitate major customer service improvements at the Airport.

“GAAP” means generally accepted accounting principles consistently applied.

“GAAS” means generally accepted auditing standards consistently applied.

“Gross Revenues” shall mean the total amount of monies paid to, or earned by, Licensee at, or from the Operating Area in its performance of this Agreement as further defined in Section 5.4 herein.
“License Fee” shall mean the greater of ten percent (10%) of Gross Revenue or the Minimum Annual Guarantee (MAG).

“License Recovery Fee” shall mean a separate statement of and charge for the Percentage Fee on Airport Customer invoices or rental agreements, which is not required, but will not be prohibited by the County as further defined in Section 5.6.

“Licensee” shall mean any rental car company entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensees” shall mean all rental car companies entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensee Operating Area” shall mean that portion of the Operating Area assigned to Licensee by the County for Licensee’s on-airport rental car operations as more specifically identified in Section 3.

“Minimum Annual Guarantee” shall have the meaning set forth in Section 5.2.

“Minor Preventative Maintenance” shall mean the changing of engine oil and other fluids, replacement of filters and bulbs, and changing and repair of tires, all in accordance with applicable law and regulations, and the County's adopted policies, plans and guidelines.

“Off-airport Rental Car Company” shall mean a car rental company that is not located at the Airport, but which does business at the Airport.

“On-airport Rental Car Company” shall mean a car rental company that is located at, upon, or within the Airport and is a party to an On-Airport Rental Car License and Use Agreement with the County.

“Operating Area” shall mean that portion of the Airport designated by the County for the use, occupancy, and operation of non-exclusive, on-airport rental car Licensees, and shall include:

a. “Ready/Return Area and Rental Car Storage and Service Facility Area” consisting of 61 ready and return automobile storage spaces; approximately 83,450 square feet of space for automobile storage and staging; and approximately 42,000 square feet of space for the washing, detailing, and fueling of automobiles; as depicted on Exhibit A.1 of this Agreement.

b. “Rental Car Counter/Office Area” consisting of four (4) designated ticket counter and office locations each consisting of approximately 163 square feet of space each and located within the Airport’s terminal building as depicted on Exhibit A.2 of this Agreement.

“Terminal” shall mean the County’s current air carrier terminal at the Airport.
“Transaction Day” shall mean a twenty-four (24) hour period or fraction thereof for which a rental car customer is provided the use of a rental car for compensation regardless of the duration or length of the rental term, except that a partial day that is a grace period of no more than two (2) hours after the last 24-hour day booked shall not be considered a Transaction Day. If the same rental car is rented to more than one customer within such continuous twenty-four (24) hour period, then each such rental shall be calculated as a “Transaction Day.”

“Yearly Financial Statement” means Licensee’s annual report and statement of Gross Revenues which shall specify in detail in accordance with the Yearly Financial Statement requirements set forth in this Agreement, all Gross Revenues and operating expenses associated with the operation of Licensee’s license at the Airport certified by an independent certified public accounting firm acceptable to County, and shall be acknowledged by an officer of Licensee as being accurate and complete based on such officer’s examination of the books, accounts and records of Licensee.

2. TERM

The term of this Agreement shall commence as of November 1, 2019 and shall expire on October 31, 2023, or the final day of operations at the current Terminal, whichever occurs first, or unless sooner terminated as provided herein.

2.1.1 Extension.

At the sole discretion of the County, the initial term may be extended for five, one-year periods commencing on the day following the expiration of the initial term.

2.1.2 Holdover.

If Licensee remains in occupancy and use of the Licensee’s Operating Area after the expiration of this term with the consent of County, Licensee’s interest in the Licensee’s Operating Area from and after that date shall be deemed to be month-to-month, pursuant to the terms and conditions of the License and Use Agreement (Other than the payment of the License Fee), or as the parties may otherwise agree in writing, or, if the parties shall fail to agree, upon such other terms and conditions as may be established by the County upon ten (10) days’ notice to Licensee.

3. LICENSEE OPERATING AREA

Licensee shall use its assigned portion of the Operating Area solely for its on-airport rental car activities and only for the purposes specifically described in this Section 3.

3.1.1 Licensee’s Operating Area

Licensee’s Operating Area shall consist of those areas designated on the drawings attached as Exhibit “A”, and includes the following elements: (1) the Ready Return parking spaces (often referred to as ready-return parking spaces or “Ready/Return Spaces”); (2) the Rental Car Storage and Service Facility; and (3) customer service counter and office area and check-in counter space within the Airport Terminal (collectively, “Rental Service Counter”). The County may unilaterally change the Licensee’s Operating Area from time to time as deemed necessary by the County, at the County’s expense provided that the County shall give Licensee commercially reasonable advance written notice of each substantial change, and further provided that the County shall make
a reasonable effort to implement any changes that are made to minimize adverse impacts on Licensee’s airport business operations, to the extent minimization is commercially reasonable under the circumstances. The County shall not be responsible for any Licensee administrative, moving, or planning expenses.

### 3.1.2 Ready/Return Spaces

Licensee shall have the right to use those parking spaces designated on the attached drawing hereinafter referred to as **Exhibit “A.1”**, containing 10 surface spaces. Licensee may use its allocated Ready/Return Spaces for: (1) the parking of Licensee's automobiles awaiting customer rental at the Airport and (2) the return of rental vehicles.

The County reserves the right during the term of this Agreement to relocate, reallocate, increase or reduce the ready/return spaces assigned to Licensee. Reallocation of the Ready/Return Spaces will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Ready/Return Spaces during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Parking spaces in the ready return lot is intended for use by rental vehicles only, and Licensee shall not permit or allow other vehicles, including those owned or operated by employees, the general public or others to park in these spaces. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

### 3.1.3 Rental Car Storage and Service Facility Area

Licensee shall have the use of 15,801 square feet of space at the Rental Car Storage and Service Facility Area as designated on the attached drawing hereinafter referred to as **Exhibit “A.1”**, for washing, cleaning, fueling, minor preventative maintenance, and storage of rental vehicles. The parties acknowledge that the Service Facility Area consists of one automatic car wash bay, three manual car wash bays, one external car wash bay, and a fuel island and vacuum system, including without limitation all related equipment, paving and utilities. Licensee further acknowledges that the use of the service facility area shall be on a first-come, first served basis with other similar Licensees.

Reallocation of the Rental Car Storage and Service Facility Area will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Rental Car Storage and Service Facility Area during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Licensee shall use the Rental Car Storage and Service Facility Area solely for the washing, servicing, detailing, maneuvering, queuing, and storage of its vehicles used in its on-airport rental car operation. In no event shall engine tune-ups, engine or chassis repair or overhaul, painting or body work be performed. All uses of the Rental Car Storage and Service Facility Area shall be subject to and conducted in strict accordance with the Airport Stormwater Management Plan.

Licensee shall not allow its customers or the public to enter the Rental Car Storage and Service Facility Area. Licensee shall ensure that only its rental vehicles are being serviced at the Rental Car Storage and Service Facility Area. No personal vehicles are permitted at the Rental
Car Storage and Service Facility Area unless otherwise authorized by the County. The Licensee may provide temporary staging and storage of its rental vehicles in the Rental Car Storage and Service Facility Area prior to their return to the Licensee’s Ready/Return parking spaces. Only Licensee employees will be permitted to park their vehicle at the Rental Car Storage and Service Facility Area. No other vehicle parking, including non-facility-based employee parking, shall otherwise be permitted in or about the Rental Car Storage and Service Facility Area except for fueling, maintenance, towing, or emergency services purposes. Licensee shall not allow parking of vehicles of passengers or flight crew intending to use the Airport’s main terminal building for commercial flights. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.4 Rental Car Counter/Office Space

Licensee shall have the use of that counter and office space in the Terminal Building designated on the attached drawing hereinafter referred to as Exhibit “A.2” consisting of 163 square feet of space. Licensee may use its Rental Service Counter space for customer rental, return, and related transactions approved by the County, and for an administrative office.

3.2 Condition of Licensee’s Operating Area

Licensee specifically acknowledges, agrees, accepts, and leases Licensee’s Operating Area from the County in “as is” condition with the exception of any Hazardous Substances conditions or contamination existing in, on, under or about the Licensee’s Operating Area prior to Licensee’s occupancy. Licensee is not relying on any representations or warranties of any kind whatsoever, express or implied from County or its agents, as to any matters concerning the condition of Licensee’s Operating Area. Licensee shall install proprietary equipment and personal property in its designated Licensee Operating Area as required by this Agreement, or as necessary for Licensee's operation of its rental car license, and as approved by the County.

All personal property, equipment, furnishings, decorations and trade fixtures placed upon the Licensee’s Operating Area by Licensee shall be at Licensee’s sole risk, and County shall not be liable for damage to or loss of such personal property or trade fixtures arising from the acts or omissions of any persons or from any causes whatsoever, except from the acts or omissions of County, its agents and employees. Licensee represents that it is (and will be for the entire term hereof) the owner of or fully authorized to use any and all services, processes, machines, articles, trade names, trademarks, logos or slogans to be used by it in its operations under or in any way connected with this Agreement. Licensee agrees to save and hold the County, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit, demand or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Licensee under or in any way connected with this Agreement.

3.3 Rights of Third Party Ingress and Egress

Licensee's use of the Operating Area is subject to reasonable concurrent ingress and egress by the County and its employees, contractors, and representatives, by the car-renting public, and by third parties for police, fire, safety, construction, maintenance, inspection, and other activities reasonably related to Airport business. Nothing in this subsection shall be deemed to interfere with
the County’s right to enforce the provisions of this Agreement, including but not limited to rules adopted by the County. Nothing in this subsection shall be deemed to interfere with the County’s ability to exercise its police powers.

3.4. Surrender of Licensee Operating Area

Upon the expiration or termination of the License, Licensee immediately shall surrender Licensee’s Operating Area as shown on Exhibit A to County in good condition and repair, ordinary wear and usage excepted; and Licensee shall remove all of its personal property, trade fixtures, equipment or improvements removable by prior agreement with County from the Licensee’s Operating Area and shall repair any damage to Licensee’s Operating Area caused by such removal. Excluding Licensee’s rental automobiles, any personal property of Licensee, or anyone claiming under Licensee, which shall remain upon Licensee’s Operating Area at the expiration or termination of this License shall be deemed to have been abandoned and may be retained by County as County’s property or disposed of by County in such manner as County sees fit without compensation to any party.

3.5 Operations After Termination

If this Agreement expires or is terminated for other than Licensee's default, the County, in its sole discretion, may allow Licensee to continue operating under this Agreement on a month-to-month basis. Licensee's continuation of operations after expiration or termination of this Agreement shall not operate or be construed to renew or extend this Agreement. The fees for continued operations after expiration or termination of this Agreement shall be calculated and payable in the same manner as under the Agreement, except that, if this Agreement expires or is terminated for other than Licensee's default, the reconciliation of payments shall occur at six-month intervals and at the end of the extended period of operation. If the reconciliation shows that Licensee paid more than was required during the extended period of operation, the County will rebate the amount of overpayment within 20 business days after the reconciliation. If the reconciliation shows that Licensee paid less than was required during the extended period of operation, Licensee shall pay the unpaid amount within 20 business days after the reconciliation. Licensee shall not continue operations after expiration or termination of this Agreement without the County's express written permission, Licensee shall be liable to the County for any loss or damage arising in connection with that continued operation, including but not limited to loss or damage not contemplated by the parties at the time this Agreement is executed. The County's acceptance of a payment made pursuant to this section shall not give Licensee any right to remain in possession, nor shall it constitute a waiver by County of its right to immediate possession. Nothing in this section shall preclude the County from exercising any rights or remedies it may have under this Agreement or otherwise. Except as expressly provided otherwise by this section, all provisions of this Agreement shall remain effective during any post-expiration or post-termination operation under this section.

4. OPERATING RIGHTS, PRIVILEGES AND OBLIGATIONS OF LICENSEE

4.1 Grant of Operating Rights and Privileges

4.1.1 Vehicle Rentals
Licensee shall have the right and obligation to rent non-chauffeured vehicles to passengers, tenants, and other patrons of the Airport. Licensee shall have an affirmative obligation, for the term of the Agreement, as it may be extended as provided above, to conduct a non-exclusive, on-airport commercial rental car operation at all times that such service is customarily provided to the traveling public at the Airport. In conjunction with its operation, Licensee may:

4.1.1.1 Offer personal accident insurance, personal effects insurance, and other insurance related to travel by car or the rental and use of Licensee’s vehicles;

4.1.1.2 Rent or sell mobile and cellular phones;

4.1.1.3 Rent or sell other services or personal property approved in writing by the Airport Director, provided that (1) the services or personal property must be of a type that customarily are offered for sale or rent at other comparably-sized airport car rental facilities and (2) the sale or rental of the services or personal property must not conflict with a right or privilege of another Airport Licensee.

4.1.1.4 Store, stage, wash, fuel, and conduct minor preventive maintenance and repair of automobiles to be made available for rental, including movement of such vehicles necessarily incident to these activities.

4.1.2 Restrictions on Licensee’s Operations

Licensee, in the conduct of its operation shall be subject to the following limitations and restrictions:

4.1.2.1 Licensee shall park on, store on and rent from its assigned Operating Area only automobiles as defined herein and only automobiles available for rental exclusively from its Operating Area. No other automobiles, including trucks above 5,000 lbs. empty vehicle weight, motor homes, busses, motorcycles, trailers, or non-passenger registrations shall be permitted on the Airport, without express prior written permission of the County, in the discretion of the County, and under such fees, terms and conditions as the County may require.

4.1.2.2 Licensee shall not hold or control, directly or indirectly, any rights or obligations in the management, operations, premises, inventory, ownership, voting or financing of any other entity doing business on, at or through the Airport including, expressly, any On-Airport or Off-Airport Rental Car Company with a Location within upon full disclosure by Licensee of all such rights or obligations, the County will consent, in its reasonable discretion, to the existence and enforcement of such rights interests hereunder in the promotion of competition and the avoidance of revenue diversion, or that are made subject to such reasonable terms and conditions as are necessary to protect County’s interests. For purposes of the section, “Licensee” shall include all natural persons, corporations or other business entities holding or controlling, directly or indirectly, any rights or obligations in Licensee’s management, operations, premises, inventory, ownership, voting or financing. All revenues derived from the conduct of business prohibited or restricted by this Section shall be includable for purposes of percentage of gross revenue calculations and payments pursuant to this Agreement.

4.1.2.3 Licensee may not offer vehicles for sale to the public at any location at the Airport.
4.1.3 **Other Licenses**

Licensee must have the Airport Director’s prior written consent before engaging in any licensed operation not expressly and specifically permitted by this Agreement, including but not limited to the sale of food, beverages, maps, or newspapers, and may be required as a condition of that consent to pay the County a fee, which may include, but is not necessarily limited to, a percentage of gross revenue.

4.2 **Rights of Ingress and Egress**

Licensee shall have the right of ingress to and egress from its Licensed Area over public walkways and roadways. Licensee shall have the right to use common use roadways, following established speed and safety signage. Licensee's rights of ingress and egress and use of common use roadways shall be subject to all applicable laws and to regulations established by the Airport Director.

4.3 **Other Licensees**

The rights granted by this Agreement are non-exclusive. The County may grant similar rental car rights to other on-airport Licensees during the term of this Agreement.

4.4 **Operating Obligations**

4.4.1 **Vehicle Rentals**

Licensee shall provide rental car services continuously during the term of this Agreement and shall operate it in a first-class manner to serve passengers and other Airport users.

4.4.2 **Automobiles**

Licensee shall maintain on hand at the Airport an adequate number of vehicles to meet all reasonably foreseeable rental demands. The model year of the vehicles shall not be more than two (2) years older than the current model year. All vehicles shall be maintained in good mechanical condition, and shall be clean, well maintained, safe and contain all necessary safety equipment for mountainous terrain, including, during winter season, mud and snow tires rated “M/S” and accepted by the Colorado State Patrol under the then-existing “chain law” for mountain passes. It is understood that the winter season shall include, at a minimum, November 1 to April 15 of each year, though weather conditions may dictate lengthening this period.

The Airport Director may disapprove any vehicle provided by Licensee for public use at the Airport if the vehicle fails to comply with the requirements of this Agreement. Upon receipt of the Airport Director’s written notice of disapproval with a statement of grounds, Licensee shall immediately withdraw the disapproved vehicle(s) from use as rentals at this Airport and shall not return the vehicle(s) to rental use at the Airport until the grounds for disapproval have been eliminated to the Airport Director’s satisfaction.

4.4.3 **Hours of Operation**

Licensee shall provide customer service personnel and car rental services at the Rental Car Counter seven days per week, from a time each day sixty (60) minutes before the first scheduled airline departure or the time of the first scheduled airline arrival, whichever occurs earlier to a time thirty (30) minutes after the actual time of the last airline arrival or the time of the airline departure,
whichever occurs later. Licensee shall provide customer service personnel during periods of irregular flight operations that result in delayed or cancelled flights and the transport of customers to the Airport by other modes of transportation. In the event employees cannot be available during these periods, Licensee shall make every effort to accommodate the reasonable needs of its customers, which shall include providing a telephone, free of charge to the customer, with direct communication to employees who can provide service to the customer.

The Airport Director, upon Licensee's written request, may authorize deviations from the requirements of this subsection. The schedule of business hours so established is subject to periodic review by the County or upon written request from Licensee to the Airport Director. As a result of any such review, the Airport Director may require an expansion or allow a reduction of the hours of operation as public demand requires. In no event shall the hours of operation be curtailed to an extent that the service contemplated herein shall be diminished.

4.4.4 Quality of Service

Licensee shall furnish prompt, courteous, and efficient service on a fair, reasonable and nondiscriminatory basis to any member of the public commensurate with rental car operations of the size and traffic volume at first-class U.S. destination resort locations. Licensee shall keep its Operating Area in a safe, clean, orderly and inviting condition. All services and property sold or rented by Licensee must conform in all respects to federal, state, and County laws, ordinances, and regulations, and to any applicable rules adopted by the Airport Director. Licensee shall conduct its operations in an orderly and proper manner and so as not to annoy, disturb or be offensive to customers; patrons; County employees, employees, agents and representatives; or other tenants at the Airport.

4.4.5 Manager

Licensee shall engage a full-time manager who: (1) is qualified and experienced; (2) has full authority to control the day to day operation of the car rental license at the Airport; and (3) has authority to respond to and clean up a Hazardous Substance Release in a timely and appropriate manner (4) has authority to respond to accidents, both with personnel and property. The manager or the manager's designee shall be stationed at the Airport and shall be present at the Airport between 8 a.m. and 5 p.m. Monday through Friday. The manager or the manager's designee shall participate in all County Airport tenant meetings including an annual snow removal plan briefing. In the manager's absence, a subordinate shall be in charge and present at the Airport.

4.4.6 Staff

Licensee shall employ a sufficient number of trained personnel to handle customer service; vehicle cleaning, servicing, and handling; and office and administrative duties necessary for the efficient and effective operation of the rental car license. Employees shall be safety-conscious, environmentally-sensitive, helpful and courteous at all times, consistent with acceptable customer relations practices at first-class U.S. destination resorts.

4.4.7 Staff Conduct

Licensee shall be responsible for the conduct, demeanor, and appearance of its officers, agents, employees and representatives. Licensee’s officers, agents, employees and representatives
shall comply with all Airport rules and regulations, shall not act in a manner which will constitute a public or private nuisance, or which will disrupt the safe, efficient and normal operations of the Airport and shall strictly observe all posted speed limits and other traffic and safety signs. Employees on duty shall wear uniforms or appropriate business attire. Uniforms and business attire shall be kept neat, orderly, and clean. Customer service personnel, Rental Car Service Facility service personnel, and attendants shall be trained by Licensee to render high quality, courteous, and efficient service. Licensee shall closely supervise service personnel to assure a high standard of service to rental car customers. Upon receipt of a written objection from the Airport Director concerning the conduct of Licensee’s officers, agents, employees, contractors and representatives, Licensee shall promptly meet with the Airport Director or his/her designee to discuss the basis for the objection and take steps to eliminate the conduct, including if necessary the initiation of steps that could lead to the discharge of the offending employee in accordance with Licensee's employment policies and any applicable collective bargaining agreements.

4.4.8 Solicitation Prohibited

Licensee shall not permit its agents or employees to use pressure sales tactics or to overtly solicit for car rentals or related services offered by Licensee under this Agreement. The Airport Director shall be the sole judge of whether conduct amounts to a violation of this subsection. Upon written notice from the County, Licensee shall take all necessary steps to eliminate conduct in violation of this subsection and to prevent its recurrence.

4.4.9 Relationship with Competitors

Licensee shall maintain cooperative, albeit competitive, relationships with its competitors at the Airport, and shall not engage in open, notorious, or public disputes, disagreements, or conflicts with competitors that would tend to interfere with quality of the rental car services at the Airport.

4.4.10 Diversion of Customers Prohibited

Licensee shall not divert or allow the diversion of any prospective customers from the Airport to another location. If any such diversion does occur, the diverted transaction shall be deemed to have occurred at the Airport.

4.4.11 Signs

Licensee shall not erect, install, nor permit upon its Operating Area any sign or other advertising device without first having obtained the Airport Director’s written consent, which may be withheld in its sole discretion. Licensee shall remove all signs and sign hardware upon expiration or termination of this Agreement and restore each sign location to its former state, unless the Airport Director elects to retain all or any portion of the signage.

4.4.12 Compliance with Rules

In addition to complying with the requirements of this Agreement and with all applicable federal, state, and local laws, rules, and regulations, including but not limited to the requirements of the Americans with Disabilities Act, Licensee shall comply with reasonable rules adopted by the County or the Airport Director regarding the use of, entry on, and access to the County's property.
4.4.13 Branding

Licensee shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name or trade name listed in the Preamble of this Agreement. During the Term, Licensee shall operate and maintain all signage only under the brand or trade name listed in this Agreement. No other brand or trade name shall be used or displayed by Licensee at the Airport during the Term. Except as provided herein, the operation and display of any other brand or trade name(s) by Licensee is prohibited. If Licensee utilizes a brand or trade name under a license or franchise agreement, Licensee represents and warrants to the County that Licensee has been granted the right to use any such brand or trade name for the Term of this Agreement, pursuant to a franchise or license agreement (the “Franchise Agreement”) with the brand or trade name owner (a “Franchisor or Licensor”). At the County’s request, Licensee agrees to provide the County with a copy of the Franchise Agreement and reasonable evidence that such Franchise Agreement remains in full force and effect. Licensee agrees that a Franchisor’s or Licensor’s termination of Licensee’s right either to use Licensee’s brand or trade name, shall constitute an Event of Default under this Agreement.

4.4.14 Disincentive Fees

The following table sets forth a schedule of Disincentive Fees for Licensee’s violations of the operating standards or failure to adhere to contractual requirements. These Disincentive Fees shall be in addition to all other rents and fees required by Section 5, hereof. All Disincentive Fees shall be paid in full within ten (10) calendar days of written notice from the County.
<table>
<thead>
<tr>
<th>Infraction</th>
<th>1st Violation</th>
<th>2nd Violation</th>
<th>3rd (or further) Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking/Storage of vehicles in areas other than Licensee Operating Area depicted in Exhibit A.1</td>
<td></td>
<td></td>
<td>$15 per day per vehicle</td>
</tr>
<tr>
<td>Parking or storage of any vehicles in areas marked as a Fire Lane as set by the Fire Marshall</td>
<td></td>
<td>Cited by Fire Marshall</td>
<td>Plus $15 per day per vehicle</td>
</tr>
<tr>
<td>Conducting any vehicle maintenance or cleaning activities in the Ready/Return or Storage Area. If trash is removed from a vehicle parking in the Ready/Return Area the trash must be disposed of in proper receptacles located in the Rental Car Storage and Service Facility Area.</td>
<td>Written Warning</td>
<td>$250 per incident</td>
<td>$500 per incident</td>
</tr>
<tr>
<td>Storing any items other than Lessee’s rental vehicles. Incidental items required by Licensee (i.e. child car seats, etc.) are permitted to be stored in the Licensee’s Operating Area.</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
<tr>
<td>Failure to maintain any portion of Operating Area in a safe clean, neat and orderly condition; or allowing any accumulation of rubbish, trash, or other waste</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
</tbody>
</table>
5. FEES AND FINANCIAL REPORTING

5.1 Fees

In addition to any other payments required under this Agreement, Licensee shall pay all of the following fees to the County:

5.1.1 A “License Fee” equal to the greater of: (1) the Minimum Annual Guarantee ("MAG") or (2) ten percent (10%) of Licensee’s Gross Revenue for the applicable Agreement Year. The License Fee shall be paid in monthly installments which shall be the greater of the percent of monthly allocation of the MAG as depicted in Exhibit E or ten percent (10%) of Licensee’s Gross Revenue for the month.

5.1.2 For the use of the Rental Car Storage and Service Facility, Licensee shall pay $4.50 per square foot of space allocated to it or a total monthly fee of $5,925.38. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.3 For the use of the Rental Car Ready/Return Area, Licensee shall pay the monthly sum of $200.00 per space. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.4 For Customer Service Counter and Office Space allocated to Licensee, a monthly fee of $1,029.75 ($75.81 per square foot per year for 163 square feet) during the first Agreement Year. The fees for Counter and Office space shall be adjusted annually by County Resolution to reflect the same rate the airlines pay for counter/office space.

5.2 Minimum Annual Guarantee

For the first Agreement Year, the Minimum Annual Guaranteed Fee or "MAG" amount payable by Licensee to the County shall equal $150,112.00. Beginning with the second (2nd) Agreement Year and continuing thereafter, the MAG shall be adjusted for each Agreement Year to equal eighty-five percent (85%) of the License Fee paid in the prior Agreement Year. Notwithstanding the foregoing, the MAG will never be less than the first Agreement Year.
Although each new MAG will be effective as of the first day of each Agreement Year the County will not finalize calculation of the new MAG until sometime thereafter. Once the new MAG has been calculated by the County, based upon information supplied to the County by Licensee, the Airport Director will send Licensee written notice of the new MAG amount. Licensee shall then pay the County any additional License Fee due based on the difference between the License Fee as calculated under the previous Agreement Year’s MAG compared to the new MAG. The County will credit Licensee if there is a credit due based on that same calculation within thirty (30) days of the date of the Airport Director's written notice.

Immediately upon the Licensee’s receipts of revenues from its activities hereunder, such funds representing the Minimum Annual Guarantee amounts or percentage fees, and other fees and charges payable to the County under the terms of this Agreement, shall be vested in and become the property of the County and the Licensee shall hold and be responsible for said funds as a Trustee thereof until the same are delivered to the County.

5.3 Minimum Annual Guarantee Abatement

In the event that the total number of scheduled deplaning airline passengers at the Airport for any month during the Term of this Agreement declines to a level lower than seventy-five percent (75%) of the number of deplaning passengers for the corresponding month of the previous Agreement Year, Licensee’s MAG shall be abated by a percentage equal to the percentage decrease in such deplaning passengers, for each month during which deplaning passengers remain at a level less than seventy-five percent (75%) of the deplaning passengers for the corresponding month of the previous Agreement Year. Licensee shall continue to pay the License Fee for each month for which the MAG is abated. When monthly deplaning passengers rise to a level at or above seventy-five percent (75%) of passenger deplanements for the corresponding month of the previous Agreement Year, Licensee’s full MAG shall be reinstated. Any MAG abatements under this Section shall be accounted for as part of the Agreement Year Adjustment under Section 5.8.3.

5.4 Gross Revenue

5.4.1 "Gross Revenue"

"Gross Revenue" shall be determined by the total of charges on the face of the customer's rental agreement, less any charges excluded in the definition of Gross Revenues, and shall mean, unless specifically excluded herein all amounts paid or payable to or considerations of determinable value received by Licensee, after any discounts are deducted at the time of rental, for:

(a) all charges, including, but not limited to, time and mileage charges and separately stated fees (including but not limited to license recovery or recoupment fees) for rental of vehicles and other related or incidental services or merchandise, including but not limited to, ski racks, navigation units, car seats, refueling charges and any other items or services, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned;

(b) all amounts charged to the customer for insurance offered by Licensee incidental to the rental of such vehicles, including but not limited to personal accident insurance;
(c) all charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location;

(d) all proceeds from the long-term lease of vehicles from any location on the Airport;

(e) all amounts charged to Licensee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Licensee of its right to recover from customer for damage to or loss of the vehicle rented;

(f) all amounts charged to Licensee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/ or replacing fuel provided by Licensee;

(g) all amounts charged by Licensee, and described under Section 5.6 as a pass-through to its customers of License Recovery Fees; and

(h) Membership fees associated with car-sharing brands operating at the Airport.

Gross revenues or gross receipts to the Licensee shall be deemed received at the time the sale, lease or service transaction occurs giving rise to Licensee’s right to collect said monies, regardless of whether said transaction was conducted in person, by telephone, electronically, by mail or by any other method of information transmission, whether the transaction was for cash or credit, and of for credit, regardless of whether the Licensee ultimately collects the monies owed for said transaction from the customer involved. Any gross revenues or gross receipts included in the formula for determining percentage fees owed the County and determined by Licensee at a later date to be uncollectible shall not offset future percentage fees owed the County. If the initial rental car contract entered into between Licensee and a rental car customer is subsequently amended, solely because the customer’s actual time and mileage usage contemplated by the original contract, and the charges to be paid by the customer are therefore different from the charges contemplated by the original contract, the percentage of gross revenues that the County is entitled as fees hereunder shall be based upon the gross revenues that the Licensee actually receives or is entitled to receive, under the amended rental car contract with its customer.

5.4.2 Exclusions from Gross Revenue

The following shall be excluded from Gross Revenues:

(a) any federal, state, City or County sales or other taxes or surcharges separately stated on the customer’s rental agreement and collected from customers of Licensee and paid in full by Licensee to the taxing authority;

(b) Amounts Licensee receives, or is entitled to receive, for the sale (other than "rent to own" program vehicle sales rental amounts), disposition, loss, conversion, or abandonment of Licensee’s used automobiles and other equipment, personal property, and trade fixtures not in the normal course of the commercial rental car business permitted hereunder;

(c) amounts which Licensee receives, for the repair of damages to its automobiles and other equipment, personal property, and trade fixtures; including revenue from the wholesale transfer of salvage vehicles;
(d) Customer Facility Charges;

(e) all non-revenue rentals to employees of Licensee;

(f) Payment and administration of parking tickets, tolls, towing and impound fees, traffic and red-light tickets;

(g) mandatory fees shown on the customer rental agreement, paid to other governmental agencies, excluding the County, relating to transactions at the Airport; and

(h) net corporate discounts applied at the time the rental contract is closed but only to the extent Licensee provides auditable proof to County that discount or rebate is specifically attributable to rental agreement with Airport customer.
5.4.3 Retroactive Adjustment of Gross Revenue Prohibited

The retroactive adjustment by Licensee of Gross Revenues designated by Licensee as volume discounts, corporate discounts or any other designation of any nature, or for any purpose, is prohibited.

5.5 Obligations Regarding Fees

5.5.1 Licensee shall:

5.5.1.1 Take all reasonable measures to maintain, develop and increase Licensee’s car rental business at the Airport;

5.5.1.2 Not divert, or cause or allow the diversion of, any business from the Airport.

5.5.1.3 Permit inspection during ordinary business hours by the County or the County’s representatives of any sales equipment used by the Licensee, including but not limited to cash registers, recording tapes, point of sale equipment and computer sales terminals, provided that the County shall take all reasonable precautions to ensure that its inspections under this subsection do not unnecessarily disrupt Licensee’s business operations.

5.5.1.4 Maintain full and accurate books of account and records from which “gross revenue” and “gross receipts,” as defined herein, the amount and nature of all business transacted on or through the Airport location, and the amount of percentage rental owed the County hereunder, can be determined and verified, according to standards and accepted accounting and auditing practices. The books of account and records that Licensee must maintain shall include, but need not be limited to, legible, true and accurate copies of all written and electronic records and reports kept in the normal course of Licensee’s business including, without limitation, all motor vehicle rental contracts and cancelled contracts forms, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursements journals, general ledgers, bank statements, bank books, bank deposits slips, annual federal income tax returns, state sales tax returns and all Airport related revenues reported submitted by Licensee to its franchisor and all computer and/or electronic reproductions of the above. These books and records shall be maintained on a current basis and shall be stored for a period of at least thirty-six (36) months from the end of each monthly period, or for such longer period time as County reasonably may direct in writing. If such records are not stored within Pitkin County, it shall be Licensee’s responsibility, at its expense, to promptly make such records, upon request, available to County, or its representatives, in a time, manner and format to the satisfaction of the County, in its reasonable discretion.

5.5.2 Licensee’s financial record keeping and reporting systems for all business conducted on or through the Airport location or subject to this Agreement shall include, without limitation, as follows:

(a) Complete, accurate and legible copies of all automobile rental contracts.

(b) Adequate financial controls, under generally accepted accounting principles and auditing standards, to ensure complete and accurate recording and reporting of all revenues, including commissionable revenues.

(c) Any other documents or procedures which, in the reasonable discretion of the County, are necessary or useful to determine or verify Licensee’s obligations hereunder. Such new documents
or procedures shall be used or instituted a reasonable time after written notice thereof has been sent by County to Licensee.

5.5.3 The County may, annually, at the end of the term herein, or upon a request by Licensee of assignments of its rights hereunder, unless expressly waived by the County, conduct audits of Licensee’s books of accounts and records, which audits shall be conducted upon reasonable notice to Licensee and during normal weekday business hours. For purposes of this License and Use Agreement, the annual audit period shall be deemed to commence on January 1st of each year of the Agreement and to conclude on December 31st. In performing said audits, County shall be entitled to review, and Licensee shall be obligated promptly to provide to the County upon demand therefore, all of the books of account and records that Licensee is obligated to maintain pursuant hereto, as well as other records, documents and files in Licensee’s possession, custody or control during the term hereof that the County, or its auditor, determines, in its sole discretion, are useful, relevant or necessary to determine or verify the correct amount of reportable, includable and excludable revenues, and gross receipts enjoyed by Licensee, and the correct amount of percentage rental owed by Licensee to the County, for the period involved. Should Licensee fail to maintain the books of account and records required to be maintained pursuant hereto, or should Licensee fail to deliver and enable the County or its auditor to review Licensee’s books and records, and other documents and files, as required by this subparagraph, said default is agreed by the parties to be a material breach of this Licensee Agreement and Licensee shall pay, as liquidated damages for such breach, an additional amount equal to fifty (50%) percent of the verifiable costs, fee, payments and changes due from Licensee hereunder for the period in question; provided, however, that Licensee shall only pay these damages for failure to keep required records if such requirements are reasonable in light of Licensee’s business practices (as such practices may be modified by a County request hereunder) and generally accepted accounting principles and auditing standards.

5.5.4 If any audit shows percentage compensation and other fees and changes that should have been paid to the County by Licensee pursuant to this Agreement were understated or underpaid for any period involved (including, expressly, revenues from business), Licensee shall, within thirty (30) day notice by County of any such deficiency, pay to the County the full amount underpaid, plus two percent (2%) interest per month, calculated as provided above, and such underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. If the amount of underpayment exceeds two (2%) percent of the total percentage compensation that was owed by Licensee to the County for the period involved, Licensee, in addition to paying the County the underpayment owed and the interest accrued thereon, shall within thirty (30) days’ notice by County reimburse the County for the cost of the audit. If the audit discloses overpayment of the percentage compensation paid to the County by Licensee, the County shall refund the amount of overpayment to Licensee, within thirty (30) day of said audit.

5.5.5 The County shall hold all information obtained from any such audit in confidence, except as may be necessary to enforce the County’s rights under this Agreement, except with respect to tax proceedings, and except with respect to any legal requirements or Court Order to disclose said information.

5.5.6 One Hundred Eighty (180) days after Licensee’s annual audit report has been received by the County or, whichever is later, the date all supplemental documents requested by the County have been received by the County, the County shall release Licensee from any liability for underreporting or underpayment hereunder, unless the County shall have given written notice,
within that period, of any claims for inadequate or deficient reporting or payment. Once such notice is given, the parties shall expeditiously and in good faith cooperate to resolve the matters contained in the notice(s).

5.5.7 Prior to any assignments, conveyance or transfer by License of this License or any rights or obligations hereunder requiring approval of the County as required below, the County shall be entitled to an audit as defined here in above at the sole expense of the Licensee.

5.6 License Recovery Fee

Licensee acknowledges that License Fee payments by Licensee to the County under this Agreement are for Licensee's privilege to access the Airport market and are not fees imposed by the County upon Licensee's customers. The County does not require, but will not prohibit, a separate statement of a License Recovery Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions:

(a) such Percentage Fee pass through must be titled "License Recovery Fee" or "License Recoupment Fee";
(b) the License Recovery Fee or License Recoupment Fee must be shown on the customer rental agreement and invoiced with other Licensee charges;
(c) the License Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven hundredth percent (11.11%) of Gross Revenues;
(d) Licensee shall neither identify, treat, or refer to the License Recovery Fee or License Recoupment Fee as a tax, nor imply that the County is requiring the pass through of such fee;
(e) if Licensee elects to include the License Recovery Fee or License Recoupment Fee on its customers' rental agreement, it will be considered part of Gross Revenue; and;
(f) Licensee shall comply with all applicable laws, including Federal Trade Commission requirements.

5.7 Monthly Statements

5.7.1 General Requirements

Licensee shall submit to the County a Monthly Statement of Gross Revenue to include a calculation of the License Fee and a report of the number of closed rental transactions ("Monthly Statement") by the twentieth (20th) day of each month following the month covered by the Monthly Statement. The Monthly Statement shall be submitted on a form substantially similar to the Monthly Statement form in Exhibit “B”. The County reserves the right to revise the form and reporting requirements as needed. The accuracy of the Monthly Statement shall be certified by the affidavit of Licensee's chief financial officer, or the chief financial officer's designee. The certification shall be placed on the face of or attached to the Monthly Statement.

5.7.2 Liquidated Damages

The parties recognize that the County will incur additional administrative costs if Licensee is late in providing the monthly statements required by this Section 5, and that the amount of those costs is difficult to determine with certainty. Consequently, the parties agree that Licensee shall pay the County $100.00 as liquidated damages each time Licensee is more than 10 calendar days late in submitting the monthly statement required by this section. The sums set forth herein as
liquidated damages are not a penalty, but are reasonable estimates of the costs the County will incur for Licensee’s non-compliance.

5.8 Payments

5.8.1 Monthly Payment

By the first day of each month during the term of this Agreement, Licensee shall pay to the County in advance the monthly allocation of its MAG as shown in Exhibit E, plus all other fees due monthly under this Agreement.

5.8.2 Payment of Excess

By the twentieth (20th) day of each month during the term of this Agreement, and of the month following the expiration or termination of this Agreement, Licensee shall pay to the County any amount by which the monthly installment of the License Fee for the preceding month exceeds the MAG payment as provided in Section 5.8.1.

5.8.3 Annual Adjustment

An adjustment shall be made at the end of each Agreement Year so that Licensee's payment for the Agreement Year is the greater of the MAG for that year or ten percent (10%) of Licensee's Gross Revenue for that year. Any credit to which Licensee is entitled as a result of the adjustment shall be credited against the annual installment of the License Fee for the first month of the following Agreement Year, except that any credit to which Licensee is entitled at the end of the final Agreement Year shall be paid by the County within 30 calendar days after the County receives Licensee's final monthly Statement of Gross Revenue with License Fee Computation.

5.8.4 Method of Payment and Interest

Licensee shall make payments due under this Agreement automatically, including but not limited to interest accrued on late payments. Payments under this Agreement shall be by wire, draft, or check on a bank authorized to engage in banking in the United States, shall be payable to the County in U.S. dollars, and shall be delivered to the Aspen-Pitkin County Airport, 0233 E. Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. Payments shall be made without abatement, offset, or deductions.

Payments not received by the twentieth (20th) day of each month, as described above, shall be subject to a late penalty of ten (10%) percent of the amount due, or ten ($10) dollars, whichever is more, which shall be added to the principle then due and owing. If still unpaid for 30 days after the delinquency date, a late fee of 2.0% per month will be added. In the event of any delinquent fees or changes hereunder, and to the extent thereof, including late charges and interest, the Airport shall be entitled to a lien for such amounts on licensee’s trade fixtures, furniture, and equipment in use at or located at the Airport.
5.9 Annual Audit and Annual Statements

5.9.1 Annual Statement

Within ninety (90) calendar days after the end of each Agreement Year, Licensee shall, at its sole expense, shall prepare and deliver to the County an Annual Statement of Gross Revenue including a calculation of its License Fee ("Annual Statement"). The Annual Statement shall be prepared in accordance with generally accepted accounting principles. If an Annual Statement discloses that Licensee owes additional amounts to the County, Licensee shall pay those amounts when it delivers the Annual Statement to the County. Each Annual Statement shall be accompanied by the opinion of an independent Colorado Licensed certified public accountant ("CPA"); a state-licensed CPA acceptable to the County, in its reasonable discretion; or Licensee’s Chief Financial Officer establishing that the:

5.9.1.1 CPA or Licensee’s Chief Financial Officer has examined the Annual Statement and any supporting documentation in accordance with generally accepted auditing standards and the terms of this Agreement, and using appropriate tests of accounting records and other auditing procedures deemed necessary under the circumstances; and

5.9.1.2 Annual Statement fairly presents Licensee's Gross Revenue for the Agreement Year in question.

5.9.2 Within ninety (90) days after the end of each calendar year and at the expiration of the License term and prior to the assignment of Licensee's rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year, for the purpose of greenhouse gas emissions evaluations: the number of vehicles rented at the Airport and returned elsewhere, the number of vehicles rented elsewhere and returned to the Airport, amount of fuels dispensed on a quarterly basis at the Airport, inventory as of January 1/December 31 each year by vehicle class, either using EPA vehicle class or market class, and the number of miles traveled by each rental vehicle returned at the Airport by vehicle class, and average MPG per vehicle class for vehicles in the fleet inventory.

5.10 Customer Facility Charge ("CFC")

5.10.1 Collection of CFC

5.10.1.1 Licensee shall collect a Customer Facility Charge ("CFC") from its Airport Customers. All CFC revenue collected by Licensee shall be a debt owed to the County by Licensee.

5.10.1.2 County agrees to use CFC revenue to fund certain capital projects and to accomplish additional projects designed to facilitate major customer service improvements at the Airport. As of the date of this Agreement, the CFC rate is set at $5.50 per transaction day. The County reserves the right to adjust the CFC rate after consultation with the Licensees and providing a ninety (90) day written notice of adjustment.

5.10.2 Monthly Activity Report

On or before the twentieth (20th) day of each month following the first calendar month after the Commencement Date and every calendar month thereafter during the Term, Licensee shall provide to the Airport Director as part of the monthly Statement of Gross Revenue Report (see
Section 5.7.1 of this Agreement), Licensee’s total number of vehicle rental contracts, the total number of rental transaction days, and the total CFC revenue collected for the past monthly period. Licensee shall submit such report for each month during the Term, regardless of whether Licensee actually entered into any vehicle rental contracts during any such month. If the monthly activity report is not provided on or before the twentieth (20th) day of each month as required herein, Licensee shall pay a late reporting fee as provided in Section 5.7.2. County’s assessment of the delinquency fees shall be in addition to any other remedies that County may have in law or in equity, including termination and revocation of this Agreement and of all rights and privileges granted therein.

5.10.3 Payment to County of CFC Revenue

All CFC revenue collected by Licensee for the past monthly period are due and payable to County with the Monthly Activity Report on or before twentieth (20th) day of each month and shall be deemed delinquent if not received by County on or before the twentieth (20th) day. In the event that County does not receive payment on the due date, Licensee shall pay interest thereon from the due date until the date that full payment is received ("payment date") at two percent (2.0%) per month or the maximum interest rate then allowed by law. County reserves the right to audit any monthly activity reports and payments based upon such reports. Acceptance of any payments hereunder shall not operate as a waiver of County's right to collect CFC revenue determined to be due and owing. County’s assessment of the late payment fee shall be in addition to any other remedies County may have in law or in equity, including termination and revocation of this Agreement and all rights and privileges granted therein.

All CFC revenue shall be paid by check made payable to “Pitkin County” and delivered to the Aspen-Pitkin County Airport, 0233 E. Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. All such CFC revenue payable by Licensee shall be in lawful money of the United States of America and in same day funds as of the due date.

6. LICENSEE'S OTHER OBLIGATIONS

6.1 Capital Additions by Licensee

6.1.1 Duty to Provide and Maintain

Licensee shall provide and maintain, at its own expense, all proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, and furnishings necessary for the effective and efficient operation of its rental car business at the Airport.

6.1.2 County and Licensee Coordination

Licensee shall work with and coordinate its activities with the County, other rental car Licensees, and Airport planners, designers, architects, engineers, contractors and subcontractors.

6.2 Plans and Specifications; Compliance with Law; County Approval

6.2.1 County Approval of Proprietary Capital Additions

No Proprietary Capital Additions, improvements or installations shall be made, removed, demolished, or relocated in the Licensee Operating Area without the Airport Director's prior written approval. The County may require plans and specifications and the issuance of a permit
from the County. All Proprietary Capital Additions, improvements and installations shall conform to the County's design criteria and architectural requirements of the County.

Any proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, furnishings, improvements or alterations to the Lessee’s Operating Area and to the buildings thereon with respect to which County has given its written consent, shall be done at Licensee’s sole cost and expense and Licensee shall not cause or permit any statutory claims or liens to be filed against the Lessee’s Operating Area or against the buildings or other improvements thereon by reason thereof and hereby does indemnify the County against all costs and liabilities arising from such claims or liens filed as a result of Licensee’s activities.

6.2.2 Compliance with Laws and Building Codes

Licensee shall ensure that all Proprietary Capital Additions, improvements, equipment, furnishings, fixtures and tenant finishes constructed or installed by Licensee, or Licensee's contractor, conform in all respects to applicable federal, state, and local laws, rules, and building codes; the County's approval shall not be construed as a representation or warranty of conformance. The County may withhold approval based upon, among other grounds, engineering, architectural, airport safety/security operational impact, or aesthetic considerations.

6.3 Taxes

6.3.1 Duty to Pay Taxes

Unless exempt, Licensee agrees to pay, before becoming due, all taxes, assessments, user fees and other charges, however named, which, during the term of this Agreement, may become due or a lien or which may be levied by the state, County, city, district or any other body upon the Licensee Operating Area or improvements in the Licensee Operating Area, or upon any taxable interest of Licensee acquired in this Agreement, or any taxable possessory right which Licensee may have in or to the Licensee Operating Area or the improvements thereon by reason of its occupancy thereof, as well as all taxes on all taxable property, real or personal, owned by Licensee in or about the Licensee Operating Area (collectively, "Taxes"). Upon request from the County, Licensee shall give to the County a copy of the receipts and vouchers showing such payment. Notwithstanding the foregoing, Licensee reserves the right to contest such taxes in good faith and Licensee will provide County with advance notice that it will be contesting such taxes.

6.4 Maintenance and Repairs

Except for the maintenance or repair obligations assigned to the County by the maintenance and repair responsibility matrix attached as Exhibit “C”, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly. Licensee shall not cause nor, when advised thereof by the County, permit any dangerous or hazardous condition or nuisance to exist related to the use and occupancy of its Operating Area as granted herein.
6.4.1  Airport Airline Terminal and Licensee Counter/Office Area

With respect to the maintenance and repair of the Airport Terminal and areas, including the rental car ticket counter and office locations, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the structure and exterior of the Terminal and the interior common areas including utilities and heating, ventilation and air conditioning systems in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain the remainder of its Operating Area, including the interior of the buildings and any structures or facilities used by Licensee, in good repair in a picked-up, neat, orderly and safe condition and in accordance with first-class maintenance practices and in common with other users of Licensee’s classification. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.2  Ready/Return Area

With respect to the maintenance and repair of the Ready/Return Area, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the pavement, pavement markings, lighting, landscaping and sidewalks in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain all signage in good condition and repair. Licensee shall promptly remove all rubbish, debris, or waste materials from the Ready/Return Area. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.3  Rental Car Storage and Service Facility Area

The entire cost of operation, management, maintenance, care and any necessary repair or replacement of the Service Facility or its equipment shall be borne jointly by Licensees. The Service Facility shall be kept in good order and Licensees shall make all necessary repairs and replacements thereof promptly and in a good workmanlike manner. No rubbish, debris, waste materials shall remain on any part of the Service Facility or be disposed of improperly.

Licensees agree to (1) share in the costs of operating and maintaining the automatic car wash and fuel farm, based on each Licensee's actual use of the cash wash and fuel farm on a per wash and per gallon basis; (2) share in other costs of operation and maintenance of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year; and (3) share in the costs of repair and replacement of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year.

Within 45 days of the effective date of this Agreement, and on each anniversary date of the effective date of this Agreement, the Licensees will agree by a Majority-in-Interest vote on a Manager of the Service Facility and its duties (the "Manager") and enter into a Management Agreement with said Manager, the terms of which shall be subject to County approval, which approval shall not be unreasonably withheld. Manager shall be responsible for the day-to-day maintenance, oversight, and operation of the Rental Car Storage and Service Facility Area. Within sixty (60) days of the effective date of this Agreement, Manager shall prepare and implement a preventative maintenance program for the car wash, fuel facility, and associated equipment. The scope of this preventative maintenance program shall be subject to County approval, which
approval shall not be unreasonably withheld and a copy shall be retained for use by the County in determining Licensees obligations to maintain the Service Facility.

6.4.3.1 Special Conditions Regarding Fuel Facility

The Fuel Facility shall be used only for the purpose of dispensing fuel to automobiles authorized by a current or successor License and Use Agreement to be stored on and rented from the Airport. No fuel from the Fuel Facility shall be sold, bartered or exchanged or otherwise dispensed to anyone other than an authorized On-Airport rental car company.

In the maintenance and operation of the Fuel Facility on the Premises, the Licensees shall pay all tank fees and otherwise strictly comply with all applicable laws, regulations and guidelines, including Sections 8.-20.5-101 et seq. C.R.S. as they now exist and may hereafter be amended. Licensees shall maintain the Fuel Facility free of contamination and shall remove and properly and legally dispose of all contaminated material provided, however, that Licensee shall not be liable for such contamination or removal if not placed in, on or under the Fuel Facility directly by Licensee, its employees, agents, officials, agents, representatives, and guests.

Licensees shall, at their expense, take such actions and make such modifications, repairs and improvements on or to the Fuel Facility as may be necessary to comply with laws or regulations then in effect, and to qualify the Fuel Facility for federal and state sponsored insurance or indemnity coverage. To the extent that state or federal insurance coverage is not available, and to the extent of any deductible of such coverage, Licensees shall insure the Fuel Facility and its operation thereof against damages for personal injury or property damage to the limits specified in this Agreement.

6.4.4 Duty to Maintain

Except for the maintenance or repair obligations assigned to the County, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly.

6.4.5 Quality

All maintenance and repairs shall be of first-class quality in both materials and workmanship, and shall comply with all applicable federal, state, and local laws, rules, and codes.

6.4.6 Remedies

If Licensee fails to undertake maintenance, repairs, or replacements required under this Agreement, the Airport Director may give Licensee written notice of the failure. If Licensee fails to undertake the maintenance, repairs, or replacements described in the notice within a time that is reasonable under the circumstances, but in no event longer than 30 calendar days after receiving the notice, the County may perform the work and recover the cost of performance from Licensee. The cost of the County’s performance shall include direct costs and overhead. The County's remedy under this subsection is in addition to any other remedies the County may have under this Agreement or otherwise. If Licensee's failure to undertake maintenance, repairs, or replacements is a material breach of this Agreement, the County’s exercise of its remedy under this subsection shall not preclude the County from exercising remedies for Licensee's default.

6.5 Janitorial Costs
Licensee shall at all times at its expense, keep its Operating Area, including all of the improvements installed by it, together with all of its fixtures, equipment and personal property therein clean from all trash and other debris and in an orderly condition and appearance and shall keep the areas immediately adjacent to its Operating Area and to the exits and entrances to the Operating Areas clean and free of obstructions.

Licensee shall be responsible for providing janitorial services in the Rental Customer Service Space. After written notice of a violation and failure of the Licensee to meet compliance, associated cost of any janitorial services and/or clean-up will be billed to the Licensee.

6.6 Utilities

County shall, at no additional cost to Licensee, provide electrical service, common heat, trash removal from areas open to the public, lighting and ventilation in connection with the Licensee’s counter in the Airline Terminal. All other utility services and charges, including telephones, shall be provided by Licensee at its own cost. Licensee shall permit no liens or claims against its Operating Area arising from unpaid or disputed utility bills and hereby does indemnify the County from costs or liabilities arising therefrom. If, during this License term, the Airport is required to increase its water, sewer, gas or electrical service and such increase requires a capital contribution from the Airport, Licensee, if it consumes the increased utility, agrees to pay a pro-rated, reasonably-amortized portion of said increase, which amount will be set by agreement or binding arbitration before the Pitkin County Hearing Officer.

6.7 Trash and Refuse

Licensee shall provide for the neat and sanitary handling of all trash and other refuse generated as a result of Licensee's rental car business and its use and occupancy of its Operating Area. Licensee shall provide and use suitable covered fireproof receptacles for all trash and other refuse. Licensee shall not permit boxes, cartons, barrels, pallets, or other similar items to be piled or stored in view of a public area. If Licensee allows dust or debris to be generated or accumulated in the Operating Area to the extent they may be blown about within the Operating Area or blown from the Operating Area to other parts of the Airport, Licensee shall pay to the County $50 in the first instance in an Agreement Year, $150 in the second instance, and $500 in each instance thereafter in the same Agreement Year. In addition, Licensee shall reimburse the County for any costs incurred by the County to remove or suppress the dust or debris.

6.8 Hazard, Potential Hazard, Nuisance, or Annoyance

Licensee shall correct any hazardous or potentially hazardous condition, nuisance, or annoyance caused by Licensee in its Operating Area immediately upon receipt of oral or written notice from the Airport Director, or his designee. The Airport Director, or designee, may order the closure of the Licensee’s Operating Area until the corrective action is complete. Licensee shall maintain adequate emergency spill equipment and absorbent material commensurate with the quantity and materials used in day to day operations to practically as possible remediate any negligent spill of hazardous, toxic, or environmentally threatening on site substances. The Licensee shall follow applicable environmental regulations along with the County prepared and maintained Storm Water Pollution and Prevention Plan (SWPPP) and Spill Prevention and Control and Countermeasure (SPCC) plan documents. Licensee shall be responsible for training its employees on all applicable environmental regulations along with the SWPPP and SPCC plan and maintain and coordinate emergency contact information with the County’s
Public Safety Department Communication Center, in case of emergencies.
6.9 Snow Removal

Licensee shall at Licensee’s own expense, remove snow from all portions of its Operating Area, including the removal of snow on, under, and around parked vehicles, the buildings, walkways, and other portions of its Operating Area in accordance with the Airport Snow Removal Plan. County, at its sole discretion, may assist with snow removal from Licensee’s Operating Area; provided, that County shall not be required to move or relocate parked vehicles to accomplish such snow removal. The Airport Director shall authorize the County to assist with snow removal from Licensee’s Operating Area.

6.10 Security

The County provides law enforcement for the Airport. Licensee may provide whatever additional security it may wish at its own cost, provided that the additional security is subject to approval by the Airport Director. Security provided by Licensee shall be subject to the authority of the County Sheriff and shall in no way hinder or interfere with the duties of those officers.

6.11 Deliveries

All rental car fleet vehicle deliveries and transfers by Licensee at the Airport will be in a manner and location approved by Airport Director in writing. Costs to repair access road and driveway damages due to a Licensee’s delivery of fleet vehicles, or other airport facilities, shall be reimbursed to the County by the specific Licensee who is requiring such delivery.

7. DISADVANTAGED BUSINESS ENTERPRISES

The County is required by 49 USC 47104(e) and 49 CFR Part 23 to ensure nondiscrimination in the provision of opportunities for disadvantaged business enterprises at the Airport. It is the policy of the County and the FAA that airport concession disadvantage business enterprises (ACDBE) shall have the maximum opportunity to participate in any activity, service or facility at the Airport under agreement, lease, contract with or franchise from the County. Licensee shall agree to make good faith efforts to ensure that business concerns owned and controlled by socially and economically disadvantaged individuals as defined in the U.S. Department of Transportation’s regulations, 49 CFR Part 23 and 26, as amended, participate in at least 1% of the activity, service or facility provided by a Licensee during the entire term of this Agreement by means of a joint venture, partnership, franchise or any other legal arrangement that results in bona fide ownership and control of the activity, service or facility.

If the Licensee is unable to achieve this goal under joint venture, partnership, franchise or similar legal arrangement, the Licensee shall seek to obtain the required DBE participation by other means, such as the purchase of goods, services, supplies and/or products from certified ACDBE vendors. In the event that the Licensee qualifies as a certified ACDBE, the agreement goal shall be deemed to have been met.

Within ninety (90) days after the end of every calendar year, and at the expiration of the License term and prior to the assignment of Licensee’s rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year: the name and address of each certified ACDBE with which they have done business during the past year, a description of the nature of the services performed by and/or items purchased from each firm named, and the dollar value of each transaction. If Licensee fails to achieve the 1% goal stated
herein for the purchase of goods and services, it will be required to provide documentation demonstrating that it made good efforts in attempting to do so.

8.  **RIGHT TO ENTER**

The County shall have the right to enter Licensee's Operating Area to:

(a) Inspect, at reasonable times during Licensee's regular business hours, or at any time in case of emergency, to determine whether Licensee is in compliance with the provisions of this Agreement;

(b) Perform any of Licensee's obligations under this Agreement that Licensee has failed to perform after reasonable notice to do so, including but not limited to maintenance, repairs, and replacements in Licensee's Operating Area. The County may recover the cost of non-performance from Licensee;

(c) Exercise County's police power; and

(d) Respond as appropriate to any emergency.

9.  **COUNTY OBLIGATIONS**

9.1  **Warranty on Rights of Use**

The County warrants that it is the owner of the Licensee’s Operating Area and has the right to grant the rights to use the Licensee’s Operating Area under the terms of this Agreement. Provided that Licensee performs all of its obligations under this Agreement, and except as otherwise provided by this Agreement, Licensee's rights under this Agreement will not be disturbed by the County or the County's employees, contractors, or agents.

9.2  **Construction Disruption**

The County shall attempt to minimize but has no responsibility for disruptions of Licensee’s operations or temporary interruptions of Licensee’s use of any part of its Operating Area due to construction activities by the County or the County’s contractors.

10.  **INDEMNITY, INSURANCE, FINANCIAL SECURITY, AND ENVIRONMENTAL REQUIREMENTS**

10.1  **Indemnity**

10.1.1  **Duty to Indemnify**

Licensee (including, by definition here and hereinafter, its officials, employees, agents and representatives, sub, Licensees and suppliers), shall and hereby does release, discharge, indemnify and hold harmless the County of Pitkin and its officials, employees, agents and representatives from and against liability for any claim, demand, loss, damages, penalty, judgment, expenses, costs (including costs of investigation and defense), fees (including reasonable attorney and expert witness fees) or compensation in any form or kind whatsoever for any bodily injury, death, personal injury, or property damage arising out of or in connection with any negligent act, intentional act, error or omission by the Licensee, and for any consequential liability alleged to accrue against the County on account of the Licensee's acts, errors or omissions; provided, however, that such indemnity shall not be construed as an indemnity for death, personal
injury, bodily injury, or property damage arising from the sole negligence of the County or its employees.

The Licensee further shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the County, its officers, agents, and employees. Licensee shall indemnify and hold the County harmless from and against any hazardous materials or environmental requirements, damages or claims. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers, agents, and employees.

It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Agreement and the remaining language shall be given full force and effect.

10.1.2 Environmental Indemnity

Without in any way limiting the generality of any general indemnity required under this Agreement, Licensee shall be solely responsible for and agrees to defend (using legal counsel acceptable to the County), indemnify and hold harmless the County from and against all Environmental Costs claimed against or assessed against the County or incurred by the County arising, in whole or in part, directly or vicariously, from acts or omissions of Licensee, its agents, employees, or independent contractors at or about the Licensee’s Operating Area after the Effective Date of this Agreement or earlier if caused by Licensee. This indemnification shall require Licensee to reimburse the County for any diminution in value of its Operating Area or other adjacent or nearby County property, caused by Hazardous Substances arising out of or caused by, in whole or in part, directly or vicariously, from acts or omissions from Licensee's use of the its Operating Area, including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Licensee’s Operating Area, or any other County property, including damages arising from any adverse impact on marketing of space in or near the Licensee’s Operating Area, including other County property, including lost revenues. Licensee's obligations shall not apply if the Hazardous Substances were deposited on its Operating Area by the County or the County's agents, or any other person or entity other than Licensee. Notwithstanding the foregoing, Licensee shall not be responsible for, and does not indemnify the County for, environmental damage or a violation of any Environmental Law on the Licensee’s Operating Area due to the County’s sole negligence.

10.1.3 Scope of Duty

The claims, damages, suits, actions, liabilities, and expenses encompassed by Licensee's duty to indemnify, defend, and hold harmless under this section shall include without limitation civil and criminal fines or penalties, natural resource damages, response costs, health study costs,
and remediation costs imposed by a governmental agency or as the result of a citizen's suit brought under a federal, state, or local environmental law.

10.2 Insurance

10.2.1 Insurance Requirements

Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Licensee from liabilities that might arise out of this Agreement. Licensee is free to purchase such additional insurance as Licensee determines necessary.

10.2.2 Minimum Scope and Limits of Insurance

Licensee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and liability assumed under an Insured Contract including defense costs.

a. The policy shall be endorsed to include the following additional insured language: "The County, its elected officials, trustees, employees, agents, and volunteers shall be named as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Licensee".

b. A Waiver of Subrogation shall apply in favor of the County, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers.

Minimum Limits:

<table>
<thead>
<tr>
<th>Type</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Aggregate</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Products/Completed Operations Aggregate</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Each Occurrence Limit</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Personal/Advertising Injury</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Fire Damage Expense</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Premises Medical Expense (Each Person)</td>
<td>$10,000</td>
</tr>
</tbody>
</table>

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles.
Minimum Limits:

Bodily Injury/Property Damage (Each Accident) $1,000,000

3. Property Insurance

Policy shall include the following:

a. Property insurance shall be written on a Covered Cause of Loss-Special Form, replacement cost coverage, including coverage for flood and earth movement for Licensee’s improvements and betterments.

b. The County shall be named as a loss payee on property coverage for tenant improvements and betterments.

c. If property coverage on the building is required, "the County shall be named as an Additional Insured-Owner/loss payee".

d. A waiver of subrogation applies in favor of the County for any Lessor Property.

Coverage for Licensee’s Tenant Improvements, Fixtures
Coverage on Building (required if Licensee is sole occupant)
Coverage for Loss of Rents:

100% replacement cost
Amount equal to all Minimum Annual Rent and other sums payable under this Agreement.

4. Business Interruption Insurance

Insuring that the Base Rent will be paid to County for a period of at least one (1) year if Licensee is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Base Rent during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

5. Worker's Compensation and Employers' Liability

Minimum Limits:

Coverage A (Workers’ Compensation) Statutory
Coverage B (Employers Liability) $100,000/each accident
$100,000/Disease
employee$500,000/Disease – Policy Lim

10.2.3 Additional Insured Requirements

The policies shall include, or be endorsed to include, the following provisions:
On insurance policies where the County is named as an additional insured, the County shall be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this Agreement.

10.2.4 Notice of Cancellation

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to: 

*Pitkin County Attorney, 530 E. Main Street, Suite 301, Aspen, CO 81611* with duplicate copy to: 

*Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611.* If any insurance company refuses to provide the require notice, the Licensee or its insurance broker shall notify the County of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers’ notification to that effect.

10.2.5 Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Colorado and with an “A.M. Best” rating of not less than A-VII. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Licensee from potential insurer insolvency.

10.2.6 Verification of Coverage

Licensee shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before this Agreement commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall be sent directly to: 

*Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611.* The Airport, Agreement number, and location description are to be noted on the certificate of insurance.

10.2.7 Approval

Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or County Attorney, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
10.2.8 Other Requirements

1. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis.

2. The Licensee shall provide the Public Entity a Certificate of Insurance evidencing all required coverages, before commencing work or entering public entity premises. A sample of a completed Certificate of Insurance is attached as Exhibit D.

3. The Licensee shall name the Public Entity, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns; its elected officials, trustees, employees, agents, and volunteers as “Additional Insureds” for work that is being performed by the Licensee.

4. Upon request by the County, Licensee must provide a copy of a Certificate of Insurance required by the Agreement.

5. The Public Entity requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the Public Entity.

6. The Licensee shall advise the County in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Licensee will reinstate the aggregate limits to comply with the minimum requirements and shall furnish the County with a new certificate of insurance showing such coverage is in force.

7. Certificates of insurance shall state that on the policies that the Public Entity is required to be named as an Additional Insured, the insurance carrier shall provide a minimum of 30 days advance written notice to the Public Entity for cancellation, non-renewal, or material changes to policies required under the Agreement. On all other policies it is the Licensee’s responsibility to give the Public Entity 30-day’s notice if policies are reduced in coverage or limits, cancelled or non-renewed. However, in those situations where the insurance carrier refuses to provide notice to County, the Licensee shall notify County of any cancellation, or reduction in coverage or limits of any insurance within seven (7) days or receipt of insurer’s notification to that effect.

8. The Licensee agrees that the insurance requirements specified in the Agreement do not reduce the liability Licensee has assumed in the indemnification/hold harmless section of the Contract.

9. Failure of the Licensee to fully comply with these requirements during the term of the Agreement may be considered a material breach of contract and may be cause for immediate termination of the Agreement at the option of the County. The County reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

10.3 Environmental Requirements

10.3.1 Definitions

For the purposes of this Agreement, the following definitions shall apply:

10.3.1.1 "Environmental Laws” shall be interpreted in the broadest sense to include any and all federal, state and local statutes, regulations, rules, permit terms, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals
or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

10.3.1.2 "Hazardous Substances" shall be interpreted in the broadest sense to include any and all substances, emissions, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Laws. “Hazardous Substances” shall also include, but not be limited to, fuels, petroleum and petroleum derived products.

10.3.1.3 "Environmental Costs" shall be interpreted in the broadest sense to include, but not be limited to costs and damages arising from or relating to: (i) any actual or claimed violation of or noncompliance with any Environmental Law; (ii) claims for damages, response costs, fines, fees or other relief relating to matters addressed in any Environmental Law; (iii) injunctive relief relating to matters addressed in any Environmental Law; (iv) Hazardous Substance; and (v) violations of any environmental provisions of this Agreement. Costs and damages as used in this section shall include but not be limited to: (a) costs of evaluation, testing, analysis, clean-up, remediation, removal, disposal, monitoring and maintenance; (b) costs of reporting to or negotiating with any government agency; (c) fees of attorneys, engineers, consultants, and experts, whether or not taxable as costs, incurred at, before or after trial, appeal or administrative proceedings; (d) lost revenue; and (e) diminution of value, loss, or restriction on use of property.

10.3.1.4 "Hazardous Substance Release" shall be interpreted in the broadest sense to include the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except as authorized by a then current permit issued under applicable Environmental Laws.

10.3.2 General Environmental Obligation

Licensee shall manage and conduct all of its activities, and the activities of its employees, agents, contractors and invitees, on or relating to its Operating Area (i) in compliance with all Environmental Laws and the Environmental provision of this License and Use Agreement, (ii) in a manner designed to protect the environment, (iii) in cooperation with the County in the County’s efforts to comply with all Environmental Laws, and (iv) in adherence with best management practices of Licensee’s industry and activities. As used herein, “Best Management Practices” shall mean those environmental or operational standards applicable to a particular business or industry group as a matter of common and accepted practice or as articulated by all or some of the following: Trade associations or professional associations for the particular business or industry group; the business or industry group’s own standard operating procedures; and those Best Management Practices specifically defined or identified for a particular business operation or industry group by regulatory agency guidelines. Licensee shall be responsible for ascertaining which Environmental Laws govern its activities on or relating to its Operating Area and shall be responsible for maintaining a current understanding of such Environmental Laws throughout the Term. Licensee shall manage and, as appropriate, secure its Operating Area and its occupation or use of the same so as to prevent any violation of Environmental Law by Licensee, its employees, agents, contractors, vendors and invitees on or relating to its Operating Area.
10.3.1 Storage Tanks

No underground or above ground tanks for the storage of Hazardous Substances shall be installed or operated on the Operating Area, except with the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion.

10.4 Environmental Audits
10.4.1 Special Audit.

If the County, at any time during the term of this Agreement or any extension thereof, has reason to suspect that Hazardous Substances are being or have been used, handled, stored, generated, created, disposed, placed and/or transported contrary to the requirements of this Agreement, in violation of Environmental Laws or in any manner that has resulted, or is likely to result, in a Hazardous Substance Release, the County may, without limiting its other rights and remedies, require Licensee to conduct, and furnish to the County, at Licensee's sole expense, an environmental audit of its Rental Car Service Facility, and/or Ready Return Spaces with respect to the environmental matters of concern to the County (each, a "Special Audit"). If a Special Audit finds no Hazardous Substance Release, no violation of the environmental provisions of this Agreement and no violation of Environmental Laws, the County shall reimburse Licensee for the reasonable costs paid by Licensee for such Special Audit.

10.4.2 Exit Audit.

Licensee shall conduct an exit environmental audit (the "Exit Audit") of its Operating Area to determine (i) its environmental condition, (ii) whether any Hazardous Substance Release has occurred or exists on or about its Operating Area, and (iii) whether there have been any violations of Environmental Laws or the environmental provisions of this Agreement. The Exit Audit shall be performed not more than sixty (60) days prior to the scheduled expiration or termination date of this Agreement. Licensee shall provide to the County a written update to the Exit Audit, as of the last day of the Agreement Term, within thirty (30) days of the actual termination of this Agreement. In the event this Agreement expires or terminates unexpectedly for any reason, Licensee shall cause the Exit Audit to be completed within sixty (60) days of the actual termination date of this Agreement.

10.4.3 Audit Requirements.

The scope and procedures of any audit required by this Agreement shall be determined solely by the County. Such audits shall (i) include an analysis of Licensee’s operations on the Combined-Maintenance Area and Ready Return Spaces and (ii) be no less comprehensive in scope or procedures than those typical, at the time of such audit, of comparable purpose audits of similarly situated properties with comparable uses and operations. If any audit performed under this Agreement recommends additional testing or analysis or recommends an additional audit (the “Additional Testing”), then, unless otherwise agreed in writing by the County and Licensee, Licensee shall perform and pay for the Additional Testing and the records and results of such Additional Testing shall be considered a part of the underlying audit that triggered the need for the Additional Testing. If additional testing does not disclose any Hazardous Substance Release, the reasonable cost of the additional testing shall be paid for by the County. The County shall have the right to approve the company or individual conducting any audits performed pursuant to this
Agreement. The County and Licensee shall each receive a signed copy of any environmental audit report prepared pursuant to this Agreement.

10.5 Environmental Inspection

The County reserves the right, at any time, and from time to time, after notice to Licensee, to inspect the Combined-Maintenance Area and Ready Return Spaces and Licensee’s operations on and use of the Combined-Maintenance Area and Ready Return Spaces: (i) for the presence of and/or Licensee's management of Hazardous Substances; (ii) for compliance with Environmental Laws or the environmental provisions of this Agreement and (iii) to facilitate the County’s environmental management, permitting and analysis related to the Operating Area or any other property of the County.

10.6 Licensee’s Liability

10.6.1 Hazardous Substance Releases.

Licensee shall be liable for any Hazardous Substance Release which occurs during the Agreement Term on the Operating Area arising out of or caused by, in whole or in part, directly or indirectly, from acts or omissions from Licensee's use of the Operating Area. Licensee shall also be liable for any Hazardous Substance Release on the Operating Area or on other properties or in the air or in adjacent or nearby waterways (including groundwater) as a result of or in connection with Licensee’s occupancy or use of the Operating Area which occurs during the Agreement Term or which occurs or continues after the Agreement Term.

10.6.2 Licensee’s Liability for Environmental Costs.

Except as expressly provided in this Agreement, Licensee shall be liable for all Environmental Costs arising under this Agreement. Any Environmental Cost for which Licensee is obligated under this Agreement shall be paid by Licensee on or before the date such Environmental Costs are due. Any Environmental Cost incurred by, paid by or assessed against the County, for which Licensee is responsible under this Agreement, shall be paid by Licensee within thirty (30) days after the date of written notice or invoice from the County, together with interest at the rate of 1.5 percent per month from the date the expense was incurred by the County. The County shall promptly notify Licensee of any Environmental Costs for which Licensee is liable. If the County negligently fails to promptly notify Licensee of an Environmental Cost for which Licensee is liable, and if Licensee does not have actual knowledge of the Environmental Cost, Licensee’s obligation to pay interest shall be excused for that part of the delay beyond the date the Environmental Cost is incurred, paid or assessed attributable to the County’s negligence.

10.6.3 Limitation of Licensee’s Liability.

Notwithstanding anything to the contrary provided in this Agreement, Licensee shall have no liability for Hazardous Substances or Hazardous Substance Releases, or Environmental Costs arising therefrom, that (i) existed on the Operating Area prior to the Effective Date of this Agreement (except if caused by Licensee or Licensee's agents, employees or contractors), (ii) were caused by the County or the agents, employees or contractors of the County (or other party other than Licensee, its agents, employees, contractors, vendors or invitees) after the Effective Date of this Agreement, or (iii) is the result of a Hazardous Substance Release occurring on property other than the Operating Area which has migrated to the Operating Area through no fault of the Licensee,
its employees, agents, contractors or invitees and the Hazardous Substance Release has not been worsened by any action of the Licensee, its employees, agents, contractors or invitees.

10.7 Environmental Remediation

10.7.1 Releases and Violations.

In the event of a violation of an Environmental Law, a violation of an environmental provision of this Agreement, or a Hazardous Substance Release or the threat of or reasonable suspicion of the same for which Licensee is responsible under this Agreement, Licensee shall immediately undertake all acts necessary or appropriate to cure or correct the violation or investigate, contain and stop the Hazardous Substance Release.

10.7.2 Remediation and Removal.

Licensee shall promptly undertake all remedial and/or removal actions necessary or appropriate to ensure that any Hazardous Substance Release is eliminated and that any violation of any Environmental Law or environmental provision of this Agreement is cured or corrected. Licensee shall remove, at Licensee's sole expense, all Hazardous Substances for which Licensee is liable under this Agreement or under any Environmental Law and shall restore its Operating Area or other affected property or water to its baseline condition as established in the Baseline Audit. In the event that any remediation or removal required by this Agreement cannot reasonably be completed prior to the termination or expiration of this Agreement, Licensee shall not be in default of its remediation obligations so long as Licensee immediately commences all investigation, containment, remediation and removal activities within thirty (30) days (or sooner if required by Environmental Laws) and diligently and continuously pursues such activities until completion.

10.7.3 Report to the County.

Within thirty (30) days following completion of any investigatory, containment, remediation and/or removal action required by this Agreement, Licensee shall provide the County with a written report outlining in detail what has been done and the results thereof.

10.7.4 The County’s Right to Approve.

The County shall have the right to approve or disapprove all investigatory, containment, remediation and removal procedures and the company(ies) and/or individuals conducting such procedures which are required by this Agreement or by any Environmental Laws whether on the Operating Area or any affected property or water. Licensee shall not initiate any risk assessment-based remediation or closure without the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion. The County will have the right to require Licensee to request oversight from the Colorado Department of Environmental Quality (“DEQ”) of any investigatory, containment, remediation and removal activities and/or require Licensee to seek a statement from DEQ of No Further Action.

10.8 Notice to the County

Licensee shall promptly notify the County upon becoming aware of (i) a violation or alleged violation of any Environmental Law related to the Operating Area or to Licensee’s occupation or use of the Operating Area or any environmental provision of this Agreement, (ii)
any Hazardous Substance Release on, under or adjacent to the Operating Area or threat of or reasonable suspicion of any of the same, (iii) any notice or communication from a governmental agency or any other person directed to Licensee relating to any Hazardous Substance Release or any violation or alleged violation of any Environmental Laws which relate to the Operating Area or to Licensee’s occupation or use of the Operating Area, and (iv) any Hazardous Substance Release or violation of Environmental Law discovered by Licensee on property or in the air or water adjacent to the Operating Area.

10.9 Licensee’s Documentation of Environmental Conduct

10.9.1 Annual Certification.

If requested in writing by the County, Licensee shall provide on or before each anniversary of the Effective Date of this Agreement, a written statement, certified by Licensee as true and complete to the best of Licensee’s knowledge, that during the preceding year with respect to the Operating Area and Licensee’s occupation and use of the Operating Area: (i) Licensee has complied with applicable Environmental Law; (ii) Licensee has not received any notice from any government agency regarding a violation of any Environmental Law; and (iii) Licensee has obtained and has in force all permits required under all Environmental Laws. If Licensee is unable to provide such certification at the time requested by the County, then Licensee shall provide the County with a written statement of the steps Licensee is taking to enable it to provide a certification of compliance. Upon the County’s written request, Licensee shall provide to the County a copy of any permit or notice described in this subsection.

10.9.2 Record Keeping.

Licensee shall maintain for the duration of the Agreement term or for a period as required by Environmental Laws, whichever is greater, for periodic inspection by the County, and deliver to the County, at the County’s request, true and correct copies of all records required to be maintained pursuant to any Environmental Laws related to the Operating Area or to Licensee’s occupation or use of the Operating Area. Such records shall include, but not be limited to, Material Safety Data Sheets (“MSDS”), for all Hazardous Substances used or stored on the Operating Area. MSDS information shall be kept current and, in a place, known to and accessible to the County.

10.10 The County’s Right to Perform

In the event Licensee fails to perform any of its obligations under this section or any Environmental Laws, the County shall have the right, upon giving Licensee ten (10) business days written notice, except no prior notice shall be required in the event of an emergency, to perform such obligations and charge Licensee all resulting Environmental Costs. The County may not commence performance on behalf of Licensee under this section, if during the ten (10) business day period, Licensee promptly begins and diligently pursues to completion the performance of the obligations set forth in the County's notice. In the event the County determines that an emergency exists, and Licensee is unavailable, unwilling or unable to take immediate and appropriate action, the County may take whatever immediate action it deems necessary and charge Licensee the resulting Environmental Cost.
10.11 Survival of Obligations

Licensee’s obligations herein shall survive any termination of this Agreement or Licensee’s activities at the Airport.

11. THE COUNTY’S RIGHT TO IMPROVE AIRPORT

County reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, including the Operating Area and existing vehicle and pedestrian traffic patterns, as County deems appropriate without interference or hindrance by the Licensee, and County shall have no liability hereunder to Licensee by reason of any interruption to Licensee’s operations on the Airport occasioned by such County activities; provided, however, that County shall consult in advance with Licensee on such changes. Additionally, possibility of terminal and airfield closures due to construction, security or bad weather might occur. Good faith efforts will be attempted by County to minimize the effects on operations.

12. TITLE TO CAPITAL ADDITIONS AND IMPROVEMENTS

Upon termination or expiration of this Agreement, other than for Licensee's default, and upon reimbursement of Licensee by the successor Licensee in accordance with this Agreement, title to all Capital Additions, structures, installations, and improvements placed upon the Operating Area shall automatically vest in the successor Licensee. If there is no successor Licensee, title to all Capital Additions except underground storage tanks shall vest in the County; title to underground storage tanks shall remain in Licensee under all circumstances. Nothing in this section shall be deemed to prevent Licensee from removing its trade fixtures and moveable equipment and furniture, including but not limited to car wash equipment, maintenance racks, and counter inserts.

13. DAMAGE TO THE OPERATING AREA

13.1 Repairs

If all or part of the Operating Area, offices and/or check-in counter space only, is damaged, the County shall repair the Operating Area at County’s expense, except for any Capital Additions made by Licensee; Licensee shall be responsible for repairing its Capital Additions at Licensee's own expense. If the waiver of subrogation does not apply, Licensee shall reimburse the County for the reasonable cost of repairs to the extent damage to the Operating Area is caused by Licensee or by Licensee’s employees, agents, contractors, or invitees. If the waiver of subrogation does not apply, the County shall reimburse Licensee for the reasonable cost of repairs to the extent Licensee’s Capital Additions are damaged by the County or its employees.

13.2 Fees During Repairs

If repairs can be completed and the Operating Area made tenable within 30 calendar days after the damage occurs, Licensee shall continue to pay all fees due during the period of repairs. If the Operating Area cannot be made tenable within 30 calendar days, or if the parties sooner agree that the Operating Area cannot be made tenable within 30 days, the fees due under this Agreement shall be suspended between the date the damage occurred and the date the Operating Area is returned to tenable condition. If the Operating Area cannot be made tenable within 12 months after the damage occurred, or if the parties sooner agree that the Operating Area cannot be made tenable within 12 months, either party may terminate this Agreement upon written notice to the other. Notwithstanding any other provision of this section, if the damage was caused in part
by the negligence or other fault of Licensee or Licensee's employee, contractor, agent, customer, or business invitee, the fees due under this Agreement shall not abate sooner than the end of the 12th month following the occurrence of the damage, and then only if the Agreement is terminated pursuant to this section.

13.3 Liability for Repair Costs

To the extent the damage was caused by the negligence or other fault of Licensee or Licensee's employees, contractors, agents, customers, or business invitees, Licensee shall reimburse the County for the cost of the repairs, subject to any express waiver of subrogation under this Agreement.

13.4 Limits of County's Obligation to Repair

Notwithstanding any other provision of this Article, the County's obligation to make repairs under this Article shall be limited to repair of the Operating Area to the extent necessary to return the Operating Area to its condition prior to the damage and shall not exceed the amount of insurance proceeds available to the County for repairs. The County shall have no duty to redecorate or to replace furniture, equipment, or supplies. Notwithstanding any other provision of this Article, the County may decline to make repairs upon determining that demolition and reconstruction is in the County's best interest, in which case the County may terminate this Agreement by written notice to Licensee.

13.5 Damage to Licensee's Capital Additions and Improvements

Licensee shall repair at its own expense, whether covered by insurance or not and notwithstanding any waiver of subrogation, any of Licensee's Capital Additions or improvements that may be damaged during the term of this Agreement. If Licensee fails to repair Licensee's damaged Capital Additions or improvements within 30 days, or a commercially reasonable time, and the damaged Licensee Capital Additions or improvements interfere with the efficient and effective provision of rental car services, the County may make the repairs and recover the cost of the repairs from Licensee, including the County's overhead.

13.6 No Duty to Protect

The County shall have no duty to protect or insure against loss of Licensee's Capital Additions or improvements or property in the Operating Area by fire or otherwise.

14. DEFAULT

14.1 Events of Default by County

The County shall be in default under this Agreement if, after reasonable written notice from Licensee, the County fails without excuse to remedy any of the following occurrences:

14.1.1 The permanent abandonment of the Airport for scheduled certificated airline service;

14.1.2 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport for 60 calendar days or more in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;
14.1.3 The exercise by an agency of the United States Government for 90 calendar days or more of control over the Airport and its facilities in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;

14.1.4 The County’s failure to substantially comply with a material provision of this Agreement for more than 60 calendar days after written notice of the failure from Licensee.

14.2 Remedies for County's Default

In addition to any other remedies Licensee may have at law or in equity, if the County is in default under this Agreement, Licensee may terminate this Agreement by written notice to the County. The County shall not be deemed in default if the County has initiated appropriate remedial action prior to the notice of termination and diligently pursues that remedial action to completion. In no event shall Licensee be entitled to recover lost profits or consequential damages from the County for a default under this Agreement.

14.3 Events of Default by Licensee

Licensee shall be in default under this Agreement if, after 10 calendar days written notice from the County, Licensee fails to remedy, or to commence remediation if the remedy cannot reasonably be completed within 10 days, any of the following occurrences:

14.3.1 Licensee's failure to comply with a material provision of this Agreement, including but not limited to a failure to pay any fee or other amount due under this Agreement within 10 business days after it is due, or any different period expressly provided by this Agreement or by applicable law;

14.3.2 To the extent permitted by the United States Bankruptcy Code:

14.3.2.1 Licensee's insolvency;

14.3.2.2 An assignment by Licensee for the benefit of creditors;

14.3.2.3 Licensee's filing of a voluntary petition in bankruptcy;

14.3.2.4 An adjudication that Licensee is bankrupt;

14.3.2.5 The appointment of a receiver with respect to Licensee's property, and the receiver is not discharged within 30 calendar days;

14.3.2.6 The filing of an involuntary petition of bankruptcy and Licensee's failure to secure a dismissal of the petition within 30 calendar days after filing;

14.3.2.7 Attachment of or the levying of execution on any interest in this Agreement and Licensee's failure to secure discharge of the attachment or release of the levy of execution within 10 calendar days;

14.3.2.8 Licensee becomes a corporation in dissolution or voluntarily or involuntarily forfeits its corporate charter; or
14.3.3 Licensee's failure to comply with all applicable federal, state, and local laws and rules, including but not limited to County ordinances and reasonable rules established by the Airport Director, for more than 30 calendar days after Licensee's receipt of written notice of the failure, or a reasonable longer period if Licensee promptly undertakes and works diligently toward effecting a cure of the breach; or

14.3.4 Licensee's failure to timely commence operating a rental car concession in its Operating Area; or

14.3.5 Licensee's abandonment of rental car concession operations in all or any part of its Operating Area; or

14.3.6 The creation, maintenance, failure to correct or sufferance of a dangerous or hazardous condition on or emanating from its Operating Area; or

14.3.7 Failure to provide and maintain current, all required types and amounts of insurance and proof thereof; or

14.3.8 Loss or surrender by Licensee of its franchise rights under its national system license.

14.3.9 Making an assignment, conveyance or transfer of Licensee’s rights and obligations hereunder without the consent of County; or

14.3.10 Failure to comply with any other obligation under this License and Use Agreement.

14.4 Notice of Defaults/Right to Cure

The party aggrieved by an Incident of Default hereunder shall declare a default hereunder by delivering a written Notice of Default to the other party (and its surety, if applicable), which Notice shall specify the Incident(s) of Default asserted and a specific cure therefore. After the effective date of such Notice, the time periods for cure shall be:

1) Within three (3) business days if the default is maintenance of a hazardous condition or failure to maintain and/or prove required insurance coverage(s); or

2) Within ten (10) calendar days if the default is failure to make full and timely payments hereunder; or

3) Within twenty (20) calendar days if the default is in the performance of any other obligation or conditions to be performed under the provisions of this Agreement.

If, in the discretion of the aggrieved party, the cure required cannot reasonably be completed within the foregoing time periods and the cure is promptly undertaken by the defaulting party and diligently prosecuted, the aggrieved party will, upon request and proof of these mitigating circumstances, extend the period to cure by a reasonable time. In the event of multiple Incidents of Default, the cure periods above shall be concurrent, not consecutive.

c. Notice of Termination/Right to Re-enter. If such Incident(s) of Default are noticed as provide herein and remain uncured after the cure period specified, the aggrieved party may thereafter terminate this Agreement and the defaulting party’s rights hereunder by delivery of written Notice of Termination to the defaulting party, which Notice shall be effective on the date delivered to the defaulting party. Upon termination of this Agreement by County, County may re-
enter the Licensee’s Operating Area and remove all persons and property there from, using all necessary force to do so.

d. Remedy Not Exclusive. The parties shall have such other rights and remedies as may be provided for by law or in equity, including damages.
14.4.1 Suit

If Licensee is in default under this Agreement, the County may sue Licensee to recover fees due under this Agreement or damages arising from Licensee's breach of this Agreement, or to bar Licensee from operating a rental car concession in the Operating Area or elsewhere on the Airport. Nothing in this Agreement shall be deemed to require the County to await the expiration of this Agreement before suing Licensee under this subsection.

14.4.2 Remedies Nonexclusive

The remedies provided by this subsection are in addition to any remedies the County may have at law or in equity.

14.5 Cumulative Nature of Remedies

The remedies provided by this Article are nonexclusive and in addition to any other remedy provided by this Agreement and any remedy to which a party otherwise may be legally or equitably entitled.

15. GENERAL PROVISIONS

15.1 Coordination with other Airport Users.

County and Licensee acknowledge that each has rights and obligations arising from various third-party agreements with other Airport users. County and Licensee agree to cooperate with each other to effectuate these third-party agreements, so as long as such agreements are not illegal, impossible or do not reasonably interfere with Airport operations or conflict with the right and obligations of the various parties hereunder. County and Licensee acknowledges their respective obligations as signatories under the following agreements:

(a) Those certain on-Airport non-exclusive rental car License and Use Agreements, between the County and other Licensees.
(b) Those certain lease and use agreements between the County and the Airport’s airlines.
(c) Those certain Lease and Use and Redevelopment Agreements between the County and the Airport’s full-service fixed-base operator.
(d) Those certain agreements or permits for off-Airport rental car operators entered into from time to time between the County and the various off-Airport rental car companies.
(e) Those certain License and Use Agreements and Operating Permits between the County and the Airport’s various specialized fixed-base operators.
(f) Those certain agreements for commercial ground transportation including taxis, limousines and buses.
(g) Such further and other agreements or permits as the County may amend or enter into from time to time in the normal operation of the Airport; provided that Licensee shall, upon request, be provided with copies of any agreements that are connected to this obligation to cooperate, as set forth herein.

The County reserves the right to direct Lessee's operations in the event that such operations are unreasonably interfering, in the reasonable discretion of County, with the use by others of the
Airport; e.g., to restrict the use of "public" areas of the Terminal and public-access curbs, sidewalks and roadways in favor of the public.

15.2 Off-Airport Rental Car Operators

The County reserves the right, but shall not be obligated, to permit other rental car companies, with whom the Airport has not executed On-Airport License and Use Agreements, to enter upon the Airport in general, and the Airline Terminal in particular, to pick up and drop off customers, to purchase advertising space on the Airport and within the Airline Terminal, and to establish a courtesy phone system on the Airport and within the Airline Terminal, all subject to fees and charges in common with other users of that classification.

15.3 Compliance with Applicable Laws and Regulations

In connection with its occupancy and use of its Operating Area and the conduct of its operation thereon, the Licensee acknowledges that the County reserves the right to establish and enforce reasonable rules and regulations for the conduct of activities and uses permitted herein and also to promulgate minimum standards for the conduct of commercial activities related hereto including, without limitation, minimum hours of operation if County determines that the needs of the traveling public are not being met. Licensee shall:

15.3.1 Comply with all applicable laws, rules and regulations of the United States of America, the State of Colorado and the County of Pitkin and any and all departments and agencies thereof, as the same may now exist or may be hereafter promulgated or amended from time to time. Licensee acknowledges that Pitkin County has the continuing authority to enact general legislation pursuant to its power to protect the health, welfare and safety of its citizens, as well as the continuing authority, in its executive capacity, to enact Airport regulations. Present applicable Airport regulations are as follows:

a. Airport Regulations, Title X, Pitkin County Code:

b. Aspen-Pitkin County Airport Certification Manual;

c. Aspen-Pitkin County Airport Security Program

d. Off-airport rental car regulations

e. Ground transportation regulations

f. Airport Financial Policy (Resolution 87-56-A)

15.3.2 Comply with the notification and review requirements of Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the location, or in the event of any planned modification or alteration of any present or future structure or building situated on the locations.

15.3.3 Not discriminate against any person or class of persons by reason of race, color, sex, creed, religion, handicap or national origin in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation, and shall comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations with respect to discrimination in unfair employment practices, and shall comply with such enforcement
procedures as any governmental authority might demand that the County take for the purpose of complying with any such laws and regulations.

15.3.4 With respect to the parking regulations of the City of Aspen and the Town of Snowmass Village, Licensee agrees that pursuant to Section 42-4-1209, C.R.S. (2005), as amended, a “reasonable time” within which the Licensee furnish to the City and Town the name and address of the person who had custody of the vehicle at the time of a violation, shall be deemed to be forty five (45) days. As a condition precedent to the enforcement of this interpretation, the City and the Town will be required to make every effort to provide notification to the Licensee of any violation as soon as practical after the date of said violation.

15.4 Assignment

15.4.1 Consent

Except for an assignment, sublease or transfer to Licensee’s principal, affiliate, parent, subsidiary of its principal, member or partner, so long as such transferee has the qualifications and financial responsibility necessary and adequate to fulfill the obligations of this Agreement, or as a result of a merger, sale or other business reorganization of substantially all of Licensee’s assets in the market in which the Airport is located (“Permitted Assignment”), Licensee shall not assign or transfer this Agreement or any interest herein, without the prior written consent of County which shall not be unreasonably withheld, conditioned or delayed; provided, however, that Licensee shall notify County in writing of a Permitted Assignment within thirty (30) days thereafter. For purposes of this provision, an “assignment” shall include any sale, grant, conveyance, transfer, sublicense, encumbrance or similar transaction, however styled, disposing of or creating rights or obligations in third parties affecting this Agreement. Examples of transactions covered by this restriction include, without limitation: any assignment for security purposes; any assignment to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; any assignment of all or substantially all of Licensees’ assets; and the assignment, in one or a series of related transactions, of 15% (fifteen percent) or greater of the Licensee’s voting stock.

15.4.2 Automatic Termination

Unless otherwise agreed in writing by the County, this Agreement shall terminate automatically upon:

15.4.2.1 Any transfer of an ownership interest in Licensee, other than the ordinary purchase and sale of stock if Licensee is a publicly held corporation;

15.4.2.2 The transfer of fifteen percent (15%) or more of the outstanding stock if Licensee is a corporation; or

15.4.2.3 The transfer of any partnership or joint venture interest, if Licensee is a partnership or joint venture.

15.4.3 Requests for Approval

Any request by Licensee for approval under this section shall be made in writing at least thirty (30) calendar days before the assignment would occur, and must be accompanied by a full description of the assignment, including copies of relevant documents. The County shall not unreasonably withhold its approval of an assignment or transfer, provided that: (1) immediately
prior to the assignment or transfer, the quality of the successor's management staff and the successor's financial condition equal or exceed the quality of Licensee's management staff and Licensee's financial condition; (2) the assignee assumes all of the obligations under this Agreement, and (3) if determined necessary by the County in the reasonable exercise of its sole discretion, Licensee guarantees the performance of the successor under this Agreement.

15.5 Choice of Forum

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and venue is agreed to be exclusively in the courts of Pitkin County, Colorado.

15.6 Nondiscrimination

Licensee shall not permit discrimination in employment or in the provision of rental car services on the grounds of race, color, creed, national origin, political ideas, sex, age, or physical or mental handicap.

15.7 No Exclusive Rights

Nothing in this Agreement shall be deemed to grant Licensee any exclusive right or privilege within the meaning of Title 49 USC Section 40103(e).

15.8 Most Favored Nations

In the event that any Agreement granted by the County to any other Licensee shall contain any terms and conditions more favorable to such Licensee than the terms and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other Licensee.

15.9 Subordination to Agreements with the United States

This Agreement is subject and subordinate to the provisions of any agreement already made or to be made in the future between County and the United States relative to the operation or maintenance of the Airport, the execution of which is a condition precedent to the transfer of federal rights or property to County for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended.

15.10 Nonwaiver of Rights

The failure of either party hereto to exercise any right or remedy hereunder shall not be deemed a waiver thereof or a waiver of the right to exercise the same at any future time, or the waiver of any other right or remedy hereunder. No waiver by either party or any right of remedy hereunder shall be effective unless in writing signed by the party.

15.11 Notices
15.11.1 Method

All notices required or authorized to be given hereunder shall be in writing and shall be served upon the party entitled thereto either by personal delivery to such party, or by overnight courier service, or by certified mail, return receipt requested, addressed to such party pursuant to Section 14.11.2 of this Agreement, or at such other address as either party may so notify the other
party of in writing. Any such notice shall be deemed to have been received on the date so delivered personally to the party entitled thereto or three (3) business days after the same has been properly deposited in the United States mail, with postage thereon fully prepaid, as aforesaid.
15.11.2 **Addresses**

Until the addressee gives written notice of a change, notices shall be delivered to:

**THE COUNTY:**
Airport Director  
Aspen – Pitkin County Airport  
0233 E. Airport Road – Suite A  
Aspen, CO  81611

**LICENSEE:**  
Steve Topalian  
Enterprise Leasing Company of Denver, LLC  
6828 E. County Line Road  
Highlands Ranch, CO 80126

15.12 **Headings**

The headings in this Agreement are for convenience of reference, and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

15.13 **Severability**

If a provision of this Agreement is held to be unlawful, invalid, or unenforceable, the remainder of this Agreement shall remain in effect and fully enforceable.

15.14 **Waiver of Claims**

Licensee waives any claim against County or the County's employees, contractors, or agents for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of any part of this Agreement, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying performance of any part of this Agreement.

15.15 **Incorporation of Exhibits**

All Exhibits and documents referred to in this Agreement are incorporated into this Agreement by this reference.

15.16 **Incorporation of Required Provisions**

The parties incorporate into this Agreement by this reference all provisions lawfully required in this Agreement by any unit of federal, state, or local government.

15.17 **Successors and Assigns Bound**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their properly qualified successors and assigns.

15.18 **Right to Amend**

If the U.S. Department of Transportation Federal Aviation Administration, or its successor, requires changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, Licensee agrees to consent to those changes subject to any additional changes to this Agreement required by equity.
15.19  **Time of Essence**  
Time is of the essence of this Agreement.

15.20  **Force Majeure**  
The County shall not be liable to Licensee for any breach of this Agreement due to causes beyond the County's control, including but not limited to strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, and sabotage. Nothing in this section shall be deemed to excuse any part of Licensee's obligations to make any payments due under this Agreement.

15.21  **Gender and Number**  
Words of any gender used in this Agreement shall include any other gender. Words in the singular shall include the plural, unless the context clearly requires otherwise. The words “hereof,” “herein,” “herewith,” “hereunder,” and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of the Agreement.

15.22  **Avigation Easement**  
Licensee's right to use the Operating Area for the purposes as set forth in this Agreement shall be secondary and subordinate to the operation of the Airport. The County specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the air space above the surface of the Operating Area together with the right to cause noise in the air space as may be inherent in the present or future operation of aircraft.

15.23  **Attorney's Fees**  
If either party to this Agreement incurs attorney’s fees and/or costs in connection with the declaration of a Default hereunder or any other legal proceeding to interpret, protect or enforce any of its rights hereunder, the party prevailing in such proceeding shall be entitled to recover its reasonable attorney’s fees and costs in connections with such proceeding.

15.24  **Amendment**  
This Agreement may be modified or amended or supplemented only by an instrument in writing signed by the parties hereto. The County’s representative for the administration of this Agreement shall be the Director of Aviation or his/her designee in writing; provided, however, that all matters affecting material terms of this Agreement, including term, fees and charges and use of Operating Area by Licensee, shall only be modified or amended by a writing approved by a Resolution of the Board of County Commissioners at a duly-noticed public meeting.

15.25  **Relationship of Parties**  
It is the intent and agreement of the County and the Company that they shall have the relationship respectively of Licenser/Licensee and Permittor/Permittee hereunder, and nothing contained herein shall be deemed or construed to constitute the parties as partners or joint ventures, and in no event shall County be liable for any loss which may result from the operations of
Licensee upon its Operating Area or for any indebtedness incurred by Licensee in the operation of its business from its Operating Area or for the claims of third parties against Licensee in the conduct of its business. In addition, County shall not be liable in any manner to the Licensee for any damages the Licensee may incur due to the inability of the County to deliver possession of Licensee’s Operating Area, or any part thereof, to the Licensee for reasons beyond the reasonable control of the County.

15.26 Non-Liability of County’s Agents and Employees
No official, agent, or employee of County shall be personally liable to Licensee in the event of any default or breach hereunder by County.

15.27 Entire Agreement
This License contains the entire agreement of the parties and there have been no oral or written promises, representations or agreements, either express or implied, except as expressly set forth herein. Any and all prior agreements or understandings between the parties are expressly agreed to have merged herein.

15.28 Representations of Licensee
Licensee represents and warrants to County as follows:

a. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that they are familiar with Section 18-8-301, et seq. of the Colorado Revised Statutes (Bribery and Corrupt Influences) and Section 18-8-401, et seq. of the Colorado Revised Statutes (Abuse of Public Office) and that no violations of the provisions thereof are present.

b. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that to the best of their knowledge no employee of Pitkin County has personal or beneficial interest whatsoever in this License or in the business to be conducted upon the Location by the Licensee.

15.29 Execution in Duplicate
This Agreement shall be executed in duplicate originals, with one original to be held by each party.

15.30 Authority to Sign
As an inducement to the County to execute this Agreement, the undersigned officer of Licensee represents that he/she is expressly authorized to execute this Agreement and to bind Licensee to the terms and conditions hereof and acknowledges that the County is relying on this representation, authorization and execution.

///////////NOTHING FURTHER FOLLOWS EXCEPT SIGNATURES///////////
LICENSEE

__________________
By:________________________________________________

Printed Name/Title:___________________________________

LICENSOR
PITKIN COUNTY, COLORADO
0233 E. Airport Rd., Suite A
Aspen, Colorado 81611

ATTEST:

Jeanette Jones
Deputy Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS OF
PITKIN COUNTY, COLORADO

_______________________
Chair

Date: ______________________

APPROVED AS TO FORM:

John Ely
County Attorney

APPROVED AS TO CONTENT:

John Kinney
Airport Director
EXHIBIT A

OPERATING AREA

Exhibit A consists of Exhibits A.1 & A.2
EXHIBIT A.1

READY RETURN LOT

AND

RENTAL CAR STORAGE AND SERVICE FACILITY AREA

SPACE ALLOCATION
EXHIBIT A.1
READY RETURN PARKING AREA AND RENTAL CAR STORAGE AND SERVICE FACILITY AREA

LEGEND
- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC
- Shared Use Area

EXHIBIT A.2

RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE

SPACE ALLOCATION
EXHIBIT B

SAMPLE MONTHLY REPORTING STATEMENT
On-Airport Licensee Monthly Statement
Of
Gross Revenues and Customer Facility Charge Revenue

Date: ______________

Period Covered (Month/Year): ______________

Rental Car Company: _________________________

Gross Revenue Statement

Gross Revenues: $_______________

10% of Gross Revenues: $_______________

Customer Facility Charge Statement

Total Number of Vehicle Contracts: _________

Total Number of Vehicle Contract Days: _________

Total CFC Collections: $_________

Certification by Licensee's Chief Financial Officer or the Chief Financial Officer's designee:

Signature: ___________________________ Print Name: ___________________________

Title: ___________________________

Date: ___________________________

Remit by the 20th day of each month to:

Jennifer Mitchley
Aspen/Pitkin County Airport
0233 E. Airport Road, Suite A
Aspen, CO 81611
EXHIBIT C

OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES
## EXHIBIT C

### LICENSEE OPERATING AREA MAINTENANCE RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Rental Car Service Counter/Office Space</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shell Building (structural, mechanical &amp; electrical)</td>
<td>x</td>
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</tr>
<tr>
<td>Monthly Utility Costs (electrical, water, sanitary sewer, and natural gas)</td>
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</tr>
<tr>
<td>General Maintenance (HVAC &amp; fire suppression)</td>
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<td>Janitorial Services</td>
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<tr>
<td>Monthly data &amp; telecommunications services</td>
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<tr>
<td>Overall Cleanliness &amp; Appearance</td>
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<tr>
<td>Cleaning of Floors, Walls, Ceilings &amp; Surfaces</td>
<td>x</td>
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<tr>
<td>Carpet Cleaning (Minimum of Twice per Year)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Proprietary Operating Systems, furnishings, signage, fixtures, &amp; equipment specific to Concessionaire</td>
<td>x</td>
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</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
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### Parking Spaces (Ready/Return)

<table>
<thead>
<tr>
<th>Repair and maintenance of paved surfaces</th>
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<tbody>
<tr>
<td>Pavement Markings</td>
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<tr>
<td>Common Area Lighting</td>
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<td>Directional Signage</td>
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<tr>
<td>Monthly Utility Costs – electrical</td>
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<td>Stormwater management system</td>
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<td>Parking Space Stall Signage &amp; Concessionaire Branding</td>
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<tr>
<td>Snow Control</td>
<td>x</td>
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<tr>
<td>Snow Removal</td>
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<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
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### Storage & Service Facility Area

<table>
<thead>
<tr>
<th>Storage Area and Vehicular Common Area</th>
<th>County</th>
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<tbody>
<tr>
<td>Perimeter security fence</td>
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<td>Perimeter security fence gates</td>
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<tr>
<td>Common Area Lighting</td>
<td>x</td>
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<tr>
<td>Delineation barriers between brands</td>
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<td>Monthly Utility Costs – electrical</td>
<td>x</td>
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<tr>
<td>Snow Control</td>
<td>x</td>
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<tr>
<td>Snow Removal</td>
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<tr>
<td>feature</td>
<td>County</td>
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<td>--------</td>
</tr>
<tr>
<td>Entry/Exit security</td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td>x</td>
</tr>
<tr>
<td>Common circulation striping</td>
<td>x</td>
</tr>
<tr>
<td>Common circulation paving</td>
<td>x</td>
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<tr>
<td>Landscaping</td>
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<tr>
<td><strong>Fuel Islands</strong></td>
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<tr>
<td>Fuel area paving</td>
<td>x</td>
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<tr>
<td>Fuel area drainage and drainage system</td>
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<tr>
<td>Code-required signage</td>
<td>x</td>
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<tr>
<td>Bollards</td>
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<td>Disposal of Trash, Refuse, Debris and Recycling</td>
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<tr>
<td><strong>Fueling System</strong></td>
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<tr>
<td>Facility fueling system</td>
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<tr>
<td>Fuel dispenser including nozzles</td>
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<td>Fuel accounting system</td>
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<td>Fuel monitoring system</td>
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<td>O/H Hose reel system</td>
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<td>O/H fluid distribution system</td>
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<td>Common-use, vehicle vacuum system</td>
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<td><strong>Service Facility Utilities</strong></td>
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<tr>
<td>Fire/Life/Safety systems</td>
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<td>Lighting</td>
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<td>Electrical Conduit</td>
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<tr>
<td>Electrical Wiring</td>
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<tr>
<td>Electrical outlets (Outlets provided as part of overhead hose reel system)</td>
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<tr>
<td>Data/Comms conduit Fuel management system</td>
<td>x</td>
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<tr>
<td>Data/Comms wiring Fuel management system</td>
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<td>Data/Comms systems Fuel management system</td>
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<tr>
<td><strong>Car Wash Building</strong></td>
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<td>Building roof system</td>
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<td>Building structural</td>
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<td>Exterior glazing</td>
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<tr>
<td>Exterior doors Includes fast-closing overhead doors at car wash bay ends</td>
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<td>Roll-up doors Automatic, fast-acting roll-up doors</td>
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<tr>
<td>Directional signage</td>
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<td>General circulation striping</td>
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<td>Bollards</td>
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<td>Eye wash stations</td>
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<td>Item</td>
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<td>----------------------------------------------------------------------</td>
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<tr>
<td>Water supply hose bib</td>
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<tr>
<td>Wash bay structure</td>
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<tr>
<td>Wash bay exterior walls</td>
<td></td>
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<tr>
<td>Wash bay enclosure-bay demising wall</td>
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</tr>
<tr>
<td>Wash bay slab and wall waterproofing</td>
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<tr>
<td><strong>Car Wash System</strong></td>
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</tr>
<tr>
<td>Car Wash System</td>
<td></td>
</tr>
<tr>
<td>Vehicle wash rocker panel system</td>
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</tr>
<tr>
<td>Vehicle wash blower drying power infrastructure</td>
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<td>Vehicle wash R.O. system</td>
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<tr>
<td>Excess water drainage system</td>
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<tr>
<td>Oil/Water Separator(s)</td>
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<tr>
<td>Vacuum Room and Fluids Room finish-out</td>
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<tr>
<td><strong>Fuel Farm Area</strong></td>
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<tr>
<td>Delivery Area</td>
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<tr>
<td>Common Circulation Striping</td>
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<td>Common Circulation paving</td>
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<tr>
<td>Site lighting</td>
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<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
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</tr>
<tr>
<td>Fuel farm fencing and pedestrian gates</td>
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<tr>
<td>Fuel tanks and required improvements</td>
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<tr>
<td>Fuel fill system</td>
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<tr>
<td>Security – fuel tank fill point</td>
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<tr>
<td>Pedestrian access – fuel farm area</td>
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<tr>
<td>Snow Control</td>
<td></td>
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<td>Snow Removal</td>
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<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
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</tr>
</tbody>
</table>
EXHIBIT D

SAMPLE FORM OF CERTIFICATE OF INSURANCE
**CERTIFICATE OF LIABILITY INSURANCE**

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFRS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<table>
<thead>
<tr>
<th>PRODUCER</th>
<th>CONTACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>AON RISK SERVICES CENTRAL, INC.</td>
<td>(866) 283-7122</td>
</tr>
<tr>
<td>5600 WEST 83RD STREET, 8200 TOWER, SUITE 1100</td>
<td>(847) 953-5390</td>
</tr>
<tr>
<td>MINNEAPOLIS, MN 55437-1027</td>
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<table>
<thead>
<tr>
<th>INSURED</th>
<th></th>
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<tbody>
<tr>
<td>CAR RENTAL COMPANY</td>
<td></td>
</tr>
<tr>
<td>DBAS</td>
<td></td>
</tr>
<tr>
<td>ADDRESS, CITY, STATE, ZIP CODE</td>
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<table>
<thead>
<tr>
<th>INSURER(S) AFFORDING COVERAGE</th>
<th>NAIC #</th>
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<tbody>
<tr>
<td>CONTINENTAL CASUALTY COMPANY</td>
<td>20443</td>
</tr>
<tr>
<td>PV HOLDING CORP. / BUDGET TRUCK RENTAL, LLC.</td>
<td>90029</td>
</tr>
<tr>
<td>AMERICAN CASUALTY COMPANY OF READING, PA</td>
<td>20427</td>
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<tr>
<td>TRANSPORTATION INSURANCE COMPANY</td>
<td>20484</td>
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<tr>
<td>ACE PROPERTY &amp; CASUALTY INSURANCE COMPANY</td>
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<table>
<thead>
<tr>
<th>COVERAGES</th>
<th>CERTIFICATE NUMBER: 65</th>
<th>REVISION NUMBER:</th>
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<tbody>
<tr>
<td>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</td>
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<table>
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<tr>
<th>INSR LTR</th>
<th>TYPE OF INSURANCE</th>
<th>ADDL SUBR</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
<th>LIMITS</th>
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<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td></td>
<td>GL9001603xxx</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>EACH OCCURRENCE</td>
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<tr>
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<td>DAMAGE TO RENTED PREMISES (EA)</td>
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<td>GARAGE LIABILITY</td>
<td>GEHL AGGREGATE LIMIT APPLIES PER POLICY</td>
<td>BUAT001700830</td>
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<td>7/1/2020</td>
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<td>MED EXP (Any one person)</td>
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<td>PERSONAL &amp; ADV INJURY</td>
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<td>PRODUCTS - COMPOSI POLY</td>
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<td>$</td>
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<tr>
<td>B</td>
<td>AUTOMOBILE LIABILITY</td>
<td>ANY AUTO</td>
<td>BUAT001700830</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>COMBINED SINGLE LIMIT (EA accident)</td>
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<td>BODILY INJURY (Per accident)</td>
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<td>PROPERTY DAMAGE (Per accident)</td>
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<tr>
<td>C</td>
<td>UMBRELLA LIABILITY</td>
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<td>G28130168004</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
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<td>D</td>
<td>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</td>
<td>PER STATUTE</td>
<td>WC4014106301 - DED.</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>E.I. EACH OCCIDENT</td>
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<td></td>
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<td>WC4014106346 - CA</td>
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<td>WC4014106265 - RETRO</td>
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<td>E.I. DISEASE - EA EMPLOYEE</td>
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<td>E.I. DISEASE - POLICY LIMIT</td>
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</tbody>
</table>

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

See Attached

**CERTIFICATE HOLDER**

INSURANCE CERTIFICATE ENCLOSED

ASPEN/PITKIN COUNTY AIRPORT
ATTN: ACCOUNTING/PROCUREMENT
233 E. AIRPORT ROAD, SUITE A
ASPEN, CO 81611

USA C/O PROPERTY / AIRPORT MANAGER

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Central, Inc.

© 1988-2015 ACORD CORPORATION. All rights reserved. 204
Certificate Holder: ASPEN/PITKIN COUNTY AIRPORT

Cert Number: XX

RE: ASPEN/PITKIN COUNTY AIRPORT, 233 E. AIRPORT ROAD, ASPEN, CO 81611.
ASPEN/PITKIN COUNTY AIRPORT IS ADDITIONAL INSURED TO THE GENERAL LIABILITY POLICY WITH RESPECT TO THEIR INTEREST IN THE WRITTEN CONTRACT AGREEMENT WITH AVIS BUDGET CAR RENTAL, LLC. THIS CERTIFICATE OF INSURANCE (COI) RELATES TO A POLICY (POLICIES) ISSUED TO THE INCLUDED INSURED AND IS INTENDED TO DEMONSTRATE COVERAGE AS PROVIDED SOLELY TO THE INCLUDED INSURED AND IS FOR INFORMATIONAL PURPOSES ONLY. THE CERTIFICATE HOLDER LISTED ON THIS COI MAY BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES) ONLY TO THE LIMIT THAT SUCH CERTIFICATE HOLDER'S INTEREST APPEARS ONLY IF SUCH INCLUSION IS REQUIRED IN WRITING SPECIFICALLY AND EXPRESSLY STATING THAT SUCH CERTIFICATE HOLDER BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES). UMBRELLA COVERAGE MAY BE SUBJECT TO DEDUCTIBLE AND/OR SELF INSURANCE.
EXHIBIT E

MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARANTEE
MONTHLY ALLOCATION OF
MINIMUM ANNUAL GUARANTEE

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<thead>
<tr>
<th>Month</th>
<th>% of MAG</th>
<th>Yr1 Monthly MAG</th>
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</thead>
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<td>Jan</td>
<td>16%</td>
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<tr>
<td>Feb</td>
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<tr>
<td>Mar</td>
<td>13%</td>
<td>$19,514.56</td>
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<tr>
<td>Apr</td>
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<td>May</td>
<td>2%</td>
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<tr>
<td>Jun</td>
<td>5%</td>
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<td>12%</td>
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<tr>
<td>Aug</td>
<td>12%</td>
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<td>7%</td>
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<tr>
<td>Oct</td>
<td>4%</td>
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<tr>
<td>Nov</td>
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<td>$6,004.48</td>
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<tr>
<td>Dec</td>
<td>8%</td>
<td>$12,008.96</td>
</tr>
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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REPEALING ORDINANCE 035.2014 AND AUTHORIZING EXECUTION OF A LICENSE AND USE AGREEMENT WITH THE HERTZ CORPORATION FOR ON-AIRPORT RENTAL CAR OPERATIONS AT THE ASPEN/PITKIN COUNTY AIRPORT

ORDINANCE NO. __________-2019

RECITALS

1. WHEREAS, Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado a Home Rule County is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary, and

2. WHEREAS, Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended, and

3. WHEREAS, Pitkin County (“County”) owns, operates and sponsors the Aspen/Pitkin County Airport (“Airport”), and

4. WHEREAS, pursuant to ordinance 035.2014 the Board of County Commissioners, the Airport’s existing on-airport rental car license and agreements where executed December 1, 2014 and expired November 30, 2018 and

5. WHEREAS, a proposal were received on June 21, 2019 per the RFP, and

6. WHEREAS, the selection of the successful rental car operators was made through a combination of factors, including minimum annual guarantee bid, experience, and reputation, as out lined in the RFP and

7. WHEREAS, The BOCC finds that adoption of this ordinance is in the best interest of the citizens of Pitkin County.

8. NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance of the Board of County Commissioners of Pitkin County, Colorado, Repealing Ordinance 035.2014 and Authorizing Execution of a License and Use Agreement (attached hereto as Exhibit A) with The Hertz Corporation for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport and authorizes the Chair or the Chair’s designee to sign the Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____ DAY OF _____________ 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF _____________, 2019.


ATTEST: BOARD OF COUNTY COMMISSIONERS

By: __________________________ By: ____________________________
    Jeanette Jones Greg Poschman, Chair
    Deputy County Clerk

Date: ______________

APPROVED AS TO FORM: MANAGER APPROVAL

John Ely, County Attorney Jon Peacock, County Manager
LICENSE AND USE AGREEMENT

FOR A NON-EXCLUSIVE

ON-AIRPORT RENTAL CAR CONCESSION

AT

ASPEN-PITKIN COUNTY AIRPORT

BETWEEN

THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO

AND

THE HERTZ CORPORATION
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EXHIBITS

A – LICENSEE OPERATING AREA

A.1 – READY RETURN LOT AND RENTAL CAR STORAGE AND SERVICE FACILITY SPACE ALLOCATION

A.2 – RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE AREA

B – SAMPLE MONTHLY REPORTING STATEMENT

C – OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES

D – FORM OF CERTIFICATE OF INSURANCE

E – MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARENTEE
RENTAL CAR COMPANY LICENSE AND USE AGREEMENT

THIS LICENSE AND USE AGREEMENT, made as of the date last below signed, is by and between the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, ("County"), a Colorado Home-rule County, as Licensor/Permittor, and, The Hertz Corporation (herein “Licensee” or “Company”), a corporation authorized to conduct business in the State of Colorado and doing business at the Aspen-Pitkin County Airport only under the Hertz and Dollar Rent A Car brand/trade names which are owned or licensed to be used by Licensee.

RECITALS

WHEREAS, County is the owner, operator and sponsor of the Aspen/Pitkin County Airport (Sardy Field), located in Pitkin County in the vicinity of Aspen, Colorado (hereinafter the "Airport"), at which it has made available certain public airfield facilities, and airline terminal and facilities, a general aviation terminal and facilities, certain areas for public use, certain areas for exclusive and non-exclusive commercial use (subject to lease, license or permit) and certain reserved areas; and

WHEREAS, the County has the authority to operate and manage the Airport, to regulate commercial activities at the Airport and to lease and license space thereon, pursuant to, inter alia, C.R.S. Sections 30-11-107, 30-15-401, 30-35-201/202, 41-4-101 et seq., as amended, Title X of the Pitkin County Code, as amended and Section 8.7 of the Pitkin County Home Rule Charter; and

WHEREAS, on-airport rental car services at the Airport are necessary for the proper accommodation of customers arriving at and departing from the airline passenger terminal at the Airport (hereinafter the “Terminal”); and

WHEREAS, Licensee is engaged in the business of providing commercial rental car services and desires to occupy and use some of the areas and facilities of the Airport to make said services available at the Airport; and

WHEREAS, Licensee is qualified, ready, and able to perform or see to the performance of said services, and to furnish or see to the furnishing of proper facilities in connection therewith;

NOW, THEREFORE, in recognition and reliance upon the foregoing recitals, and in consideration of the mutual covenants and promises hereinafter set forth, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged by the parties hereto, County and Licensee agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following terms shall, unless the context requires otherwise, have the following meanings:
“Agreement” shall mean this License and Use Agreement between the Parties as described in this Agreement including all exhibits, attachments, appendices, schedules, and subsequent amendments thereto.

“Agreement Year” shall mean each period of twelve (12) months beginning on the commencement date.

“Airport” shall mean Aspen-Pitkin County Airport located in Pitkin County, Colorado.

“Airport Director” shall mean the chief executive officer of the Aspen-Pitkin County Airport or his/her designated duly recognized representative.

“Airport Snow Removal Plan” shall mean a plan developed by the Airport Director that addresses the means and methods for snow removal at the Airport.

“Automobile” shall mean, unless the context clearly requires otherwise, those types of self-propelled vehicles commonly used by Airport patrons for transportation of persons or property upon public highways and made available for rent to Airport customers.

“Collusion” shall mean the unlawful communication between unaffiliated competitors, but that coordination between brands owned by one company or an affiliated group of companies is permissible.

“Commencement Date” shall mean the date specified by the County for the commencement of this Agreement.

“County” shall mean Pitkin County, its Board of County Commission members, employees, agents and representatives, and shall include such public officials and public bodies as may, by operation of law, succeed to any or all of the rights, powers, or duties which lawfully reside in the Board of County Commissioners of Pitkin County Colorado.

“Customer” shall mean any person who comes to the Airport by any means of transportation and enters into a motor vehicle rental agreement with Licensee anywhere on the Airport.

“Customer Facility Charge” or “CFC” shall mean a fee used to fund certain capital projects and accomplish additional projects designed to facilitate major customer service improvements at the Airport.

“GAAP” means generally accepted accounting principles consistently applied.

“GAAS” means generally accepted auditing standards consistently applied.

“Gross Revenues” shall mean the total amount of monies paid to, or earned by, Licensee at, or from the Operating Area in its performance of this Agreement as further defined in Section 5.4 herein.
“License Fee” shall mean the greater of ten percent (10%) of Gross Revenue or the Minimum Annual Guarantee (MAG).

“License Recovery Fee” shall mean a separate statement of and charge for the Percentage Fee on Airport Customer invoices or rental agreements, which is not required, but will not be prohibited by the County as further defined in Section 5.6.

“Licensee” shall mean any rental car company entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensees” shall mean all rental car companies entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensee Operating Area” shall mean that portion of the Operating Area assigned to Licensee by the County for Licensee’s on-airport rental car operations as more specifically identified in Section 3.

“Minimum Annual Guarantee” shall have the meaning set forth in Section 5.2.

“Minor Preventative Maintenance” shall mean the changing of engine oil and other fluids, replacement of filters and bulbs, and changing and repair of tires, all in accordance with applicable law and regulations, and the County's adopted policies, plans and guidelines.

“Off-airport Rental Car Company” shall mean a car rental company that is not located at the Airport, but which does business at the Airport.

“On-airport Rental Car Company” shall mean a car rental company that is located at, upon, or within the Airport and is a party to an On-Airport Rental Car License and Use Agreement with the County.

“Operating Area” shall mean that portion of the Airport designated by the County for the use, occupancy, and operation of non-exclusive, on-airport rental car Licensees, and shall include:

a. “Ready/Return Area and Rental Car Storage and Service Facility Area” consisting of 61 ready and return automobile storage spaces; approximately 83,450 square feet of space for automobile storage and staging; and approximately 42,000 square feet of space for the washing, detailing, and fueling of automobiles; as depicted on Exhibit A.1 of this Agreement.

b. “Rental Car Counter/Office Area” consisting of four (4) designated ticket counter and office locations each consisting of approximately 163 square feet of space each and located within the Airport’s terminal building as depicted on Exhibit A.2 of this Agreement.

“Terminal” shall mean the County’s current air carrier terminal at the Airport.
“Transaction Day” shall mean a twenty-four (24) hour period or fraction thereof for which a rental car customer is provided the use of a rental car for compensation regardless of the duration or length of the rental term, except that a partial day that is a grace period of no more than two (2) hours after the last 24-hour day booked shall not be considered a Transaction Day. If the same rental car is rented to more than one customer within such continuous twenty-four (24) hour period, then each such rental shall be calculated as a “Transaction Day.”

“Yearly Financial Statement” means Licensee’s annual report and statement of Gross Revenues which shall specify in detail in accordance with the Yearly Financial Statement requirements set forth in this Agreement, all Gross Revenues and operating expenses associated with the operation of Licensee’s license at the Airport certified by an independent certified public accounting firm acceptable to County, and shall be acknowledged by an officer of Licensee as being accurate and complete based on such officer’s examination of the books, accounts and records of Licensee.

2. TERM

The term of this Agreement shall commence as of November 1, 2019 and shall expire on October 31, 2023, or the final day of operations at the current Terminal, whichever occurs first, or unless sooner terminated as provided herein.

2.1.1 Extension.

At the sole discretion of the County, the initial term may be extended for five, one-year periods commencing on the day following the expiration of the initial term.

2.1.2 Holdover.

If Licensee remains in occupancy and use of the Licensee’s Operating Area after the expiration of this term with the consent of County, Licensee’s interest in the Licensee’s Operating Area from and after that date shall be deemed to be month-to-month, pursuant to the terms and conditions of the License and Use Agreement (Other than the payment of the License Fee), or as the parties may otherwise agree in writing, or, if the parties shall fail to agree, upon such other terms and conditions as may be established by the County upon ten (10) days’ notice to Licensee.

3. LICENSEE OPERATING AREA

Licensee shall use its assigned portion of the Operating Area solely for its on-airport rental car activities and only for the purposes specifically described in this Section 3.

3.1.1 Licensee’s Operating Area

Licensee’s Operating Area shall consist of those areas designated on the drawings attached as Exhibit “A”, and includes the following elements: (1) the Ready Return parking spaces (often referred to as ready-return parking spaces or “Ready/Return Spaces”); (2) the Rental Car Storage and Service Facility; and (3) customer service counter and office area and check-in counter space within the Airport Terminal (collectively, “Rental Service Counter”). The County may unilaterally change the Licensee’s Operating Area from time to time as deemed necessary by the County, at the County’s expense provided that the County shall give Licensee commercially reasonable advance written notice of each substantial change, and further provided that the County shall make
a reasonable effort to implement any changes that are made to minimize adverse impacts on Licensee’s airport business operations, to the extent minimization is commercially reasonable under the circumstances. The County shall not be responsible for any Licensee administrative, moving, or planning expenses.

3.1.2 Ready/Return Spaces

Licensee shall have the right to use those parking spaces designated on the attached drawing hereinafter referred to as Exhibit “A.1”, containing 18 surface spaces. Licensee may use its allocated Ready/Return Spaces for: (1) the parking of Licensee’s automobiles awaiting customer rental at the Airport and (2) the return of rental vehicles.

The County reserves the right during the term of this Agreement to relocate, reallocate, increase or reduce the ready/return spaces assigned to Licensee. Reallocation of the Ready/Return Spaces will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Ready/Return Spaces during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Parking spaces in the ready return lot is intended for use by rental vehicles only, and Licensee shall not permit or allow other vehicles, including those owned or operated by employees, the general public or others to park in these spaces. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.3 Rental Car Storage and Service Facility Area

Licensee shall have the use of 24,586 square feet of space at the Rental Car Storage and Service Facility Area as designated on the attached drawing hereinafter referred to as Exhibit “A.1”, for washing, cleaning, fueling, minor preventative maintenance, and storage of rental vehicles. The parties acknowledge that the Service Facility Area consists of one automatic car wash bay, three manual car wash bays, one external car wash bay, and a fuel island and vacuum system, including without limitation all related equipment, paving and utilities. Licensee further acknowledges that the use of the service facility area shall be on a first-come, first served basis with other similar Licensees.

Reallocation of the Rental Car Storage and Service Facility Area will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Rental Car Storage and Service Facility Area during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Licensee shall use the Rental Car Storage and Service Facility Area solely for the washing, servicing, detailing, maneuvering, queuing, and storage of its vehicles used in its on-airport rental car operation. In no event shall engine tune-ups, engine or chassis repair or overhaul, painting or body work be performed. All uses of the Rental Car Storage and Service Facility Area shall be subject to and conducted in strict accordance with the Airport Stormwater Management Plan.

Licensee shall not allow its customers or the public to enter the Rental Car Storage and Service Facility Area. Licensee shall ensure that only its rental vehicles are being serviced at the Rental Car Storage and Service Facility Area. No personal vehicles are permitted at the Rental
Car Storage and Service Facility Area unless otherwise authorized by the County. The Licensee may provide temporary staging and storage of its rental vehicles in the Rental Car Storage and Service Facility Area prior to their return to the Licensee’s Ready/Return parking spaces. Only Licensee employees will be permitted to park their vehicle at the Rental Car Storage and Service Facility Area. No other vehicle parking, including non-facility-based employee parking, shall otherwise be permitted in or about the Rental Car Storage and Service Facility Area except for fueling, maintenance, towing, or emergency services purposes. Licensee shall not allow parking of vehicles of passengers or flight crew intending to use the Airport’s main terminal building for commercial flights. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.4 Rental Car Counter/Office Space

Licensee shall have the use of that counter and office space in the Terminal Building designated on the attached drawing hereinafter referred to as Exhibit “A.2” consisting of 163 square feet of space. Licensee may use its Rental Service Counter space for customer rental, return, and related transactions approved by the County, and for an administrative office.

3.2 Condition of Licensee's Operating Area

Licensee specifically acknowledges, agrees, accepts, and leases Licensee’s Operating Area from the County in “as is” condition with the exception of any Hazardous Substances conditions or contamination existing in, on, under or about the Licensee’s Operating Area prior to Licensee’s occupancy. Licensee is not relying on any representations or warranties of any kind whatsoever, express or implied from County or its agents, as to any matters concerning the condition of Licensee’s Operating Area. Licensee shall install proprietary equipment and personal property in its designated Licensee Operating Area as required by this Agreement, or as necessary for Licensee's operation of its rental car license, and as approved by the County.

All personal property, equipment, furnishings, decorations and trade fixtures placed upon the Licensee’s Operating Area by Licensee shall be at Licensee’s sole risk, and County shall not be liable for damage to or loss of such personal property or trade fixtures arising from the acts or omissions of any persons or from any causes whatsoever, except from the acts or omissions of County, its agents and employees. Licensee represents that it is (and will be for the entire term hereof) the owner of or fully authorized to use any and all services, processes, machines, articles, trade names, trademarks, logos or slogans to be used by it in its operations under or in any way connected with this Agreement. Licensee agrees to save and hold the County, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit, demand or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Licensee under or in any way connected with this Agreement.

3.3 Rights of Third Party Ingress and Egress

Licensee's use of the Operating Area is subject to reasonable concurrent ingress and egress by the County and its employees, contractors, and representatives, by the car-renting public, and by third parties for police, fire, safety, construction, maintenance, inspection, and other activities reasonably related to Airport business. Nothing in this subsection shall be deemed to interfere with
the County’s right to enforce the provisions of this Agreement, including but not limited to rules adopted by the County. Nothing in this subsection shall be deemed to interfere with the County’s ability to exercise its police powers.

3.4. Surrender of Licensee Operating Area

Upon the expiration or termination of the License, Licensee immediately shall surrender Licensee’s Operating Area as shown on Exhibit A to County in good condition and repair, ordinary wear and usage excepted; and Licensee shall remove all of its personal property, trade fixtures, equipment or improvements removable by prior agreement with County from the Licensee’s Operating Area and shall repair any damage to Licensee’s Operating Area caused by such removal. Excluding Licensee’s rental automobiles, any personal property of Licensee, or anyone claiming under Licensee, which shall remain upon Licensee’s Operating Area at the expiration or termination of this License shall be deemed to have been abandoned and may be retained by County as County’s property or disposed of by County in such manner as County sees fit without compensation to any party.

3.5 Operations After Termination

If this Agreement expires or is terminated for other than Licensee's default, the County, in its sole discretion, may allow Licensee to continue operating under this Agreement on a month-to-month basis. Licensee's continuation of operations after expiration or termination of this Agreement shall not operate or be construed to renew or extend this Agreement. The fees for continued operations after expiration or termination of this Agreement shall be calculated and payable in the same manner as under the Agreement, except that, if this Agreement expires or is terminated for other than Licensee's default, the reconciliation of payments shall occur at six-month intervals and at the end of the extended period of operation. If the reconciliation shows that Licensee paid more than was required during the extended period of operation, the County will rebate the amount of overpayment within 20 business days after the reconciliation. If the reconciliation shows that Licensee paid less than was required during the extended period of operation, Licensee shall pay the unpaid amount within 20 business days after the reconciliation. Licensee shall not continue operations after expiration or termination of this Agreement without the County's express written permission. Licensee shall be liable to the County for any loss or damage arising in connection with that continued operation, including but not limited to loss or damage not contemplated by the parties at the time this Agreement is executed. The County's acceptance of a payment made pursuant to this section shall not give Licensee any right to remain in possession, nor shall it constitute a waiver by County of its right to immediate possession. Nothing in this section shall preclude the County from exercising any rights or remedies it may have under this Agreement or otherwise. Except as expressly provided otherwise by this section, all provisions of this Agreement shall remain effective during any post-expiration or post-termination operation under this section.

4. OPERATING RIGHTS, PRIVILEGES AND OBLIGATIONS OF LICENSEE

4.1 Grant of Operating Rights and Privileges

4.1.1 Vehicle Rentals
Licensee shall have the right and obligation to rent non-chauﬀeured vehicles to passengers, tenants, and other patrons of the Airport. Licensee shall have an affirmative obligation, for the term of the Agreement, as it may be extended as provided above, to conduct a non-exclusive, on-airport commercial rental car operation at all times that such service is customarily provided to the traveling public at the Airport. In conjunction with its operation, Licensee may:

4.1.1.1 Offer personal accident insurance, personal eﬀects insurance, and other insurance related to travel by car or the rental and use of Licensee’s vehicles;

4.1.1.2 Rent or sell mobile and cellular phones;

4.1.1.3 Rent or sell other services or personal property approved in writing by the Airport Director, provided that (1) the services or personal property must be of a type that customarily are offered for sale or rent at other comparably-sized airport car rental facilities and (2) the sale or rental of the services or personal property must not conflict with a right or privilege of another Airport Licensee.

4.1.1.4 Store, stage, wash, fuel, and conduct minor preventive maintenance and repair of automobiles to be made available for rental, including movement of such vehicles necessarily incident to these activities.

4.1.2 Restrictions on Licensee’s Operations

Licensee, in the conduct of its operation shall be subject to the following limitations and restrictions:

4.1.2.1 Licensee shall park on, store on and rent from its assigned Operating Area only automobiles as defined herein and only automobiles available for rental exclusively from its Operating Area. No other automobiles, including trucks above 5,000 lbs. empty vehicle weight, motor homes, busses, motorcycles, trailers, or non-passenger registrations shall be permitted on the Airport, without express prior written permission of the County, in the discretion of the County, and under such fees, terms and conditions as the County may require.

4.1.2.2 Licensee shall not hold or control, directly or indirectly, any rights or obligations in the management, operations, premises, inventory, ownership, voting or financing of any other entity doing business on, at or through the Airport including, expressly, any On-Airport or Off-Airport Rental Car Company with a Location within upon full disclosure by Licensee of all such rights or obligations, the County will consent, in its reasonable discretion, to the existence and enforcement of such rights interests hereunder in the promotion of competition and the avoidance of revenue diversion, or that are made subject to such reasonable terms and conditions as are necessary to protect County’s interests. For purposes of the section, “Licensee” shall include all natural persons, corporations or other business entities holding or controlling, directly or indirectly, any rights or obligations in Licensee’s management, operations, premises, inventory, ownership, voting or financing. All revenues derived from the conduct of business prohibited or restricted by this Section shall be includable for purposes of percentage of gross revenue calculations and payments pursuant to this Agreement.

4.1.2.3 Licensee may not offer vehicles for sale to the public at any location at the Airport.
4.1.3 Other Licenses

Licensee must have the Airport Director’s prior written consent before engaging in any licensed operation not expressly and specifically permitted by this Agreement, including but not limited to the sale of food, beverages, maps, or newspapers, and may be required as a condition of that consent to pay the County a fee, which may include, but is not necessarily limited to, a percentage of gross revenue.

4.2 Rights of Ingress and Egress

Licensee shall have the right of ingress to and egress from its Licensed Area over public walkways and roadways. Licensee shall have the right to use common use roadways, following established speed and safety signage. Licensee's rights of ingress and egress and use of common use roadways shall be subject to all applicable laws and to regulations established by the Airport Director.

4.3 Other Licensees

The rights granted by this Agreement are non-exclusive. The County may grant similar rental car rights to other on-airport Licensees during the term of this Agreement.

4.4 Operating Obligations

4.4.1 Vehicle Rentals

Licensee shall provide rental car services continuously during the term of this Agreement and shall operate it in a first-class manner to serve passengers and other Airport users.

4.4.2 Automobiles

Licensee shall maintain on hand at the Airport an adequate number of vehicles to meet all reasonably foreseeable rental demands. The model year of the vehicles shall not be more than two (2) years older than the current model year. All vehicles shall be maintained in good mechanical condition, and shall be clean, well maintained, safe and contain all necessary safety equipment for mountainous terrain, including, during winter season, mud and snow tires rated “M/S” and accepted by the Colorado State Patrol under the then-existing “chain law” for mountain passes. It is understood that the winter season shall include, at a minimum, November 1 to April 15 of each year, though weather conditions may dictate lengthening this period.

The Airport Director may disapprove any vehicle provided by Licensee for public use at the Airport if the vehicle fails to comply with the requirements of this Agreement. Upon receipt of the Airport Director’s written notice of disapproval with a statement of grounds, Licensee shall immediately withdraw the disapproved vehicle(s) from use as rentals at this Airport and shall not return the vehicle(s) to rental use at the Airport until the grounds for disapproval have been eliminated to the Airport Director’s satisfaction.

4.4.3 Hours of Operation

Licensee shall provide customer service personnel and car rental services at the Rental Car Counter seven days per week, from a time each day sixty (60) minutes before the first scheduled airline departure or the time of the first scheduled airline arrival, whichever occurs earlier to a time thirty (30) minutes after the actual time of the last airline arrival or the time of the airline departure,
whichever occurs later. Licensee shall provide customer service personnel during periods of irregular flight operations that result in delayed or cancelled flights and the transport of customers to the Airport by other modes of transportation. In the event employees cannot be available during these periods, Licensee shall make every effort to accommodate the reasonable needs of its customers, which shall include providing a telephone, free of charge to the customer, with direct communication to employees who can provide service to the customer.

The Airport Director, upon Licensee's written request, may authorize deviations from the requirements of this subsection. The schedule of business hours so established is subject to periodic review by the County or upon written request from Licensee to the Airport Director. As a result of any such review, the Airport Director may require an expansion or allow a reduction of the hours of operation as public demand requires. In no event shall the hours of operation be curtailed to an extent that the service contemplated herein shall be diminished.

4.4.4 Quality of Service

Licensee shall furnish prompt, courteous, and efficient service on a fair, reasonable and nondiscriminatory basis to any member of the public commensurate with rental car operations of the size and traffic volume at first-class U.S. destination resort locations. Licensee shall keep its Operating Area in a safe, clean, orderly and inviting condition. All services and property sold or rented by Licensee must conform in all respects to federal, state, and County laws, ordinances, and regulations, and to any applicable rules adopted by the Airport Director. Licensee shall conduct its operations in an orderly and proper manner and so as not to annoy, disturb or be offensive to customers; patrons; County employees, employees, agents and representatives; or other tenants at the Airport.

4.4.5 Manager

Licensee shall engage a full-time manager who: (1) is qualified and experienced; (2) has full authority to control the day to day operation of the car rental license at the Airport; and (3) has authority to respond to and clean up a Hazardous Substance Release in a timely and appropriate manner (4) has authority to respond to accidents, both with personnel and property. The manager or the manager's designee shall be stationed at the Airport and shall be present at the Airport between 8 a.m. and 5 p.m. Monday through Friday. The manager or the manager's designee shall participate in all County Airport tenant meetings including an annual snow removal plan briefing. In the manager's absence, a subordinate shall be in charge and present at the Airport.

4.4.6 Staff

Licensee shall employ a sufficient number of trained personnel to handle customer service; vehicle cleaning, servicing, and handling; and office and administrative duties necessary for the efficient and effective operation of the rental car license. Employees shall be safety-conscious, environmentally-sensitive, helpful and courteous at all times, consistent with acceptable customer relations practices at first-class U.S. destination resorts.

4.4.7 Staff Conduct

Licensee shall be responsible for the conduct, demeanor, and appearance of its officers, agents, employees and representatives. Licensee’s officers, agents, employees and representatives
shall comply with all Airport rules and regulations, shall not act in a manner which will constitute a public or private nuisance, or which will disrupt the safe, efficient and normal operations of the Airport and shall strictly observe all posted speed limits and other traffic and safety signs. Employees on duty shall wear uniforms or appropriate business attire. Uniforms and business attire shall be kept neat, orderly, and clean. Customer service personnel, Rental Car Service Facility service personnel, and attendants shall be trained by Licensee to render high quality, courteous, and efficient service. Licensee shall closely supervise service personnel to assure a high standard of service to rental car customers. Upon receipt of a written objection from the Airport Director concerning the conduct of Licensee’s officers, agents, employees, contractors and representatives, Licensee shall promptly meet with the Airport Director or his/her designee to discuss the basis for the objection and take steps to eliminate the conduct, including if necessary the initiation of steps that could lead to the discharge of the offending employee in accordance with Licensee's employment policies and any applicable collective bargaining agreements.

4.4.8 Solicitation Prohibited

Licensee shall not permit its agents or employees to use pressure sales tactics or to overtly solicit for car rentals or related services offered by Licensee under this Agreement. The Airport Director shall be the sole judge of whether conduct amounts to a violation of this subsection. Upon written notice from the County, Licensee shall take all necessary steps to eliminate conduct in violation of this subsection and to prevent its recurrence.

4.4.9 Relationship with Competitors

Licensee shall maintain cooperative, albeit competitive, relationships with its competitors at the Airport, and shall not engage in open, notorious, or public disputes, disagreements, or conflicts with competitors that would tend to interfere with quality of the rental car services at the Airport.

4.4.10 Diversion of Customers Prohibited

Licensee shall not divert or allow the diversion of any prospective customers from the Airport to another location. If any such diversion does occur, the diverted transaction shall be deemed to have occurred at the Airport.

4.4.11 Signs

Licensee shall not erect, install, nor permit upon its Operating Area any sign or other advertising device without first having obtained the Airport Director’s written consent, which may be withheld in its sole discretion. Licensee shall remove all signs and sign hardware upon expiration or termination of this Agreement and restore each sign location to its former state, unless the Airport Director elects to retain all or any portion of the signage.

4.4.12 Compliance with Rules

In addition to complying with the requirements of this Agreement and with all applicable federal, state, and local laws, rules, and regulations, including but not limited to the requirements of the Americans with Disabilities Act, Licensee shall comply with reasonable rules adopted by the County or the Airport Director regarding the use of, entry on, and access to the County's property.
4.4.13 Branding

Licensee shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name or trade name listed in the Preamble of this Agreement. During the Term, Licensee shall operate and maintain all signage only under the brand or trade name listed in this Agreement. No other brand or trade name shall be used or displayed by Licensee at the Airport during the Term. Except as provided herein, the operation and display of any other brand or trade name(s) by Licensee is prohibited. If Licensee utilizes a brand or trade name under a license or franchise agreement, Licensee represents and warrants to the County that Licensee has been granted the right to use any such brand or trade name for the Term of this Agreement, pursuant to a franchise or license agreement (the “Franchise Agreement”) with the brand or trade name owner (a “Franchisor or Licensor”). At the County’s request, Licensee agrees to provide the County with a copy of the Franchise Agreement and reasonable evidence that such Franchise Agreement remains in full force and effect. Licensee agrees that a Franchisor’s or Licensor’s termination of Licensee’s right either to use Licensee’s brand or trade name, shall constitute an Event of Default under this Agreement.

4.4.14 Disincentive Fees

The following table sets forth a schedule of Disincentive Fees for Licensee’s violations of the operating standards or failure to adhere to contractual requirements. These Disincentive Fees shall be in addition to all other rents and fees required by Section 5, hereof. All Disincentive Fees shall be paid in full within ten (10) calendar days of written notice from the County.
<table>
<thead>
<tr>
<th>Infraction</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; (or further) Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking/Storage of vehicles in areas other than Licensee Operating Area depicted in Exhibit A.1</td>
<td>$15 per day per vehicle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking or storage of any vehicles in areas marked as a Fire Lane as set by the Fire Marshall</td>
<td>Cited by Fire Marshall</td>
<td>Plus</td>
<td>$15 per day per vehicle</td>
</tr>
<tr>
<td>Conducting any vehicle maintenance or cleaning activities in the Ready/Return or Storage Area. If trash is removed from a vehicle parking in the Ready/Return Area the trash must be disposed of in proper receptacles located in the Rental Car Storage and Service Facility Area.</td>
<td>Written Warning</td>
<td>$250 per incident</td>
<td>$500 per incident</td>
</tr>
<tr>
<td>Storing any items other than Lessee’s rental vehicles. Incidental items required by Licensee (i.e. child car seats, etc.) are permitted to be stored in the Licensee’s Operating Area.</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
<tr>
<td>Failure to maintain any portion of Operating Area in a safe clean, neat and orderly condition; or allowing any accumulation of rubbish, trash, or other waste</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
</tbody>
</table>
5. FEES AND FINANCIAL REPORTING

5.1 Fees

In addition to any other payments required under this Agreement, Licensee shall pay all of the following fees to the County:

5.1.1 A “License Fee” equal to the greater of: (1) the Minimum Annual Guarantee (“MAG”) or (2) ten percent (10%) of Licensee’s Gross Revenue for the applicable Agreement Year. The License Fee shall be paid in monthly installments which shall be the greater of the percent of monthly allocation of the MAG as depicted in Exhibit E or ten percent (10%) of Licensee’s Gross Revenue for the month.

5.1.2 For the use of the Rental Car Storage and Service Facility, Licensee shall pay $4.50 per square foot of space allocated to it or a total monthly fee of $9,219.75. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.3 For the use of the Rental Car Ready/Return Area, Licensee shall pay the monthly sum of $200.00 per space. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.4 For Customer Service Counter and Office Space allocated to Licensee, a monthly fee of $1,029.75 ($75.81 per square foot per year for 163 square feet) during the first Agreement Year. The fees for Counter and Office space shall be adjusted annually by County Resolution to reflect the same rate the airlines pay for counter/office space.

5.2 Minimum Annual Guarantee

For the first Agreement Year, the Minimum Annual Guaranteed Fee or "MAG" amount payable by Licensee to the County shall equal $441,005.00. Beginning with the second (2nd) Agreement Year and continuing thereafter, the MAG shall be adjusted for each Agreement Year to equal eighty-five percent (85%) of the License Fee paid in the prior Agreement Year. Notwithstanding the foregoing, the MAG will never be less than the first Agreement Year.
Although each new MAG will be effective as of the first day of each Agreement Year the County will not finalize calculation of the new MAG until sometime thereafter. Once the new MAG has been calculated by the County, based upon information supplied to the County by Licensee, the Airport Director will send Licensee written notice of the new MAG amount. Licensee shall then pay the County any additional License Fee due based on the difference between the License Fee as calculated under the previous Agreement Year’s MAG compared to the new MAG. The County will credit Licensee if there is a credit due based on that same calculation within thirty (30) days of the date of the Airport Director’s written notice.

Immediately upon the Licensee’s receipts of revenues from its activities hereunder, such funds representing the Minimum Annual Guarantee amounts or percentage fees, and other fees and charges payable to the County under the terms of this Agreement, shall be vested in and become the property of the County and the Licensee shall hold and be responsible for said funds as a Trustee thereof until the same are delivered to the County.

5.3 Minimum Annual Guarantee Abatement

In the event that the total number of scheduled deplaning airline passengers at the Airport for any month during the Term of this Agreement declines to a level lower than seventy-five percent (75%) of the number of deplaning passengers for the corresponding month of the previous Agreement Year, Licensee’s MAG shall be abated by a percentage equal to the percentage decrease in such deplaning passengers, for each month during which deplaning passengers remain at a level less than seventy-five percent (75%) of the deplaning passengers for the corresponding month of the previous Agreement Year. Licensee shall continue to pay the License Fee for each month for which the MAG is abated. When monthly deplaning passengers rise to a level at or above seventy-five percent (75%) of passenger deplanements for the corresponding month of the previous Agreement Year, Licensee’s full MAG shall be reinstated. Any MAG abatements under this Section shall be accounted for as part of the Agreement Year Adjustment under Section 5.8.3.

5.4 Gross Revenue

5.4.1 "Gross Revenue"

"Gross Revenue" shall be determined by the total of charges on the face of the customer's rental agreement, less any charges excluded in the definition of Gross Revenues, and shall mean, unless specifically excluded herein all amounts paid or payable to or considerations of determinable value received by Licensee, after any discounts are deducted at the time of rental, for:

(a) all charges, including, but not limited to, time and mileage charges and separately stated fees (including but not limited to license recovery or recoupment fees) for rental of vehicles and other related or incidental services or merchandise, including but not limited to, ski racks, navigation units, car seats, refueling charges and any other items or services, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned;

(b) all amounts charged to the customer for insurance offered by Licensee incidental to the rental of such vehicles, including but not limited to personal accident insurance;
(c) all charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location;

(d) all proceeds from the long-term lease of vehicles from any location on the Airport;

(e) all amounts charged to Licensee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Licensee of its right to recover from customer for damage to or loss of the vehicle rented;

(f) all amounts charged to Licensee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Licensee;

(g) all amounts charged by Licensee, and described under Section 5.6 as a pass-through to its customers of License Recovery Fees; and

(h) Membership fees associated with car-sharing brands operating at the Airport.

Gross revenues or gross receipts to the Licensee shall be deemed received at the time the sale, lease or service transaction occurs giving rise to Licensee’s right to collect said monies, regardless of whether said transaction was conducted in person, by telephone, electronically, by mail or by any other method of information transmission, whether the transaction was for cash or credit, and of for credit, regardless of whether the Licensee ultimately collects the monies owed for said transaction from the customer involved. Any gross revenues or gross receipts included in the formula for determining percentage fees owed the County and determined by Licensee at a later date to be uncollectible shall not offset future percentage fees owed the County. If the initial rental car contract entered into between Licensee and a rental car customer is subsequently amended, solely because the customer’s actual time and mileage usage contemplated by the original contract, and the charges to be paid by the customer are therefore different from the charges contemplated by the original contract, the percentage of gross revenues that the County is entitled as fees hereunder shall be based upon the gross revenues that the Licensee actually receives or is entitled to receive, under the amended rental car contract with its customer.

5.4.2 Exclusions from Gross Revenue

The following shall be excluded from Gross Revenues:

(a) any federal, state, City or County sales or other taxes or surcharges separately stated on the customer’s rental agreement and collected from customers of Licensee and paid in full by Licensee to the taxing authority;

(b) Amounts Licensee receives, or is entitled to receive, for the sale (other than "rent to own" program vehicle sales rental amounts), disposition, loss, conversion, or abandonment of Licensee’s used automobiles and other equipment, personal property, and trade fixtures not in the normal course of the commercial rental car business permitted hereunder;

(c) amounts which Licensee receives, for the repair of damages to its automobiles and other equipment, personal property, and trade fixtures; including revenue from the wholesale transfer of salvage vehicles;
(d) Customer Facility Charges;

(e) all non-revenue rentals to employees of Licensee;

(f) Payment and administration of parking tickets, tolls, towing and impound fees, traffic and red-light tickets;

(g) mandatory fees shown on the customer rental agreement, paid to other governmental agencies, excluding the County, relating to transactions at the Airport; and

(h) net corporate discounts applied at the time the rental contract is closed but only to the extent Licensee provides auditable proof to County that discount or rebate is specifically attributable to rental agreement with Airport customer.
5.4.3 Retroactive Adjustment of Gross Revenue Prohibited

The retroactive adjustment by Licensee of Gross Revenues designated by Licensee as volume discounts, corporate discounts or any other designation of any nature, or for any purpose, is prohibited.

5.5 Obligations Regarding Fees

5.5.1 Licensee shall:

5.5.1.1 Take all reasonable measures to maintain, develop and increase Licensee's car rental business at the Airport;

5.5.1.2 Not divert, or cause or allow the diversion of, any business from the Airport.

5.5.1.3 Permit inspection during ordinary business hours by the County or the County’s representatives of any sales equipment used by the Licensee, including but not limited to cash registers, recording tapes, point of sale equipment and computer sales terminals, provided that the County shall take all reasonable precautions to ensure that its inspections under this subsection do not unnecessarily disrupt Licensee’s business operations.

5.5.1.4 Maintain full and accurate books of account and records from which “gross revenue” and “gross receipts,” as defined herein, the amount and nature of all business transacted on or though the Airport location, and the amount of percentage rental owed the County hereunder, can be determined and verified, according to standards and accepted accounting and auditing practices. The books of account and records that Licensee must maintain shall include, but need not be limited to, legible, true and accurate copies of all written and electronic records and reports kept in the normal course of Licensee’s business including, without limitation, all motor vehicle rental contracts and cancelled contracts forms, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursements journals, general ledgers, bank statements, bank books, bank deposits slips, annual federal income tax returns, state sales tax returns and all Airport related revenues reported submitted by Licensee to its franchisor and all computer and/or electronic reproductions of the above. These books and records shall be maintained on a current basis and shall be stored for a period of at least thirty-six (36) months from the end of each monthly period, or for such longer period time as County reasonably may direct in writing. If such records are not stored within Pitkin County, it shall be Licensee’s responsibility, at its expense, to promptly make such records, upon request, available to County, or its representatives, in a time, manner and format to the satisfaction of the County, in its reasonable discretion.

5.5.2 Licensee’s financial record keeping and reporting systems for all business conducted on or through the Airport location or subject to this Agreement shall include, without limitation, as follows:

(a) Complete, accurate and legible copies of all automobile rental contracts.

(b) Adequate financial controls, under generally accepted accounting principles and auditing standards, to ensure complete and accurate recording and reporting of all revenues, including commissionable revenues.

(c) Any other documents or procedures which, in the reasonable discretion of the County, are necessary or useful to determine or verify Licensee’s obligations hereunder. Such new documents
or procedures shall be used or instituted a reasonable time after written notice thereof has been sent by County to Licensee.

5.5.3 The County may, annually, at the end of the term herein, or upon a request by Licensee of assignments of its rights hereunder, unless expressly waived by the County, conduct audits of Licensee’s books of accounts and records, which audits shall be conducted upon reasonable notice to Licensee and during normal weekday business hours. For purposes of this License and Use Agreement, the annual audit period shall be deemed to commence on January 1st of each year of the Agreement and to conclude on December 31st. In performing said audits, County shall be entitled to review, and Licensee shall be obligated promptly to provide to the County upon demand therefore, all of the books of account and records that Licensee is obligated to maintain pursuant hereto, as well as other records, documents and files in Licensee’s possession, custody or control during the term hereof that the County, or its auditor, determines, in its sole discretion, are useful, relevant or necessary to determine or verify the correct amount of reportable, includable and excludable revenues, and gross receipts enjoyed by Licensee, and the correct amount of percentage rental owed by Licensee to the County, for the period involved. Should Licensee fail to maintain the books of account and records required to be maintained pursuant hereto, or should License fail to deliver and enable the County or its auditor to review Licensee’s books and records, and other documents and files, as required by this subparagraph, said default is agreed by the parties to be a material breach of this Licensee Agreement and Licensee shall pay, as liquidated damages for such breach, an additional amount equal to fifty (50%) percent of the verifiable costs, fee, payments and changes due from Licensee hereunder for the period in question; provided, however, that Licensee shall only pay these damages for failure to keep required records if such requirements are reasonable in light of Licensee’s business practices (as such practices may be modified by a County request hereunder) and generally accepted accounting principles and auditing standards.

5.5.4 If any audit shows percentage compensation and other fees and changes that should have been paid to the County by Licensee pursuant to this Agreement were understated or underpaid for any period involved (including, expressly, revenues from business), Licensee shall, within thirty (30) day notice by County of any such deficiency, pay to the County the full amount underpaid, plus two percent (2%) interest per month, calculated as provided above, and such underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. If the amount of underpayment exceeds two (2%) percent of the total percentage compensation that was owed by Licensee to the County for the period involved, Licensee, in addition to paying the County the underpayment owed and the interest accrued thereon, shall within thirty (30) days’ notice by County reimburse the County for the cost of the audit. If the audit discloses overpayment of the percentage compensation paid to the County by Licensee, the County shall refund the amount of overpayment to Licensee, within thirty (30) day of said audit.

5.5.5 The County shall hold all information obtained from any such audit in confidence, except as may be necessary to enforce the County’s rights under this Agreement, except with respect to tax proceedings, and except with respect to any legal requirements or Court Order to disclose said information.

5.5.6 One Hundred Eighty (180) days after Licensee’s annual audit report has been received by the County or, whichever is later, the date all supplemental documents requested by the County have been received by the County, the County shall release Licensee from any liability for underreporting or underpayment hereunder, unless the County shall have given written notice,
within that period, of any claims for inadequate or deficient reporting or payment. Once such notice is given, the parties shall expeditiously and in good faith cooperate to resolve the matters contained in the notice(s).

5.5.7 Prior to any assignments, conveyance or transfer by License of this License or any rights or obligations hereunder requiring approval of the County as required below, the County shall be entitled to an audit as defined here in above at the sole expense of the Licensee.

5.6 License Recovery Fee

Licensee acknowledges that License Fee payments by Licensee to the County under this Agreement are for Licensee's privilege to access the Airport market and are not fees imposed by the County upon Licensee's customers. The County does not require, but will not prohibit, a separate statement of a License Recovery Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions:

(a) such Percentage Fee pass through must be titled "License Recovery Fee" or "License Recoupment Fee";

(b) the License Recovery Fee or License Recoupment Fee must be shown on the customer rental agreement and invoiced with other Licensee charges;

(c) the License Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven hundredth percent (11.11%) of Gross Revenues;

(d) Licensee shall neither identify, treat, or refer to the License Recovery Fee or License Recoupment Fee as a tax, nor imply that the County is requiring the pass through of such fee;

(e) if Licensee elects to include the License Recovery Fee or License Recoupment Fee on its customers' rental agreement, it will be considered part of Gross Revenue; and;

(f) Licensee shall comply with all applicable laws, including Federal Trade Commission requirements.

5.7 Monthly Statements

5.7.1 General Requirements

Licensee shall submit to the County a Monthly Statement of Gross Revenue to include a calculation of the License Fee and a report of the number of closed rental transactions ("Monthly Statement") by the twentieth (20th) day of each month following the month covered by the Monthly Statement. The Monthly Statement shall be submitted on a form substantially similar to the Monthly Statement form in Exhibit "B". The County reserves the right to revise the form and reporting requirements as needed. The accuracy of the Monthly Statement shall be certified by the affidavit of Licensee's chief financial officer, or the chief financial officer's designee. The certification shall be placed on the face of or attached to the Monthly Statement.

5.7.2 Liquidated Damages

The parties recognize that the County will incur additional administrative costs if Licensee is late in providing the monthly statements required by this Section 5, and that the amount of those costs is difficult to determine with certainty. Consequently, the parties agree that Licensee shall pay the County $100.00 as liquidated damages each time Licensee is more than 10 calendar days late in submitting the monthly statement required by this section. The sums set forth herein as
liquidated damages are not a penalty, but are reasonable estimates of the costs the County will incur for Licensee’s non-compliance.

5.8 Payments

5.8.1 Monthly Payment

By the first day of each month during the term of this Agreement, Licensee shall pay to the County in advance the monthly allocation of its MAG as shown in Exhibit E, plus all other fees due monthly under this Agreement.

5.8.2 Payment of Excess

By the twentieth (20th) day of each month during the term of this Agreement, and of the month following the expiration or termination of this Agreement, Licensee shall pay to the County any amount by which the monthly installment of the License Fee for the preceding month exceeds the MAG payment as provided in Section 5.8.1.

5.8.3 Annual Adjustment

An adjustment shall be made at the end of each Agreement Year so that Licensee's payment for the Agreement Year is the greater of the MAG for that year or ten percent (10%) of Licensee's Gross Revenue for that year. Any credit to which Licensee is entitled as a result of the adjustment shall be credited against the annual installment of the License Fee for the first month of the following Agreement Year, except that any credit to which Licensee is entitled at the end of the final Agreement Year shall be paid by the County within 30 calendar days after the County receives Licensee's final monthly Statement of Gross Revenue with License Fee Computation.

5.8.4 Method of Payment and Interest

Licensee shall make payments due under this Agreement automatically, including but not limited to interest accrued on late payments. Payments under this Agreement shall be by wire, draft, or check on a bank authorized to engage in banking in the United States, shall be payable to the County in U.S. dollars, and shall be delivered to the Aspen-Pitkin County Airport, 0233 Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. Payments shall be made without abatement, offset, or deductions.

Payments not received by the twentieth (20th) day of each month, as described above, shall be subject to a late penalty of ten (10%) percent of the amount due, or ten ($10) dollars, whichever is more, which shall be added to the principle then due and owing. If still unpaid for 30 days after the delinquency date, a late fee of 2.0% per month will be added. In the event of any delinquent fees or changes hereunder, and to the extent thereof, including late charges and interest, the Airport shall be entitled to a lien for such amounts on licensee’s trade fixtures, furniture, and equipment in use at or located at the Airport.
5.9 Annual Audit and Annual Statements

5.9.1 Annual Statement

Within ninety (90) calendar days after the end of each Agreement Year, Licensee shall, at its sole expense, shall prepare and deliver to the County an Annual Statement of Gross Revenue including a calculation of its License Fee ("Annual Statement"). The Annual Statement shall be prepared in accordance with generally accepted accounting principles. If an Annual Statement discloses that Licensee owes additional amounts to the County, Licensee shall pay those amounts when it delivers the Annual Statement to the County. Each Annual Statement shall be accompanied by the opinion of an independent Colorado Licensed certified public accountant ("CPA"); a state-licensed CPA acceptable to the County, in its reasonable discretion; or Licensee’s Chief Financial Officer establishing that the:

5.9.1.1 CPA or Licensee’s Chief Financial Officer has examined the Annual Statement and any supporting documentation in accordance with generally accepted auditing standards and the terms of this Agreement, and using appropriate tests of accounting records and other auditing procedures deemed necessary under the circumstances; and

5.9.1.2 Annual Statement fairly presents Licensee's Gross Revenue for the Agreement Year in question.

5.9.2 Within ninety (90) days after the end of each calendar year and at the expiration of the License term and prior to the assignment of Licensee's rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year, for the purpose of greenhouse gas emissions evaluations: the number of vehicles rented at the Airport and returned elsewhere, the number of vehicles rented elsewhere and returned to the Airport, amount of fuels dispensed on a quarterly basis at the Airport, the number of vehicles in Licensee's Airport inventory as of January 1/December 31 each year by vehicle class, either using EPA vehicle class or market class, and the number of miles traveled by each rental vehicle returned at the Airport by vehicle class, and average MPG per vehicle class for vehicles in the fleet inventory.

5.10 Customer Facility Charge ("CFC")

5.10.1 Collection of CFC

5.10.1.1 Licensee shall collect a Customer Facility Charge ("CFC") from its Airport Customers. All CFC revenue collected by Licensee shall be a debt owed to the County by Licensee.

5.10.1.2 County agrees to use CFC revenue to fund certain capital projects and to accomplish additional projects designed to facilitate major customer service improvements at the Airport. As of the date of this Agreement, the CFC rate is set at $5.50 per transaction day. The County reserves the right to adjust the CFC rate after consultation with the Licensees and providing a ninety (90) day written notice of adjustment.

5.10.2 Monthly Activity Report

On or before the twentieth (20th) day of each month following the first calendar month after the Commencement Date and every calendar month thereafter during the Term, Licensee shall provide to the Airport Director as part of the monthly Statement of Gross Revenue Report (see
Section 5.7.1 of this Agreement), Licensee’s total number of vehicle rental contracts, the total number of rental transaction days, and the total CFC revenue collected for the past monthly period. Licensee shall submit such report for each month during the Term, regardless of whether Licensee actually entered into any vehicle rental contracts during any such month. If the monthly activity report is not provided on or before the twentieth (20th) day of each month as required herein, Licensee shall pay a late reporting fee as provided in Section 5.7.2. County’s assessment of the delinquency fees shall be in addition to any other remedies that County may have in law or in equity, including termination and revocation of this Agreement and of all rights and privileges granted therein.

5.10.3 Payment to County of CFC Revenue

All CFC revenue collected by Licensee for the past monthly period are due and payable to County with the Monthly Activity Report on or before twentieth (20th) day of each month and shall be deemed delinquent if not received by County on or before the twentieth (20th) day. In the event that County does not receive payment on the due date, Licensee shall pay interest thereon from the due date until the date that full payment is received (“payment date”) at two percent (2.0%) per month or the maximum interest rate then allowed by law. County reserves the right to audit any monthly activity reports and payments based upon such reports. Acceptance of any payments hereunder shall not operate as a waiver of County’s right to collect CFC revenue determined to be due and owing. County’s assessment of the late payment fee shall be in addition to any other remedies County may have in law or in equity, including termination and revocation of this Agreement and all rights and privileges granted therein.

All CFC revenue shall be paid by check made payable to “Pitkin County” and delivered to the Aspen-Pitkin County Airport, 0233 Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. All such CFC revenue payable by Licensee shall be in lawful money of the United States of America and in same day funds as of the due date.

6. LICENSEE’S OTHER OBLIGATIONS

6.1 Capital Additions by Licensee

6.1.1 Duty to Provide and Maintain

Licensee shall provide and maintain, at its own expense, all proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, and furnishings necessary for the effective and efficient operation of its rental car business at the Airport.

6.1.2 County and Licensee Coordination

Licensee shall work with and coordinate its activities with the County, other rental car Licensees, and Airport planners, designers, architects, engineers, contractors and subcontractors.

6.2 Plans and Specifications; Compliance with Law; County Approval

6.2.1 County Approval of Proprietary Capital Additions

No Proprietary Capital Additions, improvements or installations shall be made, removed, demolished, or relocated in the Licensee Operating Area without the Airport Director's prior written approval. The County may require plans and specifications and the issuance of a permit
from the County. All Proprietary Capital Additions, improvements and installations shall conform to the County's design criteria and architectural requirements of the County.

Any proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, furnishings, improvements or alterations to the Lessee’s Operating Area and to the buildings thereon with respect to which County has given its written consent, shall be done at Licensee’s sole cost and expense and Licensee shall not cause or permit any statutory claims or liens to be filed against the Lessee’s Operating Area or against the buildings or other improvements thereon by reason thereof and hereby does indemnify the County against all costs and liabilities arising from such claims or liens filed as a result of Licensee’s activities.

6.2.2 Compliance with Laws and Building Codes

Licensee shall ensure that all Proprietary Capital Additions, improvements, equipment, furnishings, fixtures and tenant finishes constructed or installed by Licensee, or Licensee's contractor, conform in all respects to applicable federal, state, and local laws, rules, and building codes; the County's approval shall not be construed as a representation or warranty of conformance. The County may withhold approval based upon, among other grounds, engineering, architectural, airport safety/security operational impact, or aesthetic considerations.

6.3 Taxes

6.3.1 Duty to Pay Taxes

Unless exempt, Licensee agrees to pay, before becoming due, all taxes, assessments, user fees and other charges, however named, which, during the term of this Agreement, may become due or a lien or which may be levied by the state, County, city, district or any other body upon the Licensee Operating Area or improvements in the Licensee Operating Area, or upon any taxable interest of Licensee acquired in this Agreement, or any taxable possessory right which Licensee may have in or to the Licensee Operating Area or the improvements thereon by reason of its occupancy thereof, as well as all taxes on all taxable property, real or personal, owned by Licensee in or about the Licensee Operating Area (collectively, “Taxes”). Upon request from the County, Licensee shall give to the County a copy of the receipts and vouchers showing such payment. Notwithstanding the foregoing, Licensee reserves the right to contest such taxes in good faith and Licensee will provide County with advance notice that it will be contesting such taxes.

6.4 Maintenance and Repairs

Except for the maintenance or repair obligations assigned to the County by the maintenance and repair responsibility matrix attached as Exhibit “C”, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly. Licensee shall not cause nor, when advised thereof by the County, permit any dangerous or hazardous condition or nuisance to exist related to the use and occupancy of its Operating Area as granted herein.
6.4.1 Airport Airline Terminal and Licensee Counter/Office Area

With respect to the maintenance and repair of the Airport Terminal and areas, including the rental car ticket counter and office locations, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the structure and exterior of the Terminal and the interior common areas including utilities and heating, ventilation and air conditioning systems in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain the remainder of its Operating Area, including the interior of the buildings and any structures or facilities used by Licensee, in good repair in a picked-up, neat, orderly and safe condition and in accordance with first-class maintenance practices and in common with other users of Licensee’s classification. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.2 Ready/Return Area

With respect to the maintenance and repair of the Ready/Return Area, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the pavement, pavement markings, lighting, landscaping and sidewalks in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain all signage in good condition and repair. Licensee shall promptly remove all rubbish, debris, or waste materials from the Ready/Return Area. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.3 Rental Car Storage and Service Facility Area

The entire cost of operation, management, maintenance, care and any necessary repair or replacement of the Service Facility or its equipment shall be borne jointly by Licensees. The Service Facility shall be kept in good order and Licensees shall make all necessary repairs and replacements thereof promptly and in a good workmanlike manner. No rubbish, debris, waste materials shall remain on any part of the Service Facility or be disposed of improperly.

Licensees agree to (1) share in the costs of operating and maintaining the automatic car wash and fuel farm, based on each Licensee's actual use of the cash wash and fuel farm on a per wash and per gallon basis; (2) share in other costs of operation and maintenance of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year and (3) share in the costs of repair and replacement of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year.

Within 45 days of the effective date of this Agreement, and on each anniversary date of the effective date of this Agreement, the Licensees will agree by a Majority-in-Interest vote on a Manager of the Service Facility and its duties (the "Manager") and enter into a Management Agreement with said Manager, the terms of which shall be subject to County approval, which approval shall not be unreasonably withheld. Manager shall be responsible for the day-to-day maintenance, oversight, and operation of the Rental Car Storage and Service Facility Area. Within sixty (60) days of the effective date of this Agreement, Manager shall prepare and implement a preventative maintenance program for the car wash, fuel facility, and associated equipment. The scope of this preventative maintenance program shall be subject to County approval, which
approval shall not be unreasonably withheld and a copy shall be retained for use by the County in determining Licensees obligations to maintain the Service Facility.

6.4.3.1 Special Conditions Regarding Fuel Facility

The Fuel Facility shall be used only for the purpose of dispensing fuel to automobiles authorized by a current or successor License and Use Agreement to be stored on and rented from the Airport. No fuel from the Fuel Facility shall be sold, bartered or exchanged or otherwise dispensed to anyone other than an authorized On-Airport rental car company.

In the maintenance and operation of the Fuel Facility on the Premises, the Licensees shall pay all tank fees and otherwise strictly comply with all applicable laws, regulations and guidelines, including Sections 8-20.5-101 et seq. C.R.S. as they now exist and may hereafter be amended. Licensees shall maintain the Fuel Facility free of contamination and shall remove and properly and legally dispose of all contaminated material provided, however, that Licensee shall not be liable for such contamination or removal if not placed in, on or under the Fuel Facility directly by Licensee, its employees, agents, officials, agents, representatives, and guests.

Licensees shall, at their expense, take such actions and make such modifications, repairs and improvements on or to the Fuel Facility as may be necessary to comply with laws or regulations then in effect, and to qualify the Fuel Facility for federal and state sponsored insurance or indemnity coverage. To the extent that state or federal insurance coverage is not available, and to the extent of any deductible of such coverage, Licensees shall insure the Fuel Facility and its operation thereof against damages for personal injury or property damage to the limits specified in this Agreement.

6.4.4 Duty to Maintain

Except for the maintenance or repair obligations assigned to the County, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly.

6.4.5 Quality

All maintenance and repairs shall be of first-class quality in both materials and workmanship, and shall comply with all applicable federal, state, and local laws, rules, and codes.

6.4.6 Remedies

If Licensee fails to undertake maintenance, repairs, or replacements required under this Agreement, the Airport Director may give Licensee written notice of the failure. If Licensee fails to undertake the maintenance, repairs, or replacements described in the notice within a time that is reasonable under the circumstances, but in no event longer than 30 calendar days after receiving the notice, the County may perform the work and recover the cost of performance from Licensee. The cost of the County’s performance shall include direct costs and overhead. The County's remedy under this subsection is in addition to any other remedies the County may have under this Agreement or otherwise. If Licensee's failure to undertake maintenance, repairs, or replacements is a material breach of this Agreement, the County’s exercise of its remedy under this subsection shall not preclude the County from exercising remedies for Licensee's default.

6.5 Janitorial Costs
Licensee shall at all times at its expense, keep its Operating Area, including all of the improvements installed by it, together with all of its fixtures, equipment and personal property therein clean from all trash and other debris and in an orderly condition and appearance and shall keep the areas immediately adjacent to its Operating Area and to the exits and entrances to the Operating Areas clean and free of obstructions.

Licensee shall be responsible for providing janitorial services in the Rental Customer Service Space. After written notice of a violation and failure of the Licensee to meet compliance, associated cost of any janitorial services and/or clean-up will be billed to the Licensee.

6.6 Utilities

County shall, at no additional cost to Licensee, provide electrical service, common heat, trash removal from areas open to the public, lighting and ventilation in connection with the Licensee’s counter in the Airline Terminal. All other utility services and charges, including telephones, shall be provided by Licensee at its own cost. Licensee shall permit no liens or claims against its Operating Area arising from unpaid or disputed utility bills and hereby does indemnify the County from costs or liabilities arising therefrom. If, during this License term, the Airport is required to increase its water, sewer, gas or electrical service and such increase requires a capital contribution from the Airport, Licensee, if it consumes the increased utility, agrees to pay a pro-rated, reasonably-amortized portion of said increase, which amount will be set by agreement or binding arbitration before the Pitkin County Hearing Officer.

6.7 Trash and Refuse

Licensee shall provide for the neat and sanitary handling of all trash and other refuse generated as a result of Licensee's rental car business and its use and occupancy of its Operating Area. Licensee shall provide and use suitable covered fireproof receptacles for all trash and other refuse. Licensee shall not permit boxes, cartons, barrels, pallets, or other similar items to be piled or stored in view of a public area. If Licensee allows dust or debris to be generated or accumulated in the Operating Area to the extent they may be blown about within the Operating Area or blown from the Operating Area to other parts of the Airport, Licensee shall pay to the County $50 in the first instance in an Agreement Year, $150 in the second instance, and $500 in each instance thereafter in the same Agreement Year. In addition, Licensee shall reimburse the County for any costs incurred by the County to remove or suppress the dust or debris.

6.8 Hazard, Potential Hazard, Nuisance, or Annoyance

Licensee shall correct any hazardous or potentially hazardous condition, nuisance, or annoyance caused by Licensee in its Operating Area immediately upon receipt of oral or written notice from the Airport Director, or his designee. The Airport Director, or designee, may order the closure of the Licensee’s Operating Area until the corrective action is complete. Licensee shall maintain adequate emergency spill equipment and absorbent material commensurate with the quantity and materials used in day to day operations to practically as possible remediate any negligent spill of hazardous, toxic, or environmentally threatening on site substances. The Licensee shall follow applicable environmental regulations along with the County prepared and maintained Storm Water Pollution and Prevention Plan (SWPPP) and Spill Prevention and Control and Countermeasure (SPCC) plan documents. Licensee shall be responsible for training its employees on all applicable environmental regulations along with the SWPPP and SPCC plan and maintain and coordinate emergency contact information with the County’s
Public Safety Department Communication Center, in case of emergencies.
6.9 Snow Removal

Licensee shall at Licensee’s own expense, remove snow from all portions of its Operating Area, including the removal of snow on, under, and around parked vehicles, the buildings, walkways, and other portions of its Operating Area in accordance with the Airport Snow Removal Plan. County, at its sole discretion, may assist with snow removal from Licensee’s Operating Area; provided, that County shall not be required to move or relocate parked vehicles to accomplish such snow removal. The Airport Director shall authorize the County to assist with snow removal from Licensee’s Operating Area.

6.10 Security

The County provides law enforcement for the Airport. Licensee may provide whatever additional security it may wish at its own cost, provided that the additional security is subject to approval by the Airport Director. Security provided by Licensee shall be subject to the authority of the County Sheriff and shall in no way hinder or interfere with the duties of those officers.

6.11 Deliveries

All rental car fleet vehicle deliveries and transfers by Licensee at the Airport will be in a manner and location approved by Airport Director in writing. Costs to repair access road and driveway damages due to a Licensee’s delivery of fleet vehicles, or other airport facilities, shall be reimbursed to the County by the specific Licensee who is requiring such delivery.

7. DISADVANTAGED BUSINESS ENTERPRISES

The County is required by 49 USC 47104(e) and 49 CFR Part 23 to ensure nondiscrimination in the provision of opportunities for disadvantaged business enterprises at the Airport. It is the policy of the County and the FAA that airport concession disadvantage business enterprises (ACDBE) shall have the maximum opportunity to participate in any activity, service or facility at the Airport under agreement, lease, contract with or franchise from the County. Licensee shall agree to make good faith efforts to ensure that business concerns owned and controlled by socially and economically disadvantaged individuals as defined in the U.S. Department of Transportation’s regulations, 49 CFR Part 23 and 26, as amended, participate in at least 1% of the activity, service or facility provided by a Licensee during the entire term of this Agreement by means of a joint venture, partnership, franchise or any other legal arrangement that results in bona fide ownership and control of the activity, service or facility.

If the Licensee is unable to achieve this goal under joint venture, partnership, franchise or similar legal arrangement, the Licensee shall seek to obtain the required DBE participation by other means, such as the purchase of goods, services, supplies and/or products from certified ACDBE vendors. In the event that the Licensee qualifies as a certified ACDBE, the agreement goal shall be deemed to have been met.

Within ninety (90) days after the end of every calendar year, and at the expiration of the License term and prior to the assignment of Licensee’s rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year: the name and address of each certified ACDBE with which they have done business during the past year, a description of the nature of the services performed by and/or items purchased from each firm named, and the dollar value of each transaction. If Licensee fails to achieve the 1% goal stated...
herein for the purchase of goods and services, it will be required to provide documentation demonstrating that it made good efforts in attempting to do so.

8. **RIGHT TO ENTER**

The County shall have the right to enter Licensee's Operating Area to:

(a) Inspect, at reasonable times during Licensee's regular business hours, or at any time in case of emergency, to determine whether Licensee is in compliance with the provisions of this Agreement;

(b) Perform any of Licensee's obligations under this Agreement that Licensee has failed to perform after reasonable notice to do so, including but not limited to maintenance, repairs, and replacements in Licensee's Operating Area. The County may recover the cost of non-performance from Licensee;

(c) Exercise County's police power; and

(d) Respond as appropriate to any emergency.

9. **COUNTY OBLIGATIONS**

9.1 **Warranty on Rights of Use**

The County warrants that it is the owner of the Licensee’s Operating Area and has the right to grant the rights to use the Licensee’s Operating Area under the terms of this Agreement. Provided that Licensee performs all of its obligations under this Agreement, and except as otherwise provided by this Agreement, Licensee's rights under this Agreement will not be disturbed by the County or the County's employees, contractors, or agents.

9.2 **Construction Disruption**

The County shall attempt to minimize but has no responsibility for disruptions of Licensee’s operations or temporary interruptions of Licensee’s use of any part of its Operating Area due to construction activities by the County or the County’s contractors.

10. **INDEMNITY, INSURANCE, FINANCIAL SECURITY, AND ENVIRONMENTAL REQUIREMENTS**

10.1 **Indemnity**

10.1.1 **Duty to Indemnify**

Licensee (including, by definition here and hereinafter, its officials, employees, agents and representatives, sub, Licensees and suppliers), shall and hereby does release, discharge, indemnify and hold harmless the County of Pitkin and its officials, employees, agents and representatives from and against liability for any claim, demand, loss, damages, penalty, judgment, expenses, costs (including costs of investigation and defense), fees (including reasonable attorney and expert witness fees) or compensation in any form or kind whatsoever for any bodily injury, death, personal injury, or property damage arising out of or in connection with any negligent act, intentional act, error or omission by the Licensee, and for any consequential liability alleged to accrue against the County on account of the Licensee's acts, errors or omissions; provided, however, that such indemnity shall not be construed as an indemnity for death, personal
injury, bodily injury, or property damage arising from the sole negligence of the County or its employees.

The Licensee further shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the County, its officers, agents, and employees. Licensee shall indemnify and hold the County harmless from and against any hazardous materials or environmental requirements, damages or claims. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers, agents, and employees.

It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Agreement and the remaining language shall be given full force and effect.

10.1.2 Environmental Indemnity

Without in any way limiting the generality of any general indemnity required under this Agreement, Licensee shall be solely responsible for and agrees to defend (using legal counsel acceptable to the County), indemnify and hold harmless the County from and against all Environmental Costs claimed against or assessed against the County or incurred by the County arising, in whole or in part, directly or vicariously, from acts or omissions of Licensee, its agents, employees, or independent contractors at or about the Licensee’s Operating Area after the Effective Date of this Agreement or earlier if caused by Licensee. This indemnification shall require Licensee to reimburse the County for any diminution in value of its Operating Area or other adjacent or nearby County property, caused by Hazardous Substances arising out of or caused by, in whole or in part, directly or vicariously, from acts or omissions from Licensee's use of the its Operating Area, including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Licensee’s Operating Area, or any other County property, including damages arising from any adverse impact on marketing of space in or near the Licensee’s Operating Area, including other County property, including lost revenues. Licensee's obligations shall not apply if the Hazardous Substances were deposited on its Operating Area by the County or the County's agents, or any other person or entity other than Licensee. Notwithstanding the foregoing, Licensee shall not be responsible for, and does not indemnify the County for, environmental damage or a violation of any Environmental Law on the Licensee’s Operating Area due to the County’s sole negligence.

10.1.3 Scope of Duty

The claims, damages, suits, actions, liabilities, and expenses encompassed by Licensee's duty to indemnify, defend, and hold harmless under this section shall include without limitation civil and criminal fines or penalties, natural resource damages, response costs, health study costs,
and remediation costs imposed by a governmental agency or as the result of a citizen's suit brought under a federal, state, or local environmental law.

10.2 Insurance

10.2.1 Insurance Requirements

Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Licensee from liabilities that might arise out of this Agreement. Licensee is free to purchase such additional insurance as Licensee determines necessary.

10.2.2 Minimum Scope and Limits of Insurance

Licensee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and liability assumed under an Insured Contract including defense costs.

a. The policy shall be endorsed to include the following additional insured language: "The County, its elected officials, trustees, employees, agents, and volunteers shall be named as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Licensee".

b. A Waiver of Subrogation shall apply in favor of the County, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers.

Minimum Limits:

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<td>Products/Completed Operations Aggregate</td>
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<td>Fire Damage Expense</td>
<td>$ 2,000,000</td>
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<td>Premises Medical Expense (Each Person)</td>
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2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles.
Minimum Limits:

Bodily Injury/Property Damage (Each Accident) $1,000,000

3. Property Insurance

Policy shall include the following:

a. Property insurance shall be written on a Covered Cause of Loss-Special Form, replacement cost coverage, including coverage for flood and earth movement for Licensee’s improvements and betterments.

b. The County shall be named as a loss payee on property coverage for tenant improvements and betterments.

c. If property coverage on the building is required, "the County shall be named as an Additional Insured-Owner/loss payee".

d. A waiver of subrogation applies in favor of the County for any Lessor Property.

   Coverage for Licensee’s Tenant Improvements, 100% replacement cost
   Fixtures
   Coverage on Building (required if Licensee is sole occupant) 100% replacement cost
   Coverage for Loss of Rents: Amount equal to all Minimum Annual Rent and other sums payable under this Agreement.

4. Business Interruption Insurance

Insuring that the Base Rent will be paid to County for a period of at least one (1) year if Licensee is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Base Rent during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

5. Worker's Compensation and Employers' Liability

Minimum Limits:

Coverage A (Workers’ Compensation) Statutory
Coverage B (Employers Liability) $100,000/each accident
$100,000/Disease – employee
$500,000/Disease – Policy Lim

10.2.3 Additional Insured Requirements

The policies shall include, or be endorsed to include, the following provisions:
On insurance policies where the County is named as an additional insured, the County shall be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this Agreement.

10.2.4 Notice of Cancellation

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to: Pitkin County Attorney, 530 E. Main Street, Suite 301, Aspen, CO 81611 with duplicate copy to: Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611. If any insurance company refuses to provide the required notice, the Licensee or its insurance broker shall notify the County of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers’ notification to that effect.

10.2.5 Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Colorado and with an “A.M. Best” rating of not less than A- VII. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Licensee from potential insurer insolvency.

10.2.6 Verification of Coverage

Licensee shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before this Agreement commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall be sent directly to: Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611. The Airport, Agreement number, and location description are to be noted on the certificate of insurance.

10.2.7 Approval

Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or County Attorney, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
10.2.8 Other Requirements

1. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis.

2. The Licensee shall provide the Public Entity a Certificate of Insurance evidencing all required coverages, before commencing work or entering public entity premises. A sample of a completed Certificate of Insurance is attached as Exhibit D.

3. The Licensee shall name The Public Entity, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns; its elected officials, trustees, employees, agents, and volunteers as “Additional Insureds” for work that is being performed by the Licensee.

4. Upon request by the County, Licensee must provide a copy of a Certificate of Insurance required by the Agreement.

5. The Public Entity requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the Public Entity.

6. The Licensee shall advise the County in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Licensee will reinstate the aggregate limits to comply with the minimum requirements and shall furnish the County with a new certificate of insurance showing such coverage is in force.

7. Certificates of insurance shall state that on the policies that the Public Entity is required to be named as an Additional Insured, the insurance carrier shall provide a minimum of 30 days advance written notice to the Public Entity for cancellation, non-renewal, or material changes to policies required under the Agreement. On all other policies it is the Licensee’s responsibility to give the Public Entity 30-day’s notice if policies are reduced in coverage or limits, cancelled or non-renewed. However, in those situations where the insurance carrier refuses to provide notice to County, the Licensee shall notify County of any cancellation, or reduction in coverage or limits of any insurance within seven (7) days or receipt of insurer’s notification to that effect.

8. The Licensee agrees that the insurance requirements specified in the Agreement do not reduce the liability Licensee has assumed in the indemnification/hold harmless section of the Contract.

9. Failure of the Licensee to fully comply with these requirements during the term of the Agreement may be considered a material breach of contract and may be cause for immediate termination of the Agreement at the option of the County. The County reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

10.3 Environmental Requirements

10.3.1 Definitions

For the purposes of this Agreement, the following definitions shall apply:

10.3.1.1 “Environmental Laws” shall be interpreted in the broadest sense to include any and all federal, state and local statutes, regulations, rules, permit terms, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals
or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

10.3.1.2 "Hazardous Substances" shall be interpreted in the broadest sense to include any and all substances, emissions, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Laws. “Hazardous Substances” shall also include, but not be limited to, fuels, petroleum and petroleum derived products.

10.3.1.3 "Environmental Costs" shall be interpreted in the broadest sense to include, but not be limited to costs and damages arising from or relating to: (i) any actual or claimed violation of or noncompliance with any Environmental Law; (ii) claims for damages, response costs, fines, fees or other relief relating to matters addressed in any Environmental Law; (iii) injunctive relief relating to matters addressed in any Environmental Law; (iv) Hazardous Substance; and (v) violations of any environmental provisions of this Agreement. Costs and damages as used in this section shall include but not be limited to: (a) costs of evaluation, testing, analysis, clean-up, remediation, removal, disposal, monitoring and maintenance; (b) costs of reporting to or negotiating with any government agency; (c) fees of attorneys, engineers, consultants, and experts, whether or not taxable as costs, incurred at, before or after trial, appeal or administrative proceedings; (d) lost revenue; and (e) diminution of value, loss, or restriction on use of property.

10.3.1.4 "Hazardous Substance Release" shall be interpreted in the broadest sense to include the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except as authorized by a then current permit issued under applicable Environmental Laws.

10.3.2 General Environmental Obligation

Licensee shall manage and conduct all of its activities, and the activities of its employees, agents, contractors and invitees, on or relating to its Operating Area (i) in compliance with all Environmental Laws and the Environmental provision of this License and Use Agreement, (ii) in a manner designed to protect the environment, (iii) in cooperation with the County in the County’s efforts to comply with all Environmental Laws, and (iv) in adherence with best management practices of Licensee’s industry and activities. As used herein, “Best Management Practices” shall mean those environmental or operational standards applicable to a particular business or industry group as a matter of common and accepted practice or as articulated by all or some of the following: Trade associations or professional associations for the particular business or industry group; the business or industry group’s own standard operating procedures; and those Best Management Practices specifically defined or identified for a particular business operation or industry group by regulatory agency guidelines. Licensee shall be responsible for ascertaining which Environmental Laws govern its activities on or relating to its Operating Area and shall be responsible for maintaining a current understanding of such Environmental Laws throughout the Term. Licensee shall manage and, as appropriate, secure its Operating Area and its occupation or use of the same so as to prevent any violation of Environmental Law by Licensee, its employees, agents, contractors, vendors and invitees on or relating to its Operating Area.
10.3.1 Storage Tanks

No underground or above ground tanks for the storage of Hazardous Substances shall be installed or operated on the Operating Area, except with the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion.

10.4 Environmental Audits

10.4.1 Special Audit.

If the County, at any time during the term of this Agreement or any extension thereof, has reason to suspect that Hazardous Substances are being or have been used, handled, stored, generated, created, disposed, placed and/or transported contrary to the requirements of this Agreement, in violation of Environmental Laws or in any manner that has resulted, or is likely to result, in a Hazardous Substance Release, the County may, without limiting its other rights and remedies, require Licensee to conduct, and furnish to the County, at Licensee's sole expense, an environmental audit of its Rental Car Service Facility, and/or Ready Return Spaces with respect to the environmental matters of concern to the County (each, a "Special Audit"). If a Special Audit finds no Hazardous Substance Release, no violation of the environmental provisions of this Agreement and no violation of Environmental Laws, the County shall reimburse Licensee for the reasonable costs paid by Licensee for such Special Audit.

10.4.2 Exit Audit.

Licensee shall conduct an exit environmental audit (the "Exit Audit") of its Operating Area to determine (i) its environmental condition, (ii) whether any Hazardous Substance Release has occurred or exists on or about its Operating Area, and (iii) whether there have been any violations of Environmental Laws or the environmental provisions of this Agreement. The Exit Audit shall be performed not more than sixty (60) days prior to the scheduled expiration or termination date of this Agreement. Licensee shall provide to the County a written update to the Exit Audit, as of the last day of the Agreement Term, within thirty (30) days of the actual termination of this Agreement. In the event this Agreement expires or terminates unexpectedly for any reason, Licensee shall cause the Exit Audit to be completed within sixty (60) days of the actual termination date of this Agreement.

10.4.3 Audit Requirements.

The scope and procedures of any audit required by this Agreement shall be determined solely by the County. Such audits shall (i) include an analysis of Licensee’s operations on the Combined-Maintenance Area and Ready Return Spaces and (ii) be no less comprehensive in scope or procedures than those typical, at the time of such audit, of comparable purpose audits of similarly situated properties with comparable uses and operations. If any audit performed under this Agreement recommends additional testing or analysis or recommends an additional audit (the “Additional Testing”), then, unless otherwise agreed in writing by the County and Licensee, Licensee shall perform and pay for the Additional Testing and the records and results of such Additional Testing shall be considered a part of the underlying audit that triggered the need for the Additional Testing. If additional testing does not disclose any Hazardous Substance Release, the reasonable cost of the additional testing shall be paid for by the County. The County shall have the right to approve the company or individual conducting any audits performed pursuant to this
Agreement. The County and Licensee shall each receive a signed copy of any environmental audit report prepared pursuant to this Agreement.

10.5 Environmental Inspection

The County reserves the right, at any time, and from time to time, after notice to Licensee, to inspect the Combined-Maintenance Area and Ready Return Spaces and Licensee’s operations on and use of the Combined-Maintenance Area and Ready Return Spaces: (i) for the presence of and/or Licensee's management of Hazardous Substances; (ii) for compliance with Environmental Laws or the environmental provisions of this Agreement and (iii) to facilitate the County’s environmental management, permitting and analysis related to the Operating Area or any other property of the County.

10.6 Licensee’s Liability

10.6.1 Hazardous Substance Releases.

Licensee shall be liable for any Hazardous Substance Release which occurs during the Agreement Term on the Operating Area arising out of or caused by, in whole or in part, directly or indirectly, from acts or omissions from Licensee's use of the Operating Area. Licensee shall also be liable for any Hazardous Substance Release on the Operating Area or on other properties or in the air or in adjacent or nearby waterways (including groundwater) as a result of or in connection with Licensee’s occupancy or use of the Operating Area which occurs during the Agreement Term or which occurs or continues after the Agreement Term.

10.6.2 Licensee’s Liability for Environmental Costs.

Except as expressly provided in this Agreement, Licensee shall be liable for all Environmental Costs arising under this Agreement. Any Environmental Cost for which Licensee is obligated under this Agreement shall be paid by Licensee on or before the date such Environmental Costs are due. Any Environmental Cost incurred by, paid by or assessed against the County, for which Licensee is responsible under this Agreement, shall be paid by Licensee within thirty (30) days after the date of written notice or invoice from the County, together with interest at the rate of 1.5 percent per month from the date the expense was incurred by the County. The County shall promptly notify Licensee of any Environmental Costs for which Licensee is liable. If the County negligently fails to promptly notify Licensee of an Environmental Cost for which Licensee is liable, and if Licensee does not have actual knowledge of the Environmental Cost, Licensee’s obligation to pay interest shall be excused for that part of the delay beyond the date the Environmental Cost is incurred, paid or assessed attributable to the County’s negligence.

10.6.3 Limitation of Licensee’s Liability.

Notwithstanding anything to the contrary provided in this Agreement, Licensee shall have no liability for Hazardous Substances or Hazardous Substance Releases, or Environmental Costs arising therefrom, that (i) existed on the Operating Area prior to the Effective Date of this Agreement (except if caused by Licensee or Licensee's agents, employees or contractors), (ii) were caused by the County or the agents, employees or contractors of the County (or other party other than Licensee, its agents, employees, contractors, vendors or invitees) after the Effective Date of this Agreement, or (iii) is the result of a Hazardous Substance Release occurring on property other than the Operating Area which has migrated to the Operating Area through no fault of the Licensee,
its employees, agents, contractors or invitees and the Hazardous Substance Release has not been worsened by any action of the Licensee, its employees, agents, contractors or invitees.

10.7 Environmental Remediation

10.7.1 Releases and Violations.

In the event of a violation of an Environmental Law, a violation of an environmental provision of this Agreement, or a Hazardous Substance Release or the threat of or reasonable suspicion of the same for which Licensee is responsible under this Agreement, Licensee shall immediately undertake all acts necessary or appropriate to cure or correct the violation or investigate, contain and stop the Hazardous Substance Release.

10.7.2 Remediation and Removal.

Licensee shall promptly undertake all remedial and/or removal actions necessary or appropriate to ensure that any Hazardous Substance Release is eliminated and that any violation of any Environmental Law or environmental provision of this Agreement is cured or corrected. Licensee shall remove, at Licensee's sole expense, all Hazardous Substances for which Licensee is liable under this Agreement or under any Environmental Law and shall restore its Operating Area or other affected property or water to its baseline condition as established in the Baseline Audit. In the event that any remediation or removal required by this Agreement cannot reasonably be completed prior to the termination or expiration of this Agreement, Licensee shall not be in default of its remediation obligations so long as Licensee immediately commences all investigation, containment, remediation and removal activities within thirty (30) days (or sooner if required by Environmental Laws) and diligently and continuously pursues such activities until completion.

10.7.3 Report to the County.

Within thirty (30) days following completion of any investigatory, containment, remediation and/or removal action required by this Agreement, Licensee shall provide the County with a written report outlining in detail what has been done and the results thereof.

10.7.4 The County’s Right to Approve.

The County shall have the right to approve or disapprove all investigatory, containment, remediation and removal procedures and the company(ies) and/or individuals conducting such procedures which are required by this Agreement or by any Environmental Laws whether on the Operating Area or any affected property or water. Licensee shall not initiate any risk assessment-based remediation or closure without the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion. The County will have the right to require Licensee to request oversight from the Colorado Department of Environmental Quality (“DEQ”) of any investigatory, containment, remediation and removal activities and/or require Licensee to seek a statement from DEQ of No Further Action.

10.8 Notice to the County

Licensee shall promptly notify the County upon becoming aware of (i) a violation or alleged violation of any Environmental Law related to the Operating Area or to Licensee’s occupation or use of the Operating Area or any environmental provision of this Agreement, (ii)
any Hazardous Substance Release on, under or adjacent to the Operating Area or threat of or reasonable suspicion of any of the same, (iii) any notice or communication from a governmental agency or any other person directed to Licensee relating to any Hazardous Substance Release or any violation or alleged violation of any Environmental Laws which relate to the Operating Area or to Licensee’s occupation or use of the Operating Area, and (iv) any Hazardous Substance Release or violation of Environmental Law discovered by Licensee on property or in the air or water adjacent to the Operating Area.

10.9  Licensee’s Documentation of Environmental Conduct

10.9.1  Annual Certification.

If requested in writing by the County, Licensee shall provide on or before each anniversary of the Effective Date of this Agreement, a written statement, certified by Licensee as true and complete to the best of Licensee’s knowledge, that during the preceding year with respect to the Operating Area and Licensee’s occupation and use of the Operating Area: (i) Licensee has complied with applicable Environmental Law; (ii) Licensee has not received any notice from any government agency regarding a violation of any Environmental Law; and (iii) Licensee has obtained and has in force all permits required under all Environmental Laws. If Licensee is unable to provide such certification at the time requested by the County, then Licensee shall provide the County with a written statement of the steps Licensee is taking to enable it to provide a certification of compliance. Upon the County’s written request, Licensee shall provide to the County a copy of any permit or notice described in this subsection.

10.9.2  Record Keeping.

Licensee shall maintain for the duration of the Agreement term or for a period as required by Environmental Laws, whichever is greater, for periodic inspection by the County, and deliver to the County, at the County’s request, true and correct copies of all records required to be maintained pursuant to any Environmental Laws related to the Operating Area or to Licensee’s occupation or use of the Operating Area. Such records shall include, but not be limited to, Material Safety Data Sheets ("MSDS"), for all Hazardous Substances used or stored on the Operating Area. MSDS information shall be kept current and, in a place, known to and accessible to the County.

10.10 The County’s Right to Perform

In the event Licensee fails to perform any of its obligations under this section or any Environmental Laws, the County shall have the right, upon giving Licensee ten (10) business days written notice, except no prior notice shall be required in the event of an emergency, to perform such obligations and charge Licensee all resulting Environmental Costs. The County may not commence performance on behalf of Licensee under this section, if during the ten (10) business day period, Licensee promptly begins and diligently pursues to completion the performance of the obligations set forth in the County’s notice. In the event the County determines that an emergency exists, and Licensee is unavailable, unwilling or unable to take immediate and appropriate action, the County may take whatever immediate action it deems necessary and charge Licensee the resulting Environmental Cost.
10.11 Survival of Obligations

Licensee’s obligations herein shall survive any termination of this Agreement or Licensee’s activities at the Airport.

11. THE COUNTY'S RIGHT TO IMPROVE AIRPORT

County reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, including the Operating Area and existing vehicle and pedestrian traffic patterns, as County deems appropriate without interference or hindrance by the Licensee, and County shall have no liability hereunder to Licensee by reason of any interruption to Licensee's operations on the Airport occasioned by such County activities; provided, however, that County shall consult in advance with Licensee on such changes. Additionally, possibility of terminal and airfield closures due to construction, security or bad weather might occur. Good faith efforts will be attempted by County to minimize the effects on operations.

12. TITLE TO CAPITAL ADDITIONS AND IMPROVEMENTS

Upon termination or expiration of this Agreement, other than for Licensee's default, and upon reimbursement of Licensee by the successor Licensee in accordance with this Agreement, title to all Capital Additions, structures, installations, and improvements placed upon the Operating Area shall automatically vest in the successor Licensee. If there is no successor Licensee, title to all Capital Additions except underground storage tanks shall vest in the County; title to underground storage tanks shall remain in Licensee under all circumstances. Nothing in this section shall be deemed to prevent Licensee from removing its trade fixtures and moveable equipment and furniture, including but not limited to car wash equipment, maintenance racks, and counter inserts.

13. DAMAGE TO THE OPERATING AREA

13.1 Repairs

If all or part of the Operating Area, offices and/or check-in counter space only, is damaged, the County shall repair the Operating Area at County’s expense, except for any Capital Additions made by Licensee; Licensee shall be responsible for repairing its Capital Additions at Licensee's own expense. If the waiver of subrogation does not apply, Licensee shall reimburse the County for the reasonable cost of repairs to the extent damage to the Operating Area is caused by Licensee or by Licensee’s employees, agents, contractors, or invitees. If the waiver of subrogation does not apply, the County shall reimburse Licensee for the reasonable cost of repairs to the extent Licensee’s Capital Additions are damaged by the County or its employees.

13.2 Fees During Repairs

If repairs can be completed and the Operating Area made tenable within 30 calendar days after the damage occurs, Licensee shall continue to pay all fees due during the period of repairs. If the Operating Area cannot be made tenable within 30 calendar days, or if the parties sooner agree that the Operating Area cannot be made tenable within 30 days, the fees due under this Agreement shall be suspended between the date the damage occurred and the date the Operating Area is returned to tenable condition. If the Operating Area cannot be made tenable within 12 months after the damage occurred, or if the parties sooner agree that the Operating Area cannot be made tenable within 12 months, either party may terminate this Agreement upon written notice to the other. Notwithstanding any other provision of this section, if the damage was caused in part
by the negligence or other fault of Licensee or Licensee's employee, contractor, agent, customer, or business invitee, the fees due under this Agreement shall not abate sooner than the end of the 12th month following the occurrence of the damage, and then only if the Agreement is terminated pursuant to this section.

13.3 Liability for Repair Costs

To the extent the damage was caused by the negligence or other fault of Licensee or Licensee's employees, contractors, agents, customers, or business invitees, Licensee shall reimburse the County for the cost of the repairs, subject to any express waiver of subrogation under this Agreement.

13.4 Limits of County's Obligation to Repair

Notwithstanding any other provision of this Article, the County's obligation to make repairs under this Article shall be limited to repair of the Operating Area to the extent necessary to return the Operating Area to its condition prior to the damage and shall not exceed the amount of insurance proceeds available to the County for repairs. The County shall have no duty to redecorate or to replace furniture, equipment, or supplies. Notwithstanding any other provision of this Article, the County may decline to make repairs upon determining that demolition and reconstruction is in the County's best interest, in which case the County may terminate this Agreement by written notice to Licensee.

13.5 Damage to Licensee's Capital Additions and Improvements

Licensee shall repair at its own expense, whether covered by insurance or not and notwithstanding any waiver of subrogation, any of Licensee's Capital Additions or improvements that may be damaged during the term of this Agreement. If Licensee fails to repair Licensee's damaged Capital Additions or improvements within 30 days, or a commercially reasonable time, and the damaged Licensee Capital Additions or improvements interfere with the efficient and effective provision of rental car services, the County may make the repairs and recover the cost of the repairs from Licensee, including the County's overhead.

13.6 No Duty to Protect

The County shall have no duty to protect or insure against loss of Licensee's Capital Additions or improvements or property in the Operating Area by fire or otherwise.

14. DEFAULT

14.1 Events of Default by County

The County shall be in default under this Agreement if, after reasonable written notice from Licensee, the County fails without excuse to remedy any of the following occurrences:

14.1.1 The permanent abandonment of the Airport for scheduled certificated airline service;
14.1.2 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport for 60 calendar days or more in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;
14.1.3 The exercise by an agency of the United States Government for 90 calendar days or more of control over the Airport and its facilities in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;  

14.1.4 The County’s failure to substantially comply with a material provision of this Agreement for more than 60 calendar days after written notice of the failure from Licensee.  

14.2 Remedies for County's Default  
In addition to any other remedies Licensee may have at law or in equity, if the County is in default under this Agreement, Licensee may terminate this Agreement by written notice to the County. The County shall not be deemed in default if the County has initiated appropriate remedial action prior to the notice of termination and diligently pursues that remedial action to completion. In no event shall Licensee be entitled to recover lost profits or consequential damages from the County for a default under this Agreement.  

14.3 Events of Default by Licensee  
Licensee shall be in default under this Agreement if, after 10 calendar days written notice from the County, Licensee fails to remedy, or to commence remediation if the remedy cannot reasonably be completed within 10 days, any of the following occurrences:  

14.3.1 Licensee's failure to comply with a material provision of this Agreement, including but not limited to a failure to pay any fee or other amount due under this Agreement within 10 business days after it is due, or any different period expressly provided by this Agreement or by applicable law; or  

14.3.2 To the extent permitted by the United States Bankruptcy Code:  
14.3.2.1 Licensee's insolvency;  
14.3.2.2 An assignment by Licensee for the benefit of creditors;  
14.3.2.3 Licensee's filing of a voluntary petition in bankruptcy;  
14.3.2.4 An adjudication that Licensee is bankrupt;  
14.3.2.5 The appointment of a receiver with respect to Licensee's property, and the receiver is not discharged within 30 calendar days;  
14.3.2.6 The filing of an involuntary petition of bankruptcy and Licensee's failure to secure a dismissal of the petition within 30 calendar days after filing;  
14.3.2.7 Attachment of or the levying of execution on any interest in this Agreement and Licensee's failure to secure discharge of the attachment or release of the levy of execution within 10 calendar days;  
14.3.2.8 Licensee becomes a corporation in dissolution or voluntarily or involuntarily forfeits its corporate charter; or
14.3.3 Licensee's failure to comply with all applicable federal, state, and local laws and rules, including but not limited to County ordinances and reasonable rules established by the Airport Director, for more than 30 calendar days after Licensee's receipt of written notice of the failure, or a reasonable longer period if Licensee promptly undertakes and works diligently toward effecting a cure of the breach; or

14.3.4 Licensee's failure to timely commence operating a rental car concession in its Operating Area; or

14.3.5 Licensee's abandonment of rental car concession operations in all or any part of its Operating Area; or

14.3.6 The creation, maintenance, failure to correct or sufferance of a dangerous or hazardous condition on or emanating from its Operating Area; or

14.3.7 Failure to provide and maintain current, all required types and amounts of insurance and proof thereof; or

14.3.8 Loss or surrender by Licensee of its franchise rights under its national system license.

14.3.9 Making an assignment, conveyance or transfer of Licensee’s rights and obligations hereunder without the consent of County; or

14.3.10 Failure to comply with any other obligation under this License and Use Agreement.

14.4 Notice of Defaults/Right to Cure

The party aggrieved by an Incident of Default hereunder shall declare a default hereunder by delivering a written Notice of Default to the other party (and its surety, if applicable), which Notice shall specify the Incident(s) of Default asserted and a specific cure therefore. After the effective date of such Notice, the time periods for cure shall be:

1) Within three (3) business days if the default is maintenance of a hazardous condition or failure to maintain and/or prove required insurance coverage(s); or

2) Within ten (10) calendar days if the default is failure to make full and timely payments hereunder; or

3) Within twenty (20) calendar days if the default is in the performance of any other obligation or conditions to be performed under the provisions of this Agreement.

If, in the discretion of the aggrieved party, the cure required cannot reasonably be completed within the foregoing time periods and the cure is promptly undertaken by the defaulting party and diligently prosecuted, the aggrieved party will, upon request and proof of these mitigating circumstances, extend the period to cure by a reasonable time. In the event of multiple Incidents of Default, the cure periods above shall be concurrent, not consecutive.

c. Notice of Termination/Right to Re-enter. If such Incident(s) of Default are noticed as provide herein and remain uncured after the cure period specified, the aggrieved party may thereafter terminate this Agreement and the defaulting party’s rights hereunder by delivery of written Notice of Termination to the defaulting party, which Notice shall be effective on the date delivered to the defaulting party. Upon termination of this Agreement by County, County may re-
enter the Licensee’s Operating Area and remove all persons and property there from, using all necessary force to do so.

d. Remedy Not Exclusive. The parties shall have such other rights and remedies as may be provided for by law or in equity, including damages.
14.4.1 Suit

If Licensee is in default under this Agreement, the County may sue Licensee to recover fees due under this Agreement or damages arising from Licensee's breach of this Agreement, or to bar Licensee from operating a rental car concession in the Operating Area or elsewhere on the Airport. Nothing in this Agreement shall be deemed to require the County to await the expiration of this Agreement before suing Licensee under this subsection.

14.4.2 Remedies Nonexclusive

The remedies provided by this subsection are in addition to any remedies the County may have at law or in equity.

14.5 Cumulative Nature of Remedies

The remedies provided by this Article are nonexclusive and in addition to any other remedy provided by this Agreement and any remedy to which a party otherwise may be legally or equitably entitled.

15. GENERAL PROVISIONS

15.1 Coordination with other Airport Users.

County and Licensee acknowledge that each has rights and obligations arising from various third-party agreements with other Airport users. County and Licensee agree to cooperate with each other to effectuate these third-party agreements, so as long as such agreements are not illegal, impossible or do not reasonably interfere with Airport operations or conflict with the right and obligations of the various parties hereunder. County and Licensee acknowledges their respective obligations as signatories under the following agreements:

(a) Those certain on-Airport non-exclusive rental car License and Use Agreements, between the County and other Licensees.

(b) Those certain lease and use agreements between the County and the Airport’s airlines.

(c) Those certain Lease and Use and Redevelopment Agreements between the County and the Airport’s full-service fixed-base operator.

(d) Those certain agreements or permits for off-Airport rental car operators entered into from time to time between the County and the various off-Airport rental car companies.

(e) Those certain License and Use Agreements and Operating Permits between the County and the Airport’s various specialized fixed-base operators.

(f) Those certain agreements for commercial ground transportation including taxis, limousines and buses.

(g) Such further and other agreements or permits as the County may amend or enter into from time to time in the normal operation of the Airport; provided that Licensee shall, upon request, be provided with copies of any agreements that are connected to this obligation to cooperate, as set forth herein.

The County reserves the right to direct Lessee's operations in the event that such operations are unreasonably interfering, in the reasonable discretion of County, with the use by others of the
Airport; e.g., to restrict the use of "public" areas of the Terminal and public-access curbs, sidewalks and roadways in favor of the public.

15.2 Off-Airport Rental Car Operators

The County reserves the right, but shall not be obligated, to permit other rental car companies, with whom the Airport has not executed On-Airport License and Use Agreements, to enter upon the Airport in general, and the Airline Terminal in particular, to pick up and drop off customers, to purchase advertising space on the Airport and within the Airline Terminal, and to establish a courtesy phone system on the Airport and within the Airline Terminal, all subject to fees and charges in common with other users of that classification.

15.3 Compliance with Applicable Laws and Regulations

In connection with its occupancy and use of its Operating Area and the conduct of its operation thereon, the Licensee acknowledges that the County reserves the right to establish and enforce reasonable rules and regulations for the conduct of activities and uses permitted herein and also to promulgate minimum standards for the conduct of commercial activities related hereto including, without limitation, minimum hours of operation if County determines that the needs of the traveling public are not being met. Licensee shall:

15.3.1 Comply with all applicable laws, rules and regulations of the United States of America, the State of Colorado and the County of Pitkin and any and all departments and agencies thereof, as the same may now exist or may be hereafter promulgated or amended from time to time. Licensee acknowledges that Pitkin County has the continuing authority to enact general legislation pursuant to its power to protect the health, welfare and safety of its citizens, as well as the continuing authority, in its executive capacity, to enact Airport regulations. Present applicable Airport regulations are as follows:

a. Airport Regulations, Title X, Pitkin County Code:
b. Aspen-Pitkin County Airport Certification Manual;
c. Aspen-Pitkin County Airport Security Program
d. Off-airport rental car regulations
e. Ground transportation regulations
f. Airport Financial Policy (Resolution 87-56-A)

15.3.2 Comply with the notification and review requirements of Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the location, or in the event of any planned modification or alteration of any present or future structure or building situated on the locations.

15.3.3 Not discriminate against any person or class of persons by reason of race, color, sex, creed, religion, handicap or national origin in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation, and shall comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations with respect to discrimination in unfair employment practices, and shall comply with such enforcement
procedures as any governmental authority might demand that the County take for the purpose of complying with any such laws and regulations.

15.3.4 With respect to the parking regulations of the City of Aspen and the Town of Snowmass Village, Licensee agrees that pursuant to Section 42-4-1209, C.R.S. (2005), as amended, a “reasonable time” within which the Licensee furnish to the City and Town the name and address of the person who had custody of the vehicle at the time of a violation, shall be deemed to be forty five (45) days. As a condition precedent to the enforcement of this interpretation, the City and the Town will be required to make every effort to provide notification to the Licensee of any violation as soon as practical after the date of said violation.

15.4 Assignment

15.4.1 Consent

Except for an assignment, sublease or transfer to Licensee’s principal, affiliate, parent, subsidiary of its principal, member or partner, so long as such transferee has the qualifications and financial responsibility necessary and adequate to fulfill the obligations of this Agreement, or as a result of a merger, sale or other business reorganization of substantially all of Licensee’s assets in the market in which the Airport is located (“Permitted Assignment”), Licensee shall not assign or transfer this Agreement or any interest therein, without the prior written consent of County which shall not be unreasonably withheld, conditioned or delayed; provided, however, that Licensee shall notify County in writing of a Permitted Assignment within thirty (30) days thereafter. For purposes of this provision, an “assignment” shall include any sale, grant, conveyance, transfer, sublicense, encumbrance or similar transaction, however styled, disposing of or creating rights or obligations in third parties affecting this Agreement. Examples of transactions covered by this restriction include, without limitation: any assignment for security purposes; any assignment to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; any assignment of all or substantially all of Licensee’s assets; and the assignment, in one or a series of related transactions, of 15% (fifteen percent) or greater of the Licensee’s voting stock.

15.4.2 Automatic Termination

Unless otherwise agreed in writing by the County, this Agreement shall terminate automatically upon:

15.4.2.1 Any transfer of an ownership interest in Licensee, other than the ordinary purchase and sale of stock if Licensee is a publicly held corporation;

15.4.2.2 The transfer of fifteen percent (15%) or more of the outstanding stock if Licensee is a corporation; or

15.4.2.3 The transfer of any partnership or joint venture interest, if Licensee is a partnership or joint venture.

15.4.3 Requests for Approval

Any request by Licensee for approval under this section shall be made in writing at least thirty (30) calendar days before the assignment would occur, and must be accompanied by a full description of the assignment, including copies of relevant documents. The County shall not unreasonably withhold its approval of an assignment or transfer, provided that: (1) immediately
prior to the assignment or transfer, the quality of the successor's management staff and the successor's financial condition equal or exceed the quality of Licensee's management staff and Licensee's financial condition; (2) the assignee assumes all of the obligations under this Agreement, and (3) if determined necessary by the County in the reasonable exercise of its sole discretion, Licensee guarantees the performance of the successor under this Agreement.

15.5 **Choice of Forum**

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and venue is agreed to be exclusively in the courts of Pitkin County, Colorado.

15.6 **Nondiscrimination**

Licensee shall not permit discrimination in employment or in the provision of rental car services on the grounds of race, color, creed, national origin, political ideas, sex, age, or physical or mental handicap.

15.7 **No Exclusive Rights**

Nothing in this Agreement shall be deemed to grant Licensee any exclusive right or privilege within the meaning of Title 49 USC Section 40103(e).

15.8 **Most Favored Nations**

In the event that any Agreement granted by the County to any other Licensee shall contain any terms and conditions more favorable to such Licensee than the terms and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other Licensee.

15.9 **Subordination to Agreements with the United States**

This Agreement is subject and subordinate to the provisions of any agreement already made or to be made in the future between County and the United States relative to the operation or maintenance of the Airport, the execution of which is a condition precedent to the transfer of federal rights or property to County for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended.

15.10 **Nonwaiver of Rights**

The Failure of either party hereto to exercise any right or remedy hereunder shall not be deemed a waiver thereof or a waiver of the right to exercise the same at any future time, or the waiver of any other right or remedy hereunder. No waiver by either party or any right of remedy hereunder shall be effective unless in writing signed by the party.

15.11 **Notices**

15.11.1 **Method**

All notices required or authorized to be given hereunder shall be in writing and shall be served upon the party entitled thereto either by personal delivery to such party, or by overnight courier service, or by certified mail, return receipt requested, addressed to such party pursuant to Section 14.11.2 of this Agreement, or at such other address as either party may so notify the other
party of in writing. Any such notice shall be deemed to have been received on the date so delivered personally to the party entitled thereto or three (3) business days after the same has been properly deposited in the United States mail, with postage thereon fully prepaid, as aforesaid.
15.11.2 Addresses

Until the addressee gives written notice of a change, notices shall be delivered to:

THE COUNTY:  
Airport Director  
Aspen – Pitkin County Airport  
0233 E. Airport Road – Suite A  
Aspen, CO 81611

LICENSEE:  
Stephen A. Blum  
The Hertz Corporation  
8501 Williams Road  
Estero, FL 3392

15.12 Headings

The headings in this Agreement are for convenience of reference, and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

15.13 Severability

If a provision of this Agreement is held to be unlawful, invalid, or unenforceable, the remainder of this Agreement shall remain in effect and fully enforceable.

15.14 Waiver of Claims

Licensee waives any claim against County or the County's employees, contractors, or agents for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of any part of this Agreement, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying performance of any part of this Agreement.

15.15 Incorporation of Exhibits

All Exhibits and documents referred to in this Agreement are incorporated into this Agreement by this reference.

15.16 Incorporation of Required Provisions

The parties incorporate into this Agreement by this reference all provisions lawfully required in this Agreement by any unit of federal, state, or local government.

15.17 Successors and Assigns Bound

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their properly qualified successors and assigns.

15.18 Right to Amend

If the U.S. Department of Transportation Federal Aviation Administration, or its successor, requires changes in this Agreement as a condition precedent to the granting of funds for the
improvement of the Airport, or otherwise, Licensee agrees to consent to those changes subject to any additional changes to this Agreement required by equity.

15.19 Time of Essence

Time is of the essence of this Agreement.

15.20 Force Majeure

The County shall not be liable to Licensee for any breach of this Agreement due to causes beyond the County's control, including but not limited to strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, and sabotage. Nothing in this section shall be deemed to excuse any part of Licensee's obligations to make any payments due under this Agreement.

15.21 Gender and Number

Words of any gender used in this Agreement shall include any other gender. Words in the singular shall include the plural, unless the context clearly requires otherwise. The words “hereof,” “herein,” “herewith,” “hereunder,” and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of the Agreement.

15.22 Avigation Easement

Licensee's right to use the Operating Area for the purposes as set forth in this Agreement shall be secondary and subordinate to the operation of the Airport. The County specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the air space above the surface of the Operating Area together with the right to cause noise in the air space as may be inherent in the present or future operation of aircraft.

15.23 Attorney's Fees

If either party to this Agreement incurs attorney’s fees and/or costs in connection with the declaration of a Default hereunder or any other legal proceeding to interpret, protect or enforce any of its rights hereunder, the party prevailing in such proceeding shall be entitled to recover its reasonable attorney’s fees and costs in connections with such proceeding.

15.24 Amendment

This Agreement may be modified or amended or supplemented only by an instrument in writing signed by the parties hereto. The County’s representative for the administration of this Agreement shall be the Director of Aviation or his/her designee in writing; provided, however, that all matters affecting material terms of this Agreement, including term, fees and charges and use of Operating Area by Licensee, shall only be modified or amended by a writing approved by a Resolution of the Board of County Commissioners at a duly-noticed public meeting.

15.25 Relationship of Parties
It is the intent and agreement of the County and the Company that they shall have the relationship respectively of Licensor/Licensee and Permittor/Permittee hereunder, and nothing contained herein shall be deemed or construed to constitute the parties as partners or joint ventures, and in no event shall County be liable for any loss which may result from the operations of Licensee upon its Operating Area or for any indebtedness incurred by Licensee in the operation of its business from its Operating Area or for the claims of third parties against Licensee in the conduct of its business. In addition, County shall not be liable in any manner to the Licensee for any damages the Licensee may incur due to the inability of the County to deliver possession of Licensee’s Operating Area, or any part thereof, to the Licensee for reasons beyond the reasonable control of the County.

15.26 Non-Liability of County’s Agents and Employees
No official, agent, or employee of County shall be personally liable to Licensee in the event of any default or breach hereunder by County.

15.27 Entire Agreement
This License contains the entire agreement of the parties and there have been no oral or written promises, representations or agreements, either express or implied, except as expressly set forth herein. Any and all prior agreements or understandings between the parties are expressly agreed to have merged herein.

15.28 Representations of Licensee
Licensee represents and warrants to County as follows:

a. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that they are familiar with Section 18-8-301, et seq. of the Colorado Revised Statutes (Bribery and Corrupt Influences) and Section 18-8-401, et seq. of the Colorado Revised Statutes (Abuse of Public Office) and that no violations of the provisions thereof are present.

b. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that to the best of their knowledge no employee of Pitkin County has personal or beneficial interest whatsoever in this License or in the business to be conducted upon the Location by the Licensee.

15.29 Execution in Duplicate
This Agreement shall be executed in duplicate originals, with one original to be held by each party.

15.30 Authority to Sign
As an inducement to the County to execute this Agreement, the undersigned officer of Licensee represents that he/she is expressly authorized to execute this Agreement and to bind Licensee to the terms and conditions hereof and acknowledges that the County is relying on this representation, authorization and execution.

/////////////////////////NOTHING FURTHER FOLLOWS EXCEPT SIGNATURES/////////////////////////
LICENSOR
PITKIN COUNTY, COLORADO
0233 E. Airport Rd., Suite A
Aspen, Colorado 81611

ATTEST:

Jeanette Jones
Deputy Clerk and Recorder

Date: ______________________

BOARD OF COUNTY COMMISSIONERS OF
PITKIN COUNTY, COLORADO

Chair

APPROVED AS TO FORM:

John Ely
County Attorney

APPROVED AS TO CONTENT:

John Kinney
Airport Director
EXHIBIT A

OPERATING AREA

Exhibit A consists of Exhibits A.1 & A.2
EXHIBIT A.1

READY RETURN LOT

AND

RENTAL CAR STORAGE AND SERVICE FACILITY AREA

SPACE ALLOCATION
LEGEND

- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC
- Shared Use Area


EXHIBIT A.1
READY RETURN PARKING AREA AND RENTAL CAR STORAGE AND SERVICE FACILITY AREA

Drawing: P:\Project\Cincinnati\Clients\Aspen\Task 03 - Rental Car Concessions\ASE Rental Car\CAD\ASE Rental Car Program Areas.dwg|Layout: A.1 Plotbed: Jul 24, 2019, 02:58PM

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EXHIBIT A.2

RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE

SPACE ALLOCATION
EXHIBIT B

SAMPLE MONTHLY REPORTING STATEMENT
On-Airport Licensee Monthly Statement
Of
Gross Revenues and Customer Facility Charge Revenue

Date: ______________

Period Covered (Month/Year): ______________

Rental Car Company: ___________________________

Gross Revenue Statement

Gross Revenues: $________________

10% of Gross Revenues: $________________

Customer Facility Charge Statement

Total Number of Vehicle Contracts: _________

Total Number of Vehicle Contract Days: _________

Total CFC Collections: $________

Certification by Licensee’s Chief Financial Officer or the Chief Financial Officer’s designee:

Signature: ___________________________               Print Name: ___________________________

Title: ______________________________

Date: ______________________________

Remit by the 20th day of each month to:

Jennifer Mitchley
Aspen/Pitkin County Airport
0233 E. Airport Road, Suite A
Aspen, CO 81611
EXHIBIT C

OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES
EXHIBIT C

LICENSEE OPERATING AREA MAINTENANCE RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Rental Car Service Counter/Office Space</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shell Building (structural, mechanical &amp; electrical)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Monthly Utility Costs (electrical, water, sanitary sewer, and natural gas)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>General Maintenance (HVAC &amp; fire suppression)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Janitorial Services</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Monthly data &amp; telecommunications services</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Overall Cleanliness &amp; Appearance</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Cleaning of Floors, Walls, Ceilings &amp; Surfaces</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Carpet Cleaning (Minimum of Twice per Year)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Proprietary Operating Systems, furnishings, signage, fixtures, &amp; equipment specific to Concessionaire</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking Spaces (Ready/Return)</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repair and maintenance of paved surfaces</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Pavement Markings</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Common Area Lighting</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Directional Signage</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Code-required Signage</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Landscape Maintenance</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Monthly Utility Costs – electrical</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Stormwater management system</td>
<td>x</td>
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</tr>
<tr>
<td>Parking Space Stall Signage &amp; Concessionaire Branding</td>
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</tr>
<tr>
<td>Snow Control</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Snow Removal</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Storage &amp; Service Facility Area</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Storage Area and Vehicular Common Area</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perimeter security fence</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Perimeter security fence gates</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Common Area Lighting</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Delineation barriers between brands</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Monthly Utility Costs – electrical</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Snow Control</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Snow Removal</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Feature</td>
<td>County</td>
<td>Licensee</td>
</tr>
<tr>
<td>--------------------------------------------------------------</td>
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<td>----------</td>
</tr>
<tr>
<td>Entry/Exit security</td>
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<td>x</td>
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<tr>
<td>Code-required signage</td>
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<td>x</td>
</tr>
<tr>
<td>Common circulation striping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common circulation paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Landscaping</td>
<td></td>
<td>x</td>
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<tr>
<td><strong>Fuel Islands</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel area paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel area drainage and drainage system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Bollards</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Fueling System</strong></td>
<td></td>
<td></td>
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<tr>
<td>Facility fueling system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel dispenser including nozzles</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel accounting system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel monitoring system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>O/H Hose reel system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>O/H fluid distribution system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common-use, vehicle vacuum system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Service Facility Utilities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire/Life/Safety systems</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Lighting</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Electrical Conduit</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Electrical Wiring</td>
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<td>x</td>
</tr>
<tr>
<td>Electrical outlets (Outlets provided as part of overhead hose reel system)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Data/Comms conduit Fuel management system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Data/Comms wiring Fuel management system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Data/Comms systems Fuel management system</td>
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<td>x</td>
</tr>
<tr>
<td><strong>Car Wash Building</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building roof system</td>
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<td>x</td>
</tr>
<tr>
<td>Building structural</td>
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<td>x</td>
</tr>
<tr>
<td>Exterior walls</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior glazing</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Exterior doors Includes fast-closing overhead doors at car wash bay ends</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Roll-up doors Automatic, fast-acting roll-up doors</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Code-required signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Directional signage</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>General circulation striping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Bollards</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Eye wash stations</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>County/Licensee</td>
<td>County</td>
<td>Licensee</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>--------</td>
<td>----------</td>
</tr>
<tr>
<td>Water supply hose bib</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay structure</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay exterior walls</td>
<td></td>
<td>x</td>
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<tr>
<td>Wash bay enclosure-bay demising wall</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay slab and wall waterproofing</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Car Wash System</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Car Wash System</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash rocker panel system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash blower drying power infrastructure</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash R.O. system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Excess water drainage system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Oil/Water Separator(s)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vacuum Room and Fluids Room finish-out</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Fuel Farm Area</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delivery Area</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common Circulation Striping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common Circulation paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Site lighting</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel farm fencing and pedestrian gates</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel tanks and required improvements</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel fill system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Security – fuel tank fill point</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Pedestrian access – fuel farm area</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Control</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Removal</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>
EXHIBIT D

SAMPLE FORM OF CERTIFICATE OF INSURANCE
### Certificate of Liability Insurance

**Date:** 9/12/2019

**Producer:** Aon Risk Services Central, Inc.

- **Address:** 5600 West 83rd Street, 8200 Tower, Suite 1100
  - Minneapolis, MN  55437-1027

**Contact:**
- **Phone:** (866) 283-7122
- **Fax:** (847) 953-5390
- **Email:**

**Insured:**
- **Name:** Car Rental Company
- **Address:** 233 E. Airport Road, Suite A
  - USA C/O Property / Airport Manager

**Important:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### Coverages

<table>
<thead>
<tr>
<th>Ins</th>
<th>Type of Insurance</th>
<th>ADDL SUBR</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY Exp (MM/DD/YYYY)</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A X</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>CLAIMS-MADE</td>
<td>GL9001603xxx</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>EACH OCCURRENCE DAMAGE TO RENTED PREMISES (EA)(AVERAGE) $2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>OCCUR</td>
<td></td>
<td></td>
<td></td>
<td>MED EXP (Any one person) $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>PERSONAL &amp; ADV INJURY $2,000,000</td>
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<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>GENERAL AGGREGATE $5,000,000</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>PRODUCTS - COMPOUND AGG $5,000,000</td>
</tr>
<tr>
<td>A X</td>
<td>GARAGE LIABILITY</td>
<td>проект</td>
<td>BUA7001700830</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>COMBINED SINGLE LIMIT (EA accident) $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>LOC</td>
<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per person) $</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per accident) $</td>
</tr>
<tr>
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**Description of Operations / Locations / Vehicles (ACORD 101, Additional Remarks Schedule, may be attached if more space is required):**

See Attached

---

**Certificate Holder:**
- **Insurance Certificate Enclosed:**
- **Address:** Aspen/Pitkin County Airport
  - Attn: Accounting/Procurement
  - 233 E. Airport Road, Suite A
  - Aspen, CO 81611

**Cancellation:**
- **Should Any of the Above Described Policies Be Cancelled Before the Expiration Date Thereof, Notice Will Be Delivered in Accordance with the Policy Provisions:**

**Authorized Representative:**
- Aon Risk Services Central, Inc.
Certificate Holder:
ASPEN/PITKIN COUNTY AIRPORT

Cert Number:
XX

RE: ASPEN/PITKIN COUNTY AIRPORT, 233 E. AIRPORT ROAD, ASPEN, CO 81611.

ASPEN/PITKIN COUNTY AIRPORT IS ADDITIONAL INSURED TO THE GENERAL LIABILITY POLICY WITH RESPECT TO THEIR INTEREST IN THE WRITTEN CONTRACT AGREEMENT WITH AVIS BUDGET CAR RENTAL, LLC. THIS CERTIFICATE OF INSURANCE (COI) RELATES TO A POLICY (POLICIES) ISSUED TO THE INCLUDED INSURED AND IS INTENDED TO DEMONSTRATE COVERAGE AS PROVIDED SOLELY TO THE INCLUDED INSURED AND IS FOR INFORMATIONAL PURPOSES ONLY. THE CERTIFICATE HOLDER LISTED ON THIS COI MAY BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES) ONLY TO THE LIMIT THAT SUCH CERTIFICATE HOLDER'S INTEREST APPEARS ONLY IF SUCH INCLUSION IS REQUIRED IN WRITING SPECIFICALLY AND EXPRESSLY STATING THAT SUCH CERTIFICATE HOLDER BE INCLUDED AS AN ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES). UMBRELLA COVERAGE MAY BE SUBJECT TO DEDUCTIBLE AND/OR SELF INSURANCE.
EXHIBIT E

MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARANTEE
MONTHLY ALLOCATION OF
MINIMUM ANNUAL GUARANTEE

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REPEALING ORDINANCE 035.2014 AND AUTHORIZING EXECUTION OF A LICENSE AND USE AGREEMENT WITH SIXT RENT A CAR, LLC FOR ON-AIRPORT RENTAL CAR OPERATIONS AT THE ASPEN/PITKIN COUNTY AIRPORT

ORDINANCE NO. __________-2019

RECITALS

1. WHEREAS, Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado a Home Rule County is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary, and

2. WHEREAS, Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended, and

3. WHEREAS, Pitkin County (“County”) owns, operates and sponsors the Aspen/Pitkin County Airport (“Airport”), and

4. WHEREAS, pursuant to ordinance 035.2014 the Board of County Commissioners, the Airport’s existing on-airport rental car license and agreements where executed December 1, 2014 and expired November 30, 2018 and

5. WHEREAS, a proposal were received on June 21, 2019 per the RFP, and

6. WHEREAS, the selection of the successful rental car operators was made through a combination of factors, including minimum annual guarantee bid, experience, and reputation, as out lined in the RFP and

7. WHEREAS, The BOCC finds that adoption of this ordinance is in the best interest of the citizens of Pitkin County.

8. NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance of the Board of County Commissioners of Pitkin County, Colorado, Repealing Ordinance 035.2014 and Authorizing Execution of a License and Use Agreement (attached hereto as Exhibit A) with Sixt Rent a Car, LLC for On-Airport Rental Car Operations at the Aspen/Pitkin County Airport and authorizes the Chair or the Chair’s designee to sign the Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____ DAY OF ____________, 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF ____________, 2019.


ATTEST:

BOARD OF COUNTY COMMISSIONERS

By: ___________________________ By: ___________________________
  Jeanette Jones Greg Poschman, Chair
  Deputy County Clerk

Date: _______________

APPROVED AS TO FORM: MANAGER APPROVAL

_________________ _________________________________
John Ely, County Attorney Jon Peacock, County Manager
LICENSE AND USE AGREEMENT

FOR A NON-EXCLUSIVE

ON-AIRPORT RENTAL CAR CONCESSION

AT

ASPEN-PITKIN COUNTY AIRPORT

BETWEEN

THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO

AND

SIXT RENT A CAR, LLC
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A – LICENSEE OPERATING AREA

A.1 – READY RETURN LOT AND RENTAL CAR STORAGE AND SERVICE FACILITY SPACE ALLOCATION

A.2 – RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE AREA

B – SAMPLE MONTHLY REPORTING STATEMENT

C – OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES

D – FORM OF CERTIFICATE OF INSURANCE

E – MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARENTTEE
RENTAL CAR COMPANY LICENSE AND USE AGREEMENT

THIS LICENSE AND USE AGREEMENT, made as of the date last below signed, is by and between the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, ("County"), a Colorado Home-rule County, as Licensor/Permissor, and Sixt Rent a Car, LLC (herein “Licensee” or “Company”), a corporation authorized to conduct business in the State of Colorado and doing business at the Aspen-Pitkin County Airport only under the Sixt Rent a Car brand/trade names which are owned or licensed to be used by Licensee.

RECITALS

WHEREAS, County is the owner, operator and sponsor of the Aspen/Pitkin County Airport (Sardy Field), located in Pitkin County in the vicinity of Aspen, Colorado (hereinafter the "Airport"), at which it has made available certain public airfield facilities, and airline terminal and facilities, a general aviation terminal and facilities, certain areas for public use, certain areas for exclusive and non-exclusive commercial use (subject to lease, license or permit) and certain reserved areas; and

WHEREAS, the County has the authority to operate and manage the Airport, to regulate commercial activities at the Airport and to lease and license space thereon, pursuant to, inter alia, C.R.S. Sections 30-11-107, 30-15-401, 30-35-201/202, 41-4-101 et seq., as amended, Title X of the Pitkin County Code, as amended and Section 8.7 of the Pitkin County Home Rule Charter; and

WHEREAS, on-airport rental car services at the Airport are necessary for the proper accommodation of customers arriving at and departing from the airline passenger terminal at the Airport (hereinafter the “Terminal”); and

WHEREAS, Licensee is engaged in the business of providing commercial rental car services and desires to occupy and use some of the areas and facilities of the Airport to make said services available at the Airport; and

WHEREAS, Licensee is qualified, ready, and able to perform or see to the performance of said services, and to furnish or see to the furnishing of proper facilities in connection therewith;

NOW, THEREFORE, in recognition and reliance upon the foregoing recitals, and in consideration of the mutual covenants and promises hereinafter set forth, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged by the parties hereto, County and Licensee agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following terms shall, unless the context requires otherwise, have the following meanings:
“Agreement” shall mean this License and Use Agreement between the Parties as described in this Agreement including all exhibits, attachments, appendices, schedules, and subsequent amendments thereto.

“Agreement Year” shall mean each period of twelve (12) months beginning on the commencement date.

“Airport” shall mean Aspen-Pitkin County Airport located in Pitkin County, Colorado.

“Airport Director” shall mean the chief executive officer of the Aspen-Pitkin County Airport or his/her designated duly recognized representative.

“Airport Snow Removal Plan” shall mean a plan developed by the Airport Director that addresses the means and methods for snow removal at the Airport.

“Automobile” shall mean, unless the context clearly requires otherwise, those types of self-propelled vehicles commonly used by Airport patrons for transportation of persons or property upon public highways and made available for rent to Airport customers.

“Collusion” shall mean the unlawful communication between unaffiliated competitors, but that coordination between brands owned by one company or an affiliated group of companies is permissible.

“Commencement Date” shall mean the date specified by the County for the commencement of this Agreement.

“County” shall mean Pitkin County, its Board of County Commission members, employees, agents and representatives, and shall include such public officials and public bodies as may, by operation of law, succeed to any or all of the rights, powers, or duties which lawfully reside in the Board of County Commissioners of Pitkin County Colorado.

“Customer” shall mean any person who comes to the Airport by any means of transportation and enters into a motor vehicle rental agreement with Licensee anywhere on the Airport.

“Customer Facility Charge” or “CFC” shall mean a fee used to fund certain capital projects and accomplish additional projects designed to facilitate major customer service improvements at the Airport.

“GAAP” means generally accepted accounting principles consistently applied.

“GAAS” means generally accepted auditing standards consistently applied.

“Gross Revenues” shall mean the total amount of monies paid to, or earned by, Licensee at, or from the Operating Area in its performance of this Agreement as further defined in Section 5.4 herein.
“License Fee” shall mean the greater of ten percent (10%) of Gross Revenue or the Minimum Annual Guarantee (MAG).

“License Recovery Fee” shall mean a separate statement of and charge for the Percentage Fee on Airport Customer invoices or rental agreements, which is not required, but will not be prohibited by the County as further defined in Section 5.6.

“Licensee” shall mean any rental car company entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensees” shall mean all rental car companies entering into a Non-Exclusive On-airport Rental Car License and Use Agreement with the County, for facilities, premises, and operating rights at the Airport.

“Licensee Operating Area” shall mean that portion of the Operating Area assigned to Licensee by the County for Licensee’s on-airport rental car operations as more specifically identified in Section 3.

“Minimum Annual Guarantee” shall have the meaning set forth in Section 5.2.

“Minor Preventative Maintenance” shall mean the changing of engine oil and other fluids, replacement of filters and bulbs, and changing and repair of tires, all in accordance with applicable law and regulations, and the County's adopted policies, plans and guidelines.

“Off-airport Rental Car Company” shall mean a car rental company that is not located at the Airport, but which does business at the Airport.

“On-airport Rental Car Company” shall mean a car rental company that is located at, upon, or within the Airport and is a party to an On-Airport Rental Car License and Use Agreement with the County.

“Operating Area” shall mean that portion of the Airport designated by the County for the use, occupancy, and operation of non-exclusive, on-airport rental car Licensees, and shall include:

a. “Ready/Return Area and Rental Car Storage and Service Facility Area” consisting of 61 ready and return automobile storage spaces; approximately 83,450 square feet of space for automobile storage and staging; and approximately 42,000 square feet of space for the washing, detailing, and fueling of automobiles; as depicted on Exhibit A.1 of this Agreement.

b. “Rental Car Counter/Office Area” consisting of four (4) designated ticket counter and office locations each consisting of approximately 163 square feet of space each and located within the Airport’s terminal building as depicted on Exhibit A.2 of this Agreement.

“Terminal” shall mean the County’s current air carrier terminal at the Airport.
“Transaction Day” shall mean a twenty-four (24) hour period or fraction thereof for which a rental car customer is provided the use of a rental car for compensation regardless of the duration or length of the rental term, except that a partial day that is a grace period of no more than two (2) hours after the last 24-hour day booked shall not be considered a Transaction Day. If the same rental car is rented to more than one customer within such continuous twenty-four (24) hour period, then each such rental shall be calculated as a “Transaction Day.”

“Yearly Financial Statement” means Licensee’s annual report and statement of Gross Revenues which shall specify in detail in accordance with the Yearly Financial Statement requirements set forth in this Agreement, all Gross Revenues and operating expenses associated with the operation of Licensee’s license at the Airport certified by an independent certified public accounting firm acceptable to County, and shall be acknowledged by an officer of Licensee as being accurate and complete based on such officer’s examination of the books, accounts and records of Licensee.

2. TERM

The term of this Agreement shall commence as of November 1, 2019 and shall expire on October 31, 2023, or the final day of operations at the current Terminal, whichever occurs first, or unless sooner terminated as provided herein.

2.1 Extension.

At the sole discretion of the County, the initial term may be extended for five, one-year periods commencing on the day following the expiration of the initial term.

2.1.2 Holdover.

If Licensee remains in occupancy and use of the Licensee’s Operating Area after the expiration of this term with the consent of County, Licensee’s interest in the Licensee’s Operating Area from and after that date shall be deemed to be month-to-month, pursuant to the terms and conditions of the License and Use Agreement (Other than the payment of the License Fee), or as the parties may otherwise agree in writing, or, if the parties shall fail to agree, upon such other terms and conditions as may be established by the County upon ten (10) days’ notice to Licensee.

3. LICENSEE OPERATING AREA

Licensee shall use its assigned portion of the Operating Area solely for its on-airport rental car activities and only for the purposes specifically described in this Section 3.

3.1.1 Licensee’s Operating Area

Licensee’s Operating Area shall consist of those areas designated on the drawings attached as Exhibit “A”, and includes the following elements: (1) the Ready Return parking spaces (often referred to as ready-return parking spaces or “Ready/Return Spaces”); (2) the Rental Car Storage and Service Facility; and (3) customer service counter and office area and check-in counter space within the Airport Terminal (collectively, “Rental Service Counter”). The County may unilaterally change the Licensee’s Operating Area from time to time as deemed necessary by the County, at the County’s expense provided that the County shall give Licensee commercially reasonable advance written notice of each substantial change, and further provided that the County shall make
a reasonable effort to implement any changes that are made to minimize adverse impacts on Licensee’s airport business operations, to the extent minimization is commercially reasonable under the circumstances. The County shall not be responsible for any Licensee administrative, moving, or planning expenses.

3.1.2 Ready/Return Spaces

Licensee shall have the right to use those parking spaces designated on the attached drawing hereinafter referred to as Exhibit “A.1”, containing 5 surface spaces. Licensee may use its allocated Ready/Return Spaces for: (1) the parking of Licensee’s automobiles awaiting customer rental at the Airport and (2) the return of rental vehicles.

The County reserves the right during the term of this Agreement to relocate, reallocate, increase or reduce the ready/return spaces assigned to Licensee. Reallocation of the Ready/Return Spaces will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Ready/Return Spaces during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Parking spaces in the ready return lot is intended for use by rental vehicles only, and Licensee shall not permit or allow other vehicles, including those owned or operated by employees, the general public or others to park in these spaces. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

3.1.3 Rental Car Storage and Service Facility Area

Licensee shall have the use of 6,000 square feet of space at the Rental Car Storage and Service Facility Area as designated on the attached drawing hereinafter referred to as Exhibit “A.1”, for washing, cleaning, fueling, minor preventative maintenance, and storage of rental vehicles. The parties acknowledge that the Service Facility Area consists of one automatic car wash bay, three manual car wash bays, one external car wash bay, and a fuel island and vacuum system, including without limitation all related equipment, paving and utilities. Licensee further acknowledges that the use of the service facility area shall be on a first-come, first served basis with other similar Licensees.

Reallocation of the Rental Car Storage and Service Facility Area will be reviewed by the County at the end of Agreement Year 2. The County reserves the right to reallocate the Rental Car Storage and Service Facility Area during the 3rd Agreement Year as its sole discretion and provided agreement can be reached by all Licensees.

Licensee shall use the Rental Car Storage and Service Facility Area solely for the washing, servicing, detailing, maneuvering, queuing, and storage of its vehicles used in its on-airport rental car operation. In no event shall engine tune-ups, engine or chassis repair or overhaul, painting or body work be performed. All uses of the Rental Car Storage and Service Facility Area shall be subject to and conducted in strict accordance with the Airport Stormwater Management Plan.

Licensee shall not allow its customers or the public to enter the Rental Car Storage and Service Facility Area. Licensee shall ensure that only its rental vehicles are being serviced at the Rental Car Storage and Service Facility Area. No personal vehicles are permitted at the Rental
Car Storage and Service Facility Area unless otherwise authorized by the County. The Licensee may provide temporary staging and storage of its rental vehicles in the Rental Car Storage and Service Facility Area prior to their return to the Licensee’s Ready/Return parking spaces. Only Licensee employees will be permitted to park their vehicle at the Rental Car Storage and Service Facility Area. No other vehicle parking, including non-facility-based employee parking, shall otherwise be permitted in or about the Rental Car Storage and Service Facility Area except for fueling, maintenance, towing, or emergency services purposes. Licensee shall not allow parking of vehicles of passengers or flight crew intending to use the Airport’s main terminal building for commercial flights. Violation of parking restrictions can result in the Licensee paying fees that would have been collected in available Airport paid public parking lots.

### 3.1.4 Rental Car Counter/Office Space

Licensee shall have the use of that counter and office space in the Terminal Building designated on the attached drawing hereinafter referred to as **Exhibit “A.2”** consisting of 163 square feet of space. Licensee may use its Rental Service Counter space for customer rental, return, and related transactions approved by the County, and for an administrative office.

### 3.2 Condition of Licensee's Operating Area

Licensee specifically acknowledges, agrees, accepts, and leases Licensee’s Operating Area from the County in “as is” condition with the exception of any Hazardous Substances conditions or contamination existing in, on, under or about the Licensee’s Operating Area prior to Licensee’s occupancy. Licensee is not relying on any representations or warranties of any kind whatsoever, express or implied from County or its agents, as to any matters concerning the condition of Licensee’s Operating Area. Licensee shall install proprietary equipment and personal property in its designated Licensee Operating Area as required by this Agreement, or as necessary for Licensee's operation of its rental car license, and as approved by the County.

All personal property, equipment, furnishings, decorations and trade fixtures placed upon the Licensee’s Operating Area by Licensee shall be at Licensee’s sole risk, and County shall not be liable for damage to or loss of such personal property or trade fixtures arising from the acts or omissions of any persons or from any causes whatsoever, except from the acts or omissions of County, its agents and employees. Licensee represents that it is (and will be for the entire term hereof) the owner of or fully authorized to use any and all services, processes, machines, articles, trade names, trademarks, logos or slogans to be used by it in its operations under or in any way connected with this Agreement. Licensee agrees to save and hold the County, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit, demand or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Licensee under or in any way connected with this Agreement.

### 3.3 Rights of Third Party Ingress and Egress

Licensee's use of the Operating Area is subject to reasonable concurrent ingress and egress by the County and its employees, contractors, and representatives, by the car-renting public, and by third parties for police, fire, safety, construction, maintenance, inspection, and other activities reasonably related to Airport business. Nothing in this subsection shall be deemed to interfere with
the County’s right to enforce the provisions of this Agreement, including but not limited to rules adopted by the County. Nothing in this subsection shall be deemed to interfere with the County’s ability to exercise its police powers.

3.4. Surrender of Licensee Operating Area

Upon the expiration or termination of the License, Licensee immediately shall surrender Licensee’s Operating Area as shown on Exhibit A to County in good condition and repair, ordinary wear and usage excepted; and Licensee shall remove all of its personal property, trade fixtures, equipment or improvements removable by prior agreement with County from the Licensee’s Operating Area and shall repair any damage to Licensee’s Operating Area caused by such removal. Excluding Licensee’s rental automobiles, any personal property of Licensee, or anyone claiming under Licensee, which shall remain upon Licensee’s Operating Area at the expiration or termination of this License shall be deemed to have been abandoned and may be retained by County as County’s property or disposed of by County in such manner as County sees fit without compensation to any party.

3.5 Operations After Termination

If this Agreement expires or is terminated for other than Licensee's default, the County, in its sole discretion, may allow Licensee to continue operating under this Agreement on a month-to-month basis. Licensee's continuation of operations after expiration or termination of this Agreement shall not operate or be construed to renew or extend this Agreement. The fees for continued operations after expiration or termination of this Agreement shall be calculated and payable in the same manner as under the Agreement, except that, if this Agreement expires or is terminated for other than Licensee's default, the reconciliation of payments shall occur at six-month intervals and at the end of the extended period of operation. If the reconciliation shows that Licensee paid more than was required during the extended period of operation, the County will rebate the amount of overpayment within 20 business days after the reconciliation. If the reconciliation shows that Licensee paid less than was required during the extended period of operation, Licensee shall pay the unpaid amount within 20 business days after the reconciliation. Licensee shall not continue operations after expiration or termination of this Agreement without the County's express written permission, Licensee shall be liable to the County for any loss or damage arising in connection with that continued operation, including but not limited to loss or damage not contemplated by the parties at the time this Agreement is executed. The County's acceptance of a payment made pursuant to this section shall not give Licensee any right to remain in possession, nor shall it constitute a waiver by County of its right to immediate possession. Nothing in this section shall preclude the County from exercising any rights or remedies it may have under this Agreement or otherwise. Except as expressly provided otherwise by this section, all provisions of this Agreement shall remain effective during any post-expiration or post-termination operation under this section.

4. OPERATING RIGHTS, PRIVILEGES AND OBLIGATIONS OF LICENSEE

4.1 Grant of Operating Rights and Privileges

4.1.1 Vehicle Rentals
Licensee shall have the right and obligation to rent non-chauffeured vehicles to passengers, tenants, and other patrons of the Airport. Licensee shall have an affirmative obligation, for the term of the Agreement, as it may be extended as provided above, to conduct a non-exclusive, on-airport commercial rental car operation at all times that such service is customarily provided to the traveling public at the Airport. In conjunction with its operation, Licensee may:

4.1.1.1 Offer personal accident insurance, personal effects insurance, and other insurance related to travel by car or the rental and use of Licensee’s vehicles;

4.1.1.2 Rent or sell mobile and cellular phones;

4.1.1.3 Rent or sell other services or personal property approved in writing by the Airport Director, provided that (1) the services or personal property must be of a type that customarily are offered for sale or rent at other comparably-sized airport car rental facilities and (2) the sale or rental of the services or personal property must not conflict with a right or privilege of another Airport Licensee.

4.1.1.4 Store, stage, wash, fuel, and conduct minor preventive maintenance and repair of automobiles to be made available for rental, including movement of such vehicles necessarily incident to these activities.

4.1.2 Restrictions on Licensee’s Operations

Licensee, in the conduct of its operation shall be subject to the following limitations and restrictions:

4.1.2.1 Licensee shall park on, store on and rent from its assigned Operating Area only automobiles as defined herein and only automobiles available for rental exclusively from its Operating Area. No other automobiles, including trucks above 5,000 lbs. empty vehicle weight, motor homes, busses, motorcycles, trailers, or non-passerger registrations shall be permitted on the Airport, without express prior written permission of the County, in the discretion of the County, and under such fees, terms and conditions as the County may require.

4.1.2.2 Licensee shall not hold or control, directly or indirectly, any rights or obligations in the management, operations, premises, inventory, ownership, voting or financing of any other entity doing business on, at or through the Airport including, expressly, any On-Airport or Off-Airport Rental Car Company with a Location within upon full disclosure by Licensee of all such rights or obligations, the County will consent, in its reasonable discretion, to the existence and enforcement of such rights interests hereunder in the promotion of competition and the avoidance of revenue diversion, or that are made subject to such reasonable terms and conditions as are necessary to protect County’s interests. For purposes of the section, “Licensee” shall include all natural persons, corporations or other business entities holding or controlling, directly or indirectly, any rights or obligations in Licensee’s management, operations, premises, inventory, ownership, voting or financing. All revenues derived from the conduct of business prohibited or restricted by this Section shall be includable for purposes of percentage of gross revenue calculations and payments pursuant to this Agreement.

4.1.2.3 Licensee may not offer vehicles for sale to the public at any location at the Airport.
4.1.3 Other Licenses

Licensee must have the Airport Director’s prior written consent before engaging in any licensed operation not expressly and specifically permitted by this Agreement, including but not limited to the sale of food, beverages, maps, or newspapers, and may be required as a condition of that consent to pay the County a fee, which may include, but is not necessarily limited to, a percentage of gross revenue.

4.2 Rights of Ingress and Egress

Licensee shall have the right of ingress to and egress from its Licensed Area over public walkways and roadways. Licensee shall have the right to use common use roadways, following established speed and safety signage. Licensee's rights of ingress and egress and use of common use roadways shall be subject to all applicable laws and to regulations established by the Airport Director.

4.3 Other Licensees

The rights granted by this Agreement are non-exclusive. The County may grant similar rental car rights to other on-airport Licensees during the term of this Agreement.

4.4 Operating Obligations

4.4.1 Vehicle Rentals

Licensee shall provide rental car services continuously during the term of this Agreement and shall operate it in a first-class manner to serve passengers and other Airport users.

4.4.2 Automobiles

Licensee shall maintain on hand at the Airport an adequate number of vehicles to meet all reasonably foreseeable rental demands. The model year of the vehicles shall not be more than two (2) years older than the current model year. All vehicles shall be maintained in good mechanical condition, and shall be clean, well maintained, safe and contain all necessary safety equipment for mountainous terrain, including, during winter season, mud and snow tires rated “M/S” and accepted by the Colorado State Patrol under the then-existing “chain law” for mountain passes. It is understood that the winter season shall include, at a minimum, November 1 to April 15 of each year, though weather conditions may dictate lengthening this period.

The Airport Director may disapprove any vehicle provided by Licensee for public use at the Airport if the vehicle fails to comply with the requirements of this Agreement. Upon receipt of the Airport Director’s written notice of disapproval with a statement of grounds, Licensee shall immediately withdraw the disapproved vehicle(s) from use as rentals at this Airport and shall not return the vehicle(s) to rental use at the Airport until the grounds for disapproval have been eliminated to the Airport Director’s satisfaction.

4.4.3 Hours of Operation

Licensee shall provide customer service personnel and car rental services at the Rental Car Counter seven days per week, from a time each day sixty (60) minutes before the first scheduled airline departure or the time of the first scheduled airline arrival, whichever occurs earlier to a time thirty (30) minutes after the actual time of the last airline arrival or the time of the airline departure,
whichever occurs later. Licensee shall provide customer service personnel during periods of irregular flight operations that result in delayed or cancelled flights and the transport of customers to the Airport by other modes of transportation. In the event employees cannot be available during these periods, Licensee shall make every effort to accommodate the reasonable needs of its customers, which shall include providing a telephone, free of charge to the customer, with direct communication to employees who can provide service to the customer.

The Airport Director, upon Licensee's written request, may authorize deviations from the requirements of this subsection. The schedule of business hours so established is subject to periodic review by the County or upon written request from Licensee to the Airport Director. As a result of any such review, the Airport Director may require an expansion or allow a reduction of the hours of operation as public demand requires. In no event shall the hours of operation be curtailed to an extent that the service contemplated herein shall be diminished.

4.4.4 Quality of Service

Licensee shall furnish prompt, courteous, and efficient service on a fair, reasonable and nondiscriminatory basis to any member of the public commensurate with rental car operations of the size and traffic volume at first-class U.S. destination resort locations. Licensee shall keep its Operating Area in a safe, clean, orderly and inviting condition. All services and property sold or rented by Licensee must conform in all respects to federal, state, and County laws, ordinances, and regulations, and to any applicable rules adopted by the Airport Director. Licensee shall conduct its operations in an orderly and proper manner and so as not to annoy, disturb or be offensive to customers; patrons; County employees, employees, agents and representatives; or other tenants at the Airport.

4.4.5 Manager

Licensee shall engage a full-time manager who: (1) is qualified and experienced; (2) has full authority to control the day to day operation of the car rental license at the Airport; and (3) has authority to respond to and clean up a Hazardous Substance Release in a timely and appropriate manner (4) has authority to respond to accidents, both with personnel and property. The manager or the manager's designee shall be stationed at the Airport and shall be present at the Airport between 8 a.m. and 5 p.m. Monday through Friday. The manager or the manager's designee shall participate in all County Airport tenant meetings including an annual snow removal plan briefing. In the manager's absence, a subordinate shall be in charge and present at the Airport.

4.4.6 Staff

Licensee shall employ a sufficient number of trained personnel to handle customer service; vehicle cleaning, servicing, and handling; and office and administrative duties necessary for the efficient and effective operation of the rental car license. Employees shall be safety-conscious, environmentally-sensitive, helpful and courteous at all times, consistent with acceptable customer relations practices at first-class U.S. destination resorts.

4.4.7 Staff Conduct

Licensee shall be responsible for the conduct, demeanor, and appearance of its officers, agents, employees and representatives. Licensee’s officers, agents, employees and representatives
shall comply with all Airport rules and regulations, shall not act in a manner which will constitute a public or private nuisance, or which will disrupt the safe, efficient and normal operations of the Airport and shall strictly observe all posted speed limits and other traffic and safety signs. Employees on duty shall wear uniforms or appropriate business attire. Uniforms and business attire shall be kept neat, orderly, and clean. Customer service personnel, Rental Car Service Facility service personnel, and attendants shall be trained by Licensee to render high quality, courteous, and efficient service. Licensee shall closely supervise service personnel to assure a high standard of service to rental car customers. Upon receipt of a written objection from the Airport Director concerning the conduct of Licensee’s officers, agents, employees, contractors and representatives, Licensee shall promptly meet with the Airport Director or his/her designee to discuss the basis for the objection and take steps to eliminate the conduct, including if necessary the initiation of steps that could lead to the discharge of the offending employee in accordance with Licensee's employment policies and any applicable collective bargaining agreements.

4.4.8 Solicitation Prohibited

Licensee shall not permit its agents or employees to use pressure sales tactics or to overtly solicit for car rentals or related services offered by Licensee under this Agreement. The Airport Director shall be the sole judge of whether conduct amounts to a violation of this subsection. Upon written notice from the County, Licensee shall take all necessary steps to eliminate conduct in violation of this subsection and to prevent its recurrence.

4.4.9 Relationship with Competitors

Licensee shall maintain cooperative, albeit competitive, relationships with its competitors at the Airport, and shall not engage in open, notorious, or public disputes, disagreements, or conflicts with competitors that would tend to interfere with quality of the rental car services at the Airport.

4.4.10 Diversion of Customers Prohibited

Licensee shall not divert or allow the diversion of any prospective customers from the Airport to another location. If any such diversion does occur, the diverted transaction shall be deemed to have occurred at the Airport.

4.4.11 Signs

Licensee shall not erect, install, nor permit upon its Operating Area any sign or other advertising device without first having obtained the Airport Director’s written consent, which may be withheld in its sole discretion. Licensee shall remove all signs and sign hardware upon expiration or termination of this Agreement and restore each sign location to its former state, unless the Airport Director elects to retain all or any portion of the signage.

4.4.12 Compliance with Rules

In addition to complying with the requirements of this Agreement and with all applicable federal, state, and local laws, rules, and regulations, including but not limited to the requirements of the Americans with Disabilities Act, Licensee shall comply with reasonable rules adopted by the County or the Airport Director regarding the use of, entry on, and access to the County's property.
4.4.13 Branding

Licensee shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name or trade name listed in the Preamble of this Agreement. During the Term, Licensee shall operate and maintain all signage only under the brand or trade name listed in this Agreement. No other brand or trade name shall be used or displayed by Licensee at the Airport during the Term. Except as provided herein, the operation and display of any other brand or trade name(s) by Licensee is prohibited. If Licensee utilizes a brand or trade name under a license or franchise agreement, Licensee represents and warrants to the County that Licensee has been granted the right to use any such brand or trade name for the Term of this Agreement, pursuant to a franchise or license agreement (the “Franchise Agreement”) with the brand or trade name owner (a “Franchisor or Licensor”). At the County’s request, Licensee agrees to provide the County with a copy of the Franchise Agreement and reasonable evidence that such Franchise Agreement remains in full force and effect. Licensee agrees that a Franchisor’s or Licensor’s termination of Licensee’s right either to use Licensee’s brand or trade name, shall constitute an Event of Default under this Agreement.

4.4.14 Disincentive Fees

The following table sets forth a schedule of Disincentive Fees for Licensee’s violations of the operating standards or failure to adhere to contractual requirements. These Disincentive Fees shall be in addition to all other rents and fees required by Section 5, hereof. All Disincentive Fees shall be paid in full within ten (10) calendar days of written notice from the County.
<table>
<thead>
<tr>
<th>Infraction</th>
<th>1\textsuperscript{st} Violation</th>
<th>2\textsuperscript{nd} Violation</th>
<th>3\textsuperscript{rd} (or further) Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking/Storage of vehicles in areas other than Licensee Operating Area depicted in Exhibit A.1</td>
<td></td>
<td>$15 per day per vehicle</td>
<td></td>
</tr>
<tr>
<td>Parking or storage of any vehicles in areas marked as a Fire Lane as set by the Fire Marshall</td>
<td>Cited by Fire Marshall</td>
<td>Plus</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$15 per day per vehicle</td>
<td></td>
</tr>
<tr>
<td>Conducting any vehicle maintenance or cleaning activities in the Ready/Return or Storage Area. If trash is removed from a vehicle parking in the Ready/Return Area the trash mush be disposed of in proper receptacles located in the Rental Car Storage and Service Facility Area.</td>
<td>Written Warning</td>
<td>$250 per incident</td>
<td>$500 per incident</td>
</tr>
<tr>
<td>Storing any items other than Lessee's rental vehicles. Incidental items required by Licensee (i.e. child car seats, etc.) are permitted to be stored in the Licensee’s Operating Area.</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
<tr>
<td>Failure to maintain any portion of Operating Area in a safe clean, neat and orderly condition; or allowing any accumulation of rubbish, trash, or other waste</td>
<td>Written Warning</td>
<td>$100 per incident</td>
<td>$250 per incident</td>
</tr>
</tbody>
</table>
5. FEES AND FINANCIAL REPORTING

5.1 Fees

In addition to any other payments required under this Agreement, Licensee shall pay all of the following fees to the County:

5.1.1 A “License Fee” equal to the greater of: (1) the Minimum Annual Guarantee (“MAG”) or (2) ten percent (10%) of Licensee's Gross Revenue for the applicable Agreement Year. The License Fee shall be paid in monthly installments which shall be the greater of the percent of monthly allocation of the MAG as depicted in Exhibit E or ten percent (10%) of Licensee’s Gross Revenue for the month.

5.1.2 For the use of the Rental Car Storage and Service Facility, Licensee shall pay $4.50 per square foot of space allocated to it or a total monthly fee of $2,250.00. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.3 For the use of the Rental Car Ready/Return Area, Licensee shall pay the monthly sum of $200.00 per space. This fee shall be adjusted by the County at the commencement of the second Agreement Year, and at the commencement of each succeeding Agreement Year based upon the percentage change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment shall be by a percentage equal to the percentage increase of the CPI-U between the published CPI-U for the most immediately available month prior to the Commencement Date and the corresponding CPI-U for the same period twelve months previous. Provided however, the total monthly fee shall never be lower than the total monthly fee for the preceding Agreement Year.

5.1.4 For Customer Service Counter and Office Space allocated to Licensee, a monthly fee of $1,029.75 ($75.81 per square foot per year for 163 square feet) during the first Agreement Year. The fees for Counter and Office space shall be adjusted annually by County Resolution to reflect the same rate the airlines pay for counter/office space.

5.2 Minimum Annual Guarantee

For the first Agreement Year, the Minimum Annual Guaranteed Fee or "MAG" amount payable by Licensee to the County shall equal $151,008.01. Beginning with the second (2nd) Agreement Year and continuing thereafter, the MAG shall be adjusted for each Agreement Year to equal eighty-five percent (85%) of the License Fee paid in the prior Agreement Year. Notwithstanding the foregoing, the MAG will never be less than the first Agreement Year.
Although each new MAG will be effective as of the first day of each Agreement Year, the County will not finalize calculation of the new MAG until sometime thereafter. Once the new MAG has been calculated by the County, based upon information supplied to the County by Licensee, the Airport Director will send Licensee written notice of the new MAG amount. Licensee shall then pay the County any additional License Fee due based on the difference between the License Fee as calculated under the previous Agreement Year’s MAG compared to the new MAG. The County will credit Licensee if there is a credit due based on that same calculation within thirty (30) days of the date of the Airport Director’s written notice.

Immediately upon the Licensee’s receipts of revenues from its activities hereunder, such funds representing the Minimum Annual Guarantee amounts or percentage fees, and other fees and charges payable to the County under the terms of this Agreement, shall be vested in and become the property of the County and the Licensee shall hold and be responsible for said funds as a Trustee thereof until the same are delivered to the County.

5.3 Minimum Annual Guarantee Abatement

In the event that the total number of scheduled deplaning airline passengers at the Airport for any month during the Term of this Agreement declines to a level lower than seventy-five percent (75%) of the number of deplaning passengers for the corresponding month of the previous Agreement Year, Licensee’s MAG shall be abated by a percentage equal to the percentage decrease in such deplaning passengers, for each month during which deplaning passengers remain at a level less than seventy-five percent (75%) of the deplaning passengers for the corresponding month of the previous Agreement Year. Licensee shall continue to pay the License Fee for each month for which the MAG is abated. When monthly deplaning passengers rise to a level at or above seventy-five percent (75%) of passenger deplanements for the corresponding month of the previous Agreement Year, Licensee’s full MAG shall be reinstated. Any MAG abatements under this Section shall be accounted for as part of the Agreement Year Adjustment under Section 5.8.3.

5.4 Gross Revenue

5.4.1 "Gross Revenue"

"Gross Revenue" shall be determined by the total of charges on the face of the customer's rental agreement, less any charges excluded in the definition of Gross Revenues, and shall mean, unless specifically excluded herein all amounts paid or payable to or considerations of determinable value received by Licensee, after any discounts are deducted at the time of rental, for:

(a) all charges, including, but not limited to, time and mileage charges and separately stated fees (including but not limited to license recovery or recoupment fees) for rental of vehicles and other related or incidental services or merchandise, including but not limited to, ski racks, navigation units, car seats, refueling charges and any other items or services, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned;

(b) all amounts charged to the customer for insurance offered by Licensee incidental to the rental of such vehicles, including but not limited to personal accident insurance;
(c) all charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location;

(d) all proceeds from the long-term lease of vehicles from any location on the Airport;

(e) all amounts charged to Licensee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Licensee of its right to recover from customer for damage to or loss of the vehicle rented;

(f) all amounts charged to Licensee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Licensee;

(g) all amounts charged by Licensee, and described under Section 5.6 as a pass-through to its customers of License Recovery Fees; and

(h) Membership fees associated with car-sharing brands operating at the Airport.

Gross revenues or gross receipts to the Licensee shall be deemed received at the time the sale, lease or service transaction occurs giving rise to Licensee’s right to collect said monies, regardless of whether said transaction was conducted in person, by telephone, electronically, by mail or by any other method of information transmission, whether the transaction was for cash or credit, and of for credit, regardless of whether the Licensee ultimately collects the monies owed for said transaction from the customer involved. Any gross revenues or gross receipts included in the formula for determining percentage fees owed the County and determined by Licensee at a later date to be uncollectible shall not offset future percentage fees owed the County. If the initial rental car contract entered into between Licensee and a rental car customer is subsequently amended, solely because the customer’s actual time and mileage usage contemplated by the original contract, and the charges to be paid by the customer are therefore different from the charges contemplated by the original contract, the percentage of gross revenues that the County is entitled as fees hereunder shall be based upon the gross revenues that the Licensee actually receives or is entitled to receive, under the amended rental car contract with its customer.

5.4.2 Exclusions from Gross Revenue

The following shall be excluded from Gross Revenues:

(a) any federal, state, City or County sales or other taxes or surcharges separately stated on the customer’s rental agreement and collected from customers of Licensee and paid in full by Licensee to the taxing authority;

(b) Amounts Licensee receives, or is entitled to receive, for the sale (other than "rent to own" program vehicle sales rental amounts), disposition, loss, conversion, or abandonment of Licensee’s used automobiles and other equipment, personal property, and trade fixtures not in the normal course of the commercial rental car business permitted hereunder;

(c) amounts which Licensee receives, for the repair of damages to its automobiles and other equipment, personal property, and trade fixtures; including revenue from the wholesale transfer of salvage vehicles;
(d) Customer Facility Charges;

(e) all non-revenue rentals to employees of Licensee;

(f) Payment and administration of parking tickets, tolls, towing and impound fees, traffic and red-light tickets;

(g) mandatory fees shown on the customer rental agreement, paid to other governmental agencies, excluding the County, relating to transactions at the Airport; and

(h) net corporate discounts applied at the time the rental contract is closed but only to the extent Licensee provides auditable proof to County that discount or rebate is specifically attributable to rental agreement with Airport customer.
5.4.3 Retroactive Adjustment of Gross Revenue Prohibited

The retroactive adjustment by Licensee of Gross Revenues designated by Licensee as volume discounts, corporate discounts or any other designation of any nature, or for any purpose, is prohibited.

5.5 Obligations Regarding Fees

5.5.1 Licensee shall:

5.5.1.1 Take all reasonable measures to maintain, develop and increase Licensee’s car rental business at the Airport;

5.5.1.2 Not divert, or cause or allow the diversion of, any business from the Airport.

5.5.1.3 Permit inspection during ordinary business hours by the County or the County’s representatives of any sales equipment used by the Licensee, including but not limited to cash registers, recording tapes, point of sale equipment and computer sales terminals, provided that the County shall take all reasonable precautions to ensure that its inspections under this subsection do not unnecessarily disrupt Licensee’s business operations.

5.5.1.4 Maintain full and accurate books of account and records from which “gross revenue” and “gross receipts,” as defined herein, the amount and nature of all business transacted on or through the Airport location, and the amount of percentage rental owed the County hereunder, can be determined and verified, according to standards and accepted accounting and auditing practices. The books of account and records that Licensee must maintain shall include, but need not be limited to, legible, true and accurate copies of all written and electronic records and reports kept in the normal course of Licensee’s business including, without limitation, all motor vehicle rental contracts and cancelled contracts forms, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursements journals, general ledgers, bank statements, bank books, bank deposits slips, annual federal income tax returns, state sales tax returns and all Airport related revenues reported submitted by Licensee to its franchisor and all computer and /or electronic reproductions of the above. These books and records shall be maintained on a current basis and shall be stored for a period of at least thirty-six (36) months from the end of each monthly period, or for such longer period time as County reasonably may direct in writing. If such records are not stored within Pitkin County, it shall be Licensee’s responsibility, at its expense, to promptly make such records, upon request, available to County, or its representatives, in a time, manner and format to the satisfaction of the County, in its reasonable discretion.

5.5.2 Licensee’s financial record keeping and reporting systems for all business conducted on or through the Airport location or subject to this Agreement shall include, without limitation, as follows:

(a) Complete, accurate and legible copies of all automobile rental contracts.

(b) Adequate financial controls, under generally accepted accounting principles and auditing standards, to ensure complete and accurate recording and reporting of all revenues, including commissionable revenues.

(c) Any other documents or procedures which, in the reasonable discretion of the County, are necessary or useful to determine or verify Licensee’s obligations hereunder. Such new documents
or procedures shall be used or instituted a reasonable time after written notice thereof has been sent by County to Licensee.

5.5.3 The County may, annually, at the end of the term herein, or upon a request by Licensee of assignments of its rights hereunder, unless expressly waived by the County, conduct audits of Licensee’s books of accounts and records, which audits shall be conducted upon reasonable notice to Licensee and during normal weekday business hours. For purposes of this License and Use Agreement, the annual audit period shall be deemed to commence on January 1st of each year of the Agreement and to conclude on December 31st. In performing said audits, County shall be entitled to review, and Licensee shall be obligated promptly to provide to the County upon demand therefore, all of the books of account and records that Licensee is obligated to maintain pursuant hereto, as well as other records, documents and files in Licensee’s possession, custody or control during the term hereof that the County, or its auditor, determines, in its sole discretion, are useful, relevant or necessary to determine or verify the correct amount of reportable, includable and excludable revenues, and gross receipts enjoyed by Licensee, and the correct amount of percentage rental owed by Licensee to the County, for the period involved. Should Licensee fail to maintain the books of account and records required to be maintained pursuant hereto, or should License fail to deliver and enable the County or its auditor to review Licensee’s books and records, and other documents and files, as required by this subparagraph, said default is agreed by the parties to be a material breach of this License Agreement and Licensee shall pay, as liquidated damages for such breach, an additional amount equal to fifty (50%) percent of the verifiable costs, fee, payments and changes due from Licensee hereunder for the period in question; provided, however, that Licensee shall only pay these damages for failure to keep required records if such requirements are reasonable in light of Licensee’s business practices (as such practices may be modified by a County request hereunder) and generally accepted accounting principles and auditing standards.

5.5.4 If any audit shows percentage compensation and other fees and changes that should have been paid to the County by Licensee pursuant to this Agreement were understated or underpaid for any period involved (including, expressly, revenues from business), Licensee shall, within thirty (30) day notice by County of any such deficiency, pay to the County the full amount underpaid, plus two percent (2%) interest per month, calculated as provided above, and such underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. If the amount of underpayment exceeds two (2%) percent of the total percentage compensation that was owed by Licensee to the County for the period involved, Licensee, in addition to paying the County the underpayment owed and the interest accrued thereon, shall within thirty (30) days’ notice by County reimburse the County for the cost of the audit. If the audit discloses overpayment of the percentage compensation paid to the County by Licensee, the County shall refund the amount of overpayment to Licensee, within thirty (30) day of said audit.

5.5.5 The County shall hold all information obtained from any such audit in confidence, except as may be necessary to enforce the County’s rights under this Agreement, except with respect to tax proceedings, and except with respect to any legal requirements or Court Order to disclose said information.

5.5.6 One Hundred Eighty (180) days after Licensee’s annual audit report has been received by the County or, whichever is later, the date all supplemental documents requested by the County have been received by the County, the County shall release Licensee from any liability for underreporting or underpayment hereunder, unless the County shall have given written notice,
within that period, of any claims for inadequate or deficient reporting or payment. Once such notice is given, the parties shall expeditiously and in good faith cooperate to resolve the matters contained in the notice(s).

5.5.7 Prior to any assignments, conveyance or transfer by License of this License or any rights or obligations hereunder requiring approval of the County as required below, the County shall be entitled to an audit as defined here in above at the sole expense of the Licensee.

5.6 License Recovery Fee

Licensee acknowledges that License Fee payments by Licensee to the County under this Agreement are for Licensee's privilege to access the Airport market and are not fees imposed by the County upon Licensee's customers. The County does not require, but will not prohibit, a separate statement of a License Recovery Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions:

(a) such Percentage Fee pass through must be titled "License Recovery Fee" or "License Recoupment Fee";
(b) the License Recovery Fee or License Recoupment Fee must be shown on the customer rental agreement and invoiced with other Licensee charges;
(c) the License Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven hundredth percent (11.11%) of Gross Revenues;
(d) Licensee shall neither identify, treat, or refer to the License Recovery Fee or License Recoupment Fee as a tax, nor imply that the County is requiring the pass through of such fee;
(e) if Licensee elects to include the License Recovery Fee or License Recoupment Fee on its customers' rental agreement, it will be considered part of Gross Revenue; and;
(f) Licensee shall comply with all applicable laws, including Federal Trade Commission requirements.

5.7 Monthly Statements

5.7.1 General Requirements

Licensee shall submit to the County a Monthly Statement of Gross Revenue to include a calculation of the License Fee and a report of the number of closed rental transactions ("Monthly Statement") by the twentieth (20th) day of each month following the month covered by the Monthly Statement. The Monthly Statement shall be submitted on a form substantially similar to the Monthly Statement form in Exhibit “B”. The County reserves the right to revise the form and reporting requirements as needed. The accuracy of the Monthly Statement shall be certified by the affidavit of Licensee's chief financial officer, or the chief financial officer's designee. The certification shall be placed on the face of or attached to the Monthly Statement.

5.7.2 Liquidated Damages

The parties recognize that the County will incur additional administrative costs if Licensee is late in providing the monthly statements required by this Section 5, and that the amount of those costs is difficult to determine with certainty. Consequently, the parties agree that Licensee shall pay the County $100.00 as liquidated damages each time Licensee is more than 10 calendar days late in submitting the monthly statement required by this section. The sums set forth herein as
liquidated damages are not a penalty, but are reasonable estimates of the costs the County will incur for Licensee’s non-compliance.

5.8 Payments
5.8.1 Monthly Payment

By the first day of each month during the term of this Agreement, Licensee shall pay to the County in advance the monthly allocation of its MAG as shown in Exhibit E, plus all other fees due monthly under this Agreement.

5.8.2 Payment of Excess

By the twentieth (20th) day of each month during the term of this Agreement, and of the month following the expiration or termination of this Agreement, Licensee shall pay to the County any amount by which the monthly installment of the License Fee for the preceding month exceeds the MAG payment as provided in Section 5.8.1.

5.8.3 Annual Adjustment

An adjustment shall be made at the end of each Agreement Year so that Licensee's payment for the Agreement Year is the greater of the MAG for that year or ten percent (10%) of Licensee's Gross Revenue for that year. Any credit to which Licensee is entitled as a result of the adjustment shall be credited against the annual installment of the License Fee for the first month of the following Agreement Year, except that any credit to which Licensee is entitled at the end of the final Agreement Year shall be paid by the County within 30 calendar days after the County receives Licensee's final monthly Statement of Gross Revenue with License Fee Computation.

5.8.4 Method of Payment and Interest

Licensee shall make payments due under this Agreement automatically, including but not limited to interest accrued on late payments. Payments under this Agreement shall be by wire, draft, or check on a bank authorized to engage in banking in the United States, shall be payable to the County in U.S. dollars, and shall be delivered to the Aspen-Pitkin County Airport, 0233 E. Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. Payments shall be made without abatement, offset, or deductions.

Payments not received by the twentieth (20th) day of each month, as described above, shall be subject to a late penalty of ten (10%) percent of the amount due, or ten ($10) dollars, whichever is more, which shall be added to the principle then due and owing. If still unpaid for 30 days after the delinquency date, a late fee of 2.0% per month will be added. In the event of any delinquent fees or changes hereunder, and to the extent thereof, including late charges and interest, the Airport shall be entitled to a lien for such amounts on licensee’s trade fixtures, furniture, and equipment in use at or located at the Airport.
5.9 Annual Audit and Annual Statements

5.9.1 Annual Statement

Within ninety (90) calendar days after the end of each Agreement Year, Licensee shall, at its sole expense, shall prepare and deliver to the County an Annual Statement of Gross Revenue including a calculation of its License Fee ("Annual Statement"). The Annual Statement shall be prepared in accordance with generally accepted accounting principles. If an Annual Statement discloses that Licensee owes additional amounts to the County, Licensee shall pay those amounts when it delivers the Annual Statement to the County. Each Annual Statement shall be accompanied by the opinion of an independent Colorado Licensed certified public accountant ("CPA"); a state-licensed CPA acceptable to the County, in its reasonable discretion; or Licensee’s Chief Financial Officer establishing that the:

5.9.1.1 CPA or Licensee’s Chief Financial Officer has examined the Annual Statement and any supporting documentation in accordance with generally accepted auditing standards and the terms of this Agreement, and using appropriate tests of accounting records and other auditing procedures deemed necessary under the circumstances; and

5.9.1.2 Annual Statement fairly presents Licensee's Gross Revenue for the Agreement Year in question.

5.9.2 Within ninety (90) days after the end of each calendar year and at the expiration of the License term and prior to the assignment of Licensee's rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year, for the purpose of greenhouse gas emissions evaluations: the number of vehicles rented at the Airport and returned elsewhere, the number of vehicles rented elsewhere and returned to the Airport, amount of fuels dispensed on a quarterly basis at the Airport, the number of vehicles in Licensee's Airport inventory as of January 1/December 31 each year by vehicle class, either using EPA vehicle class or market class, and the number of miles traveled by each rental vehicle returned at the Airport by vehicle class, and average MPG per vehicle class for vehicles in the fleet inventory.

5.10 Customer Facility Charge ("CFC")

5.10.1 Collection of CFC

5.10.1.1 Licensee shall collect a Customer Facility Charge ("CFC") from its Airport Customers. All CFC revenue collected by Licensee shall be a debt owed to the County by Licensee.

5.10.1.2 County agrees to use CFC revenue to fund certain capital projects and to accomplish additional projects designed to facilitate major customer service improvements at the Airport. As of the date of this Agreement, the CFC rate is set at $5.50 per transaction day. The County reserves the right to adjust the CFC rate after consultation with the Licensees and providing a ninety (90) day written notice of adjustment.

5.10.2 Monthly Activity Report

On or before the twentieth (20th) day of each month following the first calendar month after the Commencement Date and every calendar month thereafter during the Term, Licensee shall provide to the Airport Director as part of the monthly Statement of Gross Revenue Report (see
Section 5.7.1 of this Agreement), Licensee’s total number of vehicle rental contracts, the total number of rental transaction days, and the total CFC revenue collected for the past monthly period. Licensee shall submit such report for each month during the Term, regardless of whether Licensee actually entered into any vehicle rental contracts during any such month. If the monthly activity report is not provided on or before the twentieth (20th) day of each month as required herein, Licensee shall pay a late reporting fee as provided in Section 5.7.2. County’s assessment of the delinquency fees shall be in addition to any other remedies that County may have in law or in equity, including termination and revocation of this Agreement and of all rights and privileges granted therein.

5.10.3 Payment to County of CFC Revenue

All CFC revenue collected by Licensee for the past monthly period are due and payable to County with the Monthly Activity Report on or before twentieth (20th) day of each month and shall be deemed delinquent if not received by County on or before the twentieth (20th) day. In the event that County does not receive payment on the due date, Licensee shall pay interest thereon from the due date until the date that full payment is received ("payment date") at two percent (2.0%) per month or the maximum interest rate then allowed by law. County reserves the right to audit any monthly activity reports and payments based upon such reports. Acceptance of any payments hereunder shall not operate as a waiver of County's right to collect CFC revenue determined to be due and owing. County’s assessment of the late payment fee shall be in addition to any other remedies County may have in law or in equity, including termination and revocation of this Agreement and all rights and privileges granted therein.

All CFC revenue shall be paid by check made payable to “Pitkin County” and delivered to the Aspen-Pitkin County Airport, 0233 E. Airport Road, Suite A, Aspen, Colorado, 81611, with a simultaneous copy to the Director of Aviation. All such CFC revenue payable by Licensee shall be in lawful money of the United States of America and in same day funds as of the due date.

6. LICENSEE’S OTHER OBLIGATIONS

6.1 Capital Additions by Licensee
6.1.1 Duty to Provide and Maintain

Licensee shall provide and maintain, at its own expense, all proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, and furnishings necessary for the effective and efficient operation of its rental car business at the Airport.

6.1.2 County and Licensee Coordination

Licensee shall work with and coordinate its activities with the County, other rental car Licensees, and Airport planners, designers, architects, engineers, contractors and subcontractors.

6.2 Plans and Specifications; Compliance with Law; County Approval
6.2.1 County Approval of Proprietary Capital Additions

No Proprietary Capital Additions, improvements or installations shall be made, removed, demolished, or relocated in the Licensee Operating Area without the Airport Director's prior written approval. The County may require plans and specifications and the issuance of a permit
from the County. All Proprietary Capital Additions, improvements and installations shall conform to the County's design criteria and architectural requirements of the County.

Any proprietary Capital Additions, equipment, trade fixtures, tenant fixtures, furnishings, improvements or alterations to the Lessee’s Operating Area and to the buildings thereon with respect to which County has given its written consent, shall be done at Licensee’s sole cost and expense and Licensee shall not cause or permit any statutory claims or liens to be filed against the Lessee’s Operating Area or against the buildings or other improvements thereon by reason thereof and hereby does indemnify the County against all costs and liabilities arising from such claims or liens filed as a result of Licensee’s activities.

6.2.2 Compliance with Laws and Building Codes

Licensee shall ensure that all Proprietary Capital Additions, improvements, equipment, furnishings, fixtures and tenant finishes constructed or installed by Licensee, or Licensee's contractor, conform in all respects to applicable federal, state, and local laws, rules, and building codes; the County's approval shall not be construed as a representation or warranty of conformance. The County may withhold approval based upon, among other grounds, engineering, architectural, airport safety/security operational impact, or aesthetic considerations.

6.3 Taxes

6.3.1 Duty to Pay Taxes

Unless exempt, Licensee agrees to pay, before becoming due, all taxes, assessments, user fees and other charges, however named, which, during the term of this Agreement, may become due or a lien or which may be levied by the state, County, city, district or any other body upon the Licensee Operating Area or improvements in the Licensee Operating Area, or upon any taxable interest of Licensee acquired in this Agreement, or any taxable possessor right which Licensee may have in or to the Licensee Operating Area or the improvements thereon by reason of its occupancy thereof, as well as all taxes on all taxable property, real or personal, owned by Licensee in or about the Licensee Operating Area (collectively, "Taxes"). Upon request from the County, Licensee shall give to the County a copy of the receipts and vouchers showing such payment. Notwithstanding the foregoing, Licensee reserves the right to contest such taxes in good faith and Licensee will provide County with advance notice that it will be contesting such taxes.

6.4 Maintenance and Repairs

Except for the maintenance or repair obligations assigned to the County by the maintenance and repair responsibility matrix attached as Exhibit “C”, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly. Licensee shall not cause nor, when advised thereof by the County, permit any dangerous or hazardous condition or nuisance to exist related to the use and occupancy of its Operating Area as granted herein.
6.4.1 Airport Airline Terminal and Licensee Counter/Office Area

With respect to the maintenance and repair of the Airport Terminal and areas, including the rental car ticket counter and office locations, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the structure and exterior of the Terminal and the interior common areas including utilities and heating, ventilation and air conditioning systems in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain the remainder of its Operating Area, including the interior of the buildings and any structures or facilities used by Licensee, in good repair in a picked-up, neat, orderly and safe condition and in accordance with first-class maintenance practices and in common with other users of Licensee’s classification. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.2 Ready/Return Area

With respect to the maintenance and repair of the Ready/Return Area, the County and the Licensee shall have the following obligations:

a. County shall, at the County’s own expense, keep the pavement, pavement markings, lighting, landscaping and sidewalks in good condition and repair.

b. Licensee shall, at Licensee’s own expense, maintain all signage in good condition and repair. Licensee shall promptly remove all rubbish, debris, or waste materials from the Ready/Return Area. The Airport Director shall be the sole judge of the quality of the maintenance.

6.4.3 Rental Car Storage and Service Facility Area

The entire cost of operation, management, maintenance, care and any necessary repair or replacement of the Service Facility or its equipment shall be borne jointly by Licensees. The Service Facility shall be kept in good order and Licensees shall make all necessary repairs and replacements thereof promptly and in a good workmanlike manner. No rubbish, debris, waste materials shall remain on any part of the Service Facility or be disposed of improperly.

Licensees agree to (1) share in the costs of operating and maintaining the automatic car wash and fuel farm, based on each Licensee's actual use of the cash wash and fuel farm on a per wash and per gallon basis; (2) share in other costs of operation and maintenance of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year and (3) share in the costs of repair and replacement of the Service Facility based on each Company's proportionate share of total transactions during the previous Agreement Year.

Within 45 days of the effective date of this Agreement, and on each anniversary date of the effective date of this Agreement, the Licensees will agree by a Majority-in-Interest vote on a Manager of the Service Facility and its duties (the "Manager") and enter into a Management Agreement with said Manager, the terms of which shall be subject to County approval, which approval shall not be unreasonably withheld. Manager shall be responsible for the day-to-day maintenance, oversight, and operation of the Rental Car Storage and Service Facility Area. Within sixty (60) days of the effective date of this Agreement, Manager shall prepare and implement a preventative maintenance program for the car wash, fuel facility, and associated equipment. The scope of this preventative maintenance program shall be subject to County approval, which
approval shall not be unreasonably withheld and a copy shall be retained for use by the County in determining Licensees obligations to maintain the Service Facility.

6.4.3.1 Special Conditions Regarding Fuel Facility

The Fuel Facility shall be used only for the purpose of dispensing fuel to automobiles authorized by a current or successor License and Use Agreement to be stored on and rented from the Airport. No fuel from the Fuel Facility shall be sold, bartered or exchanged or otherwise dispensed to anyone other than an authorized On-Airport rental car company.

In the maintenance and operation of the Fuel Facility on the Premises, the Licensees shall pay all tank fees and otherwise strictly comply with all applicable laws, regulations and guidelines, including Sections 8.-20.5-101 et seq. C.R.S. as they now exist and may hereafter be amended. Licensees shall maintain the Fuel Facility free of contamination and shall remove and properly and legally dispose of all contaminated material provided, however, that Licensee shall not be liable for such contamination or removal if not placed in, on or under the Fuel Facility directly by Licensee, its employees, agents, officials, agents, representatives, and guests.

Licensees shall, at their expense, take such actions and make such modifications, repairs and improvements on or to the Fuel Facility as may be necessary to comply with laws or regulations then in effect, and to qualify the Fuel Facility for federal and state sponsored insurance or indemnity coverage. To the extent that state or federal insurance coverage is not available, and to the extent of any deductible of such coverage, Licensees shall insure the Fuel Facility and its operation thereof against damages for personal injury or property damage to the limits specified in this Agreement.

6.4.4 Duty to Maintain

Except for the maintenance or repair obligations assigned to the County, or another express provision of this Agreement, Licensee shall always maintain its Operating Area in good repair, clean, and orderly.

6.4.5 Quality

All maintenance and repairs shall be of first-class quality in both materials and workmanship, and shall comply with all applicable federal, state, and local laws, rules, and codes.

6.4.6 Remedies

If Licensee fails to undertake maintenance, repairs, or replacements required under this Agreement, the Airport Director may give Licensee written notice of the failure. If Licensee fails to undertake the maintenance, repairs, or replacements described in the notice within a time that is reasonable under the circumstances, but in no event longer than 30 calendar days after receiving the notice, the County may perform the work and recover the cost of performance from Licensee. The cost of the County’s performance shall include direct costs and overhead. The County's remedy under this subsection is in addition to any other remedies the County may have under this Agreement or otherwise. If Licensee's failure to undertake maintenance, repairs, or replacements is a material breach of this Agreement, the County’s exercise of its remedy under this subsection shall not preclude the County from exercising remedies for Licensee's default.

6.5 Janitorial Costs
Licensee shall at all times at its expense, keep its Operating Area, including all of the improvements installed by it, together with all of its fixtures, equipment and personal property therein clean from all trash and other debris and in an orderly condition and appearance and shall keep the areas immediately adjacent to its Operating Area and to the exits and entrances to the Operating Areas clean and free of obstructions.

Licensee shall be responsible for providing janitorial services in the Rental Customer Service Space. After written notice of a violation and failure of the Licensee to meet compliance, associated cost of any janitorial services and/or clean-up will be billed to the Licensee.

6.6 Utilities

County shall, at no additional cost to Licensee, provide electrical service, common heat, trash removal from areas open to the public, lighting and ventilation in connection with the Licensee’s counter in the Airline Terminal. All other utility services and charges, including telephones, shall be provided by Licensee at its own cost. Licensee shall permit no liens or claims against its Operating Area arising from unpaid or disputed utility bills and hereby does indemnify the County from costs or liabilities arising therefrom. If, during this License term, the Airport is required to increase its water, sewer, gas or electrical service and such increase requires a capital contribution from the Airport, Licensee, if it consumes the increased utility, agrees to pay a pro-rated, reasonably-amortized portion of said increase, which amount will be set by agreement or binding arbitration before the Pitkin County Hearing Officer.

6.7 Trash and Refuse

Licensee shall provide for the neat and sanitary handling of all trash and other refuse generated as a result of Licensee's rental car business and its use and occupancy of its Operating Area. Licensee shall provide and use suitable covered fireproof receptacles for all trash and other refuse. Licensee shall not permit boxes, cartons, barrels, pallets, or other similar items to be piled or stored in view of a public area. If Licensee allows dust or debris to be generated or accumulated in the Operating Area to the extent they may be blown about within the Operating Area or blown from the Operating Area to other parts of the Airport, Licensee shall pay to the County $50 in the first instance in an Agreement Year, $150 in the second instance, and $500 in each instance thereafter in the same Agreement Year. In addition, Licensee shall reimburse the County for any costs incurred by the County to remove or suppress the dust or debris.

6.8 Hazard, Potential Hazard, Nuisance, or Annoyance

Licensee shall correct any hazardous or potentially hazardous condition, nuisance, or annoyance caused by Licensee in its Operating Area immediately upon receipt of oral or written notice from the Airport Director, or his designee. The Airport Director, or designee, may order the closure of the Licensee’s Operating Area until the corrective action is complete. Licensee shall maintain adequate emergency spill equipment and absorbent material commensurate with the quantity and materials used in day to day operations to practically as possible remediate any negligent spill of hazardous, toxic, or environmentally threatening on site substances. The Licensee shall follow applicable environmental regulations along with the County prepared and maintained Storm Water Pollution and Prevention Plan (SWPPP) and Spill Prevention and Control and Countermeasure (SPCC) plan documents. Licensee shall be responsible for training its employees on all applicable environmental regulations along with the SWPPP and SPCC plan and maintain
and coordinate emergency contact information with the County’s Public Safety Department Communication Center, in case of emergencies.
6.9 Snow Removal

Licensee shall at Licensee’s own expense, remove snow from all portions of its Operating Area, including the removal of snow on, under, and around parked vehicles, the buildings, walkways, and other portions of its Operating Area in accordance with the Airport Snow Removal Plan. County, at its sole discretion, may assist with snow removal from Licensee’s Operating Area; provided, that County shall not be required to move or relocate parked vehicles to accomplish such snow removal. The Airport Director shall authorize the County to assist with snow removal from Licensee’s Operating Area.

6.10 Security

The County provides law enforcement for the Airport. Licensee may provide whatever additional security it may wish at its own cost, provided that the additional security is subject to approval by the Airport Director. Security provided by Licensee shall be subject to the authority of the County Sherriff and shall in no way hinder or interfere with the duties of those officers.

6.11 Deliveries

All rental car fleet vehicle deliveries and transfers by Licensee at the Airport will be in a manner and location approved by Airport Director in writing. Costs to repair access road and driveway damages due to a Licensee’s delivery of fleet vehicles, or other airport facilities, shall be reimbursed to the County by the specific Licensee who is requiring such delivery.

7. DISADVANTAGED BUSINESS ENTERPRISES

The County is required by 49 USC 47104(e) and 49 CFR Part 23 to ensure nondiscrimination in the provision of opportunities for disadvantaged business enterprises at the Airport. It is the policy of the County and the FAA that airport concession disadvantaged business enterprises (ACDBE) shall have the maximum opportunity to participate in any activity, service or facility at the Airport under agreement, lease, contract with or franchise from the County. Licensee shall agree to make good faith efforts to ensure that business concerns owned and controlled by socially and economically disadvantaged individuals as defined in the U.S. Department of Transportation’s regulations, 49 CFR Part 23 and 26, as amended, participate in at least 1% of the activity, service or facility provided by a Licensee during the entire term of this Agreement by means of a joint venture, partnership, franchise or any other legal arrangement that results in bona fide ownership and control of the activity, service or facility.

If the Licensee is unable to achieve this goal under joint venture, partnership, franchise or similar legal arrangement, the Licensee shall seek to obtain the required DBE participation by other means, such as the purchase of goods, services, supplies and/or products from certified ACDBE vendors. In the event that the Licensee qualifies as a certified ACDBE, the agreement goal shall be deemed to have been met.

Within ninety (90) days after the end of every calendar year, and at the expiration of the License term and prior to the assignment of Licensee’s rights hereunder, Licensee shall provide the County with the following information related to the previous calendar year: the name and address of each certified ACDBE with which they have done business during the past year, a description of the nature of the services performed by and/or items purchased from each firm named, and the dollar value of each transaction. If Licensee fails to achieve the 1% goal stated
herein for the purchase of goods and services, it will be required to provide documentation demonstrating that it made good efforts in attempting to do so.

8. **RIGHT TO ENTER**

The County shall have the right to enter Licensee's Operating Area to:

(a) Inspect, at reasonable times during Licensee's regular business hours, or at any time in case of emergency, to determine whether Licensee is in compliance with the provisions of this Agreement;

(b) Perform any of Licensee's obligations under this Agreement that Licensee has failed to perform after reasonable notice to do so, including but not limited to maintenance, repairs, and replacements in Licensee's Operating Area. The County may recover the cost of non-performance from Licensee;

(c) Exercise County's police power; and

(d) Respond as appropriate to any emergency.

9. **COUNTY OBLIGATIONS**

9.1 **Warranty on Rights of Use**

The County warrants that it is the owner of the Licensee’s Operating Area and has the right to grant the rights to use the Licensee’s Operating Area under the terms of this Agreement. Provided that Licensee performs all of its obligations under this Agreement, and except as otherwise provided by this Agreement, Licensee's rights under this Agreement will not be disturbed by the County or the County's employees, contractors, or agents.

9.2 **Construction Disruption**

The County shall attempt to minimize but has no responsibility for disruptions of Licensee’s operations or temporary interruptions of Licensee’s use of any part of its Operating Area due to construction activities by the County or the County’s contractors.

10. **INDEMNITY, INSURANCE, FINANCIAL SECURITY, AND ENVIRONMENTAL REQUIREMENTS**

10.1 **Indemnity**

10.1.1 **Duty to Indemnify**

Licensee (including, by definition here and hereinafter, its officials, employees, agents and representatives, sub, Licensees and suppliers), shall and hereby does release, discharge, indemnify and hold harmless the County of Pitkin and its officials, employees, agents and representatives from and against liability for any claim, demand, loss, damages, penalty, judgment, expenses, costs (including costs of investigation and defense), fees (including reasonable attorney and expert witness fees) or compensation in any form or kind whatsoever for any bodily injury, death, personal injury, or property damage arising out of or in connection with any negligent act, intentional act, error or omission by the Licensee, and for any consequential liability alleged to accrue against the County on account of the Licensee's acts, errors or omissions; provided, however, that such indemnity shall not be construed as an indemnity for death, personal
injury, bodily injury, or property damage arising from the sole negligence of the County or its employees.

The Licensee further shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the County, its officers, agents, and employees. Licensee shall indemnify and hold the County harmless from and against any hazardous materials or environmental requirements, damages or claims. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers, agents, and employees.

It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Agreement and the remaining language shall be given full force and effect.

10.1.2 Environmental Indemnity

Without in any way limiting the generality of any general indemnity required under this Agreement, Licensee shall be solely responsible for and agrees to defend (using legal counsel acceptable to the County), indemnify and hold harmless the County from and against all Environmental Costs claimed against or assessed against the County or incurred by the County arising, in whole or in part, directly or vicariously, from acts or omissions of Licensee, its agents, employees, or independent contractors at or about the Licensee’s Operating Area after the Effective Date of this Agreement or earlier if caused by Licensee. This indemnification shall require Licensee to reimburse the County for any diminution in value of its Operating Area or other adjacent or nearby County property, caused by Hazardous Substances arising out of or caused by, in whole or in part, directly or vicariously, from acts or omissions from Licensee's use of the its Operating Area, including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Licensee’s Operating Area, or any other County property, including damages arising from any adverse impact on marketing of space in or near the Licensee’s Operating Area, including other County property, including lost revenues. Licensee's obligations shall not apply if the Hazardous Substances were deposited on its Operating Area by the County or the County's agents, or any other person or entity other than Licensee. Notwithstanding the foregoing, Licensee shall not be responsible for, and does not indemnify the County for, environmental damage or a violation of any Environmental Law on the Licensee’s Operating Area due to the County’s sole negligence.

10.1.3 Scope of Duty

The claims, damages, suits, actions, liabilities, and expenses encompassed by Licensee's duty to indemnify, defend, and hold harmless under this section shall include without limitation civil and criminal fines or penalties, natural resource damages, response costs, health study costs,
and remediation costs imposed by a governmental agency or as the result of a citizen's suit brought under a federal, state, or local environmental law.

10.2 Insurance

10.2.1 Insurance Requirements

Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Licensee from liabilities that might arise out of this Agreement. Licensee is free to purchase such additional insurance as Licensee determines necessary.

10.2.2 Minimum Scope and Limits of Insurance

Licensee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and liability assumed under an Insured Contract including defense costs.

a. The policy shall be endorsed to include the following additional insured language: "The County, its elected officials, trustees, employees, agents, and volunteers shall be named as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Licensee".

b. A Waiver of Subrogation shall apply in favor of the County, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers.

Minimum Limits:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Aggregate</td>
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<tr>
<td>Products/Completed Operations Aggregate</td>
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<td>Each Occurrence Limit</td>
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<td>Personal/Advertising Injury</td>
<td>$2,000,000</td>
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<tr>
<td>Fire Damage Expense</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Premises Medical Expense (Each Person)</td>
<td>$10,000</td>
</tr>
</tbody>
</table>

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles.
Minimum Limits:

Bodily Injury/Property Damage (Each Accident) $1,000,000

3. **Property Insurance**

Policy shall include the following:

a. Property insurance shall be written on a Covered Cause of Loss-Special Form, replacement cost coverage, including coverage for flood and earth movement for Licensee’s improvements and betterments.

b. The County shall be named as a loss payee on property coverage for tenant improvements and betterments.

c. If property coverage on the building is required, "the County shall be named as an Additional Insured-Owner/ loss payee".

d. A waiver of subrogation applies in favor of the County for any Lessor Property.

Coverage for Licensee’s Tenant Improvements, 100% replacement cost

Coverage on Building (required if Licensee is sole occupant) 100% replacement cost

Coverage for Loss of Rents: Amount equal to all Minimum Annual Rent and other sums payable under this Agreement.

4. **Business Interruption Insurance**

Insuring that the Base Rent will be paid to County for a period of at least one (1) year if Licensee is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Base Rent during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

5. **Worker's Compensation and Employers' Liability**

Minimum Limits:

Coverage A (Workers’ Compensation) Statutory
Coverage B (Employers Liability) $100,000/each accident $100,000/Disease
employee$500,000/Disease – Policy Lim

10.2.3 **Additional Insured Requirements**

The policies shall include, or be endorsed to include, the following provisions:
On insurance policies where the County is named as an additional insured, the County shall be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this Agreement.

10.2.4 Notice of Cancellation

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to: Pitkin County Attorney, 530 E. Main Street, Suite 301, Aspen, CO 81611 with duplicate copy to: Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611. If any insurance company refuses to provide the require notice, the Licensee or its insurance broker shall notify the County of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers’ notification to that effect.

10.2.5 Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Colorado and with an “A.M. Best” rating of not less than A- VII. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Licensee from potential insurer insolvency.

10.2.6 Verification of Coverage

Licensee shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the County before this Agreement commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall be sent directly to: Airport Director, Aspen/Pitkin County Airport, 0233 E. Airport Road -- Suite A, Aspen, CO 81611. The Airport, Agreement number, and location description are to be noted on the certificate of insurance.

10.2.7 Approval

Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or County Attorney, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
10.2.8 Other Requirements

1. All insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis.

2. The Licensee shall provide the Public Entity a Certificate of Insurance evidencing all required coverages, before commencing work or entering public entity premises. A sample of a completed Certificate of Insurance is attached as Exhibit D.

3. The Licensee shall name The Public Entity, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns; its elected officials, trustees, employees, agents, and volunteers as “Additional Insureds” for work that is being performed by the Licensee.

4. Upon request by the County, Licensee must provide a copy of a Certificate of Insurance required by the Agreement.

5. The Public Entity requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the Public Entity.

6. The Licensee shall advise the County in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Licensee will reinstate the aggregate limits to comply with the minimum requirements and shall furnish the County with a new certificate of insurance showing such coverage is in force.

7. Certificates of insurance shall state that on the policies that the Public Entity is required to be named as an Additional Insured, the insurance carrier shall provide a minimum of 30 days advance written notice to the Public Entity for cancellation, non-renewal, or material changes to policies required under the Agreement. On all other policies it is the Licensee’s responsibility to give the Public Entity 30-day’s notice if policies are reduced in coverage or limits, cancelled or non-renewed. However, in those situations where the insurance carrier refuses to provide notice to County, the Licensee shall notify County of any cancellation, or reduction in coverage or limits of any insurance within seven (7) days or receipt of insurer’s notification to that effect.

8. The Licensee agrees that the insurance requirements specified in the Agreement do not reduce the liability Licensee has assumed in the indemnification/hold harmless section of the Contract.

9. Failure of the Licensee to fully comply with these requirements during the term of the Agreement may be considered a material breach of contract and may be cause for immediate termination of the Agreement at the option of the County. The County reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

10.3 Environmental Requirements

10.3.1 Definitions

For the purposes of this Agreement, the following definitions shall apply:

10.3.1.1 "Environmental Laws" shall be interpreted in the broadest sense to include any and all federal, state and local statutes, regulations, rules, permit terms, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals
or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

10.3.1.2 "Hazardous Substances" shall be interpreted in the broadest sense to include any and all substances, emissions, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Laws. “Hazardous Substances” shall also include, but not be limited to, fuels, petroleum and petroleum derived products.

10.3.1.3 "Environmental Costs" shall be interpreted in the broadest sense to include, but not be limited to costs and damages arising from or relating to: (i) any actual or claimed violation of or noncompliance with any Environmental Law; (ii) claims for damages, response costs, fines, fees or other relief relating to matters addressed in any Environmental Law; (iii) injunctive relief relating to matters addressed in any Environmental Law; (iv) Hazardous Substance; and (v) violations of any environmental provisions of this Agreement. Costs and damages as used in this section shall include but not be limited to: (a) costs of evaluation, testing, analysis, clean-up, remediation, removal, disposal, monitoring and maintenance; (b) costs of reporting to or negotiating with any government agency; (c) fees of attorneys, engineers, consultants, and experts, whether or not taxable as costs, incurred at, before or after trial, appeal or administrative proceedings; (d) lost revenue; and (e) diminution of value, loss, or restriction on use of property.

10.3.1.4 "Hazardous Substance Release" shall be interpreted in the broadest sense to include the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except as authorized by a then current permit issued under applicable Environmental Laws.

10.3.2 General Environmental Obligation

Licensee shall manage and conduct all of its activities, and the activities of its employees, agents, contractors and invitees, on or relating to its Operating Area (i) in compliance with all Environmental Laws and the Environmental provision of this License and Use Agreement, (ii) in a manner designed to protect the environment, (iii) in cooperation with the County in the County’s efforts to comply with all Environmental Laws, and (iv) in adherence with best management practices of Licensee’s industry and activities. As used herein, “Best Management Practices” shall mean those environmental or operational standards applicable to a particular business or industry group as a matter of common and accepted practice or as articulated by all or some of the following: Trade associations or professional associations for the particular business or industry group; the business or industry group’s own standard operating procedures; and those Best Management Practices specifically defined or identified for a particular business operation or industry group by regulatory agency guidelines. Licensee shall be responsible for ascertaining which Environmental Laws govern its activities on or relating to its Operating Area and shall be responsible for maintaining a current understanding of such Environmental Laws throughout the Term. Licensee shall manage and, as appropriate, secure its Operating Area and its occupation or use of the same so as to prevent any violation of Environmental Law by Licensee, its employees, agents, contractors, vendors and invitees on or relating to its Operating Area.
10.3.1 Storage Tanks

No underground or above ground tanks for the storage of Hazardous Substances shall be installed or operated on the Operating Area, except with the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion.

10.4 Environmental Audits

10.4.1 Special Audit.

If the County, at any time during the term of this Agreement or any extension thereof, has reason to suspect that Hazardous Substances are being or have been used, handled, stored, generated, created, disposed, placed and/or transported contrary to the requirements of this Agreement, in violation of Environmental Laws or in any manner that has resulted, or is likely to result, in a Hazardous Substance Release, the County may, without limiting its other rights and remedies, require Licensee to conduct, and furnish to the County, at Licensee's sole expense, an environmental audit of its Rental Car Service Facility, and/or Ready Return Spaces with respect to the environmental matters of concern to the County (each, a "Special Audit"). If a Special Audit finds no Hazardous Substance Release, no violation of the environmental provisions of this Agreement and no violation of Environmental Laws, the County shall reimburse Licensee for the reasonable costs paid by Licensee for such Special Audit.

10.4.2 Exit Audit.

Licensee shall conduct an exit environmental audit (the "Exit Audit") of its Operating Area to determine (i) its environmental condition, (ii) whether any Hazardous Substance Release has occurred or exists on or about its Operating Area, and (iii) whether there have been any violations of Environmental Laws or the environmental provisions of this Agreement. The Exit Audit shall be performed not more than sixty (60) days prior to the scheduled expiration or termination date of this Agreement. Licensee shall provide to the County a written update to the Exit Audit, as of the last day of the Agreement Term, within thirty (30) days of the actual termination of this Agreement. In the event this Agreement expires or terminates unexpectedly for any reason, Licensee shall cause the Exit Audit to be completed within sixty (60) days of the actual termination date of this Agreement.

10.4.3 Audit Requirements.

The scope and procedures of any audit required by this Agreement shall be determined solely by the County. Such audits shall (i) include an analysis of Licensee’s operations on the Combined-Maintenance Area and Ready Return Spaces and (ii) be no less comprehensive in scope or procedures than those typical, at the time of such audit, of comparable purpose audits of similarly situated properties with comparable uses and operations. If any audit performed under this Agreement recommends additional testing or analysis or recommends an additional audit (the “Additional Testing”), then, unless otherwise agreed in writing by the County and Licensee, Licensee shall perform and pay for the Additional Testing and the records and results of such Additional Testing shall be considered a part of the underlying audit that triggered the need for the Additional Testing. If additional testing does not disclose any Hazardous Substance Release, the reasonable cost of the additional testing shall be paid for by the County. The County shall have the right to approve the company or individual conducting any audits performed pursuant to this
Agreement. The County and Licensee shall each receive a signed copy of any environmental audit report prepared pursuant to this Agreement.

10.5 Environmental Inspection

The County reserves the right, at any time, and from time to time, after notice to Licensee, to inspect the Combined-Maintenance Area and Ready Return Spaces and Licensee’s operations on and use of the Combined-Maintenance Area and Ready Return Spaces: (i) for the presence of and/or Licensee's management of Hazardous Substances; (ii) for compliance with Environmental Laws or the environmental provisions of this Agreement and (iii) to facilitate the County’s environmental management, permitting and analysis related to the Operating Area or any other property of the County.

10.6 Licensee’s Liability

10.6.1 Hazardous Substance Releases.

Licensee shall be liable for any Hazardous Substance Release which occurs during the Agreement Term on the Operating Area arising out of or caused by, in whole or in part, directly or indirectly, from acts or omissions from Licensee's use of the Operating Area. Licensee shall also be liable for any Hazardous Substance Release on the Operating Area or on other properties or in the air or in adjacent or nearby waterways (including groundwater) as a result of or in connection with Licensee’s occupancy or use of the Operating Area which occurs during the Agreement Term or which occurs or continues after the Agreement Term.

10.6.2 Licensee’s Liability for Environmental Costs.

Except as expressly provided in this Agreement, Licensee shall be liable for all Environmental Costs arising under this Agreement. Any Environmental Cost for which Licensee is obligated under this Agreement shall be paid by Licensee on or before the date such Environmental Costs are due. Any Environmental Cost incurred by, paid by or assessed against the County, for which Licensee is responsible under this Agreement, shall be paid by Licensee within thirty (30) days after the date of written notice or invoice from the County, together with interest at the rate of 1.5 percent per month from the date the expense was incurred by the County. The County shall promptly notify Licensee of any Environmental Costs for which Licensee is liable. If the County negligently fails to promptly notify Licensee of an Environmental Cost for which Licensee is liable, and if Licensee does not have actual knowledge of the Environmental Cost, Licensee’s obligation to pay interest shall be excused for that part of the delay beyond the date the Environmental Cost is incurred, paid or assessed attributable to the County’s negligence.

10.6.3 Limitation of Licensee’s Liability.

Notwithstanding anything to the contrary provided in this Agreement, Licensee shall have no liability for Hazardous Substances or Hazardous Substance Releases, or Environmental Costs arising therefrom, that (i) existed on the Operating Area prior to the Effective Date of this Agreement (except if caused by Licensee or Licensee’s agents, employees or contractors), (ii) were caused by the County or the agents, employees or contractors of the County (or other party other than Licensee, its agents, employees, contractors, vendors or invitees) after the Effective Date of this Agreement, or (iii) is the result of a Hazardous Substance Release occurring on property other than the Operating Area which has migrated to the Operating Area through no fault of the Licensee,
its employees, agents, contractors or invitees and the Hazardous Substance Release has not been worsened by any action of the Licensee, its employees, agents, contractors or invitees.

10.7  Environmental Remediation

10.7.1  Releases and Violations.

In the event of a violation of an Environmental Law, a violation of an environmental provision of this Agreement, or a Hazardous Substance Release or the threat of or reasonable suspicion of the same for which Licensee is responsible under this Agreement, Licensee shall immediately undertake all acts necessary or appropriate to cure or correct the violation or investigate, contain and stop the Hazardous Substance Release.

10.7.2  Remediation and Removal.

Licensee shall promptly undertake all remedial and/or removal actions necessary or appropriate to ensure that any Hazardous Substance Release is eliminated and that any violation of any Environmental Law or environmental provision of this Agreement is cured or corrected. Licensee shall remove, at Licensee's sole expense, all Hazardous Substances for which Licensee is liable under this Agreement or under any Environmental Law and shall restore its Operating Area or other affected property or water to its baseline condition as established in the Baseline Audit. In the event that any remediation or removal required by this Agreement cannot reasonably be completed prior to the termination or expiration of this Agreement, Licensee shall not be in default of its remediation obligations so long as Licensee immediately commences all investigation, containment, remediation and removal activities within thirty (30) days (or sooner if required by Environmental Laws) and diligently and continuously pursues such activities until completion.

10.7.3  Report to the County.

Within thirty (30) days following completion of any investigatory, containment, remediation and/or removal action required by this Agreement, Licensee shall provide the County with a written report outlining in detail what has been done and the results thereof.

10.7.4  The County’s Right to Approve.

The County shall have the right to approve or disapprove all investigatory, containment, remediation and removal procedures and the company(ies) and/or individuals conducting such procedures which are required by this Agreement or by any Environmental Laws whether on the Operating Area or any affected property or water. Licensee shall not initiate any risk assessment-based remediation or closure without the prior written consent of the County, which consent may be withheld or conditioned in the County's sole discretion. The County will have the right to require Licensee to request oversight from the Colorado Department of Environmental Quality (“DEQ”) of any investigatory, containment, remediation and removal activities and/or require Licensee to seek a statement from DEQ of No Further Action.

10.8  Notice to the County

Licensee shall promptly notify the County upon becoming aware of (i) a violation or alleged violation of any Environmental Law related to the Operating Area or to Licensee’s occupation or use of the Operating Area or any environmental provision of this Agreement, (ii)
any Hazardous Substance Release on, under or adjacent to the Operating Area or threat of or reasonable suspicion of any of the same, (iii) any notice or communication from a governmental agency or any other person directed to Licensee relating to any Hazardous Substance Release or any violation or alleged violation of any Environmental Laws which relate to the Operating Area or to Licensee’s occupation or use of the Operating Area, and (iv) any Hazardous Substance Release or violation of Environmental Law discovered by Licensee on property or in the air or water adjacent to the Operating Area.

10.9 Licensee’s Documentation of Environmental Conduct

10.9.1 Annual Certification.

If requested in writing by the County, Licensee shall provide on or before each anniversary of the Effective Date of this Agreement, a written statement, certified by Licensee as true and complete to the best of Licensee’s knowledge, that during the preceding year with respect to the Operating Area and Licensee’s occupation and use of the Operating Area: (i) Licensee has complied with applicable Environmental Law; (ii) Licensee has not received any notice from any government agency regarding a violation of any Environmental Law; and (iii) Licensee has obtained and has in force all permits required under all Environmental Laws. If Licensee is unable to provide such certification at the time requested by the County, then Licensee shall provide the County with a written statement of the steps Licensee is taking to enable it to provide a certification of compliance. Upon the County’s written request, Licensee shall provide to the County a copy of any permit or notice described in this subsection.

10.9.2 Record Keeping.

Licensee shall maintain for the duration of the Agreement term or for a period as required by Environmental Laws, whichever is greater, for periodic inspection by the County, and deliver to the County, at the County’s request, true and correct copies of all records required to be maintained pursuant to any Environmental Laws related to the Operating Area or to Licensee’s occupation or use of the Operating Area. Such records shall include, but not be limited to, Material Safety Data Sheets ("MSDS"), for all Hazardous Substances used or stored on the Operating Area. MSDS information shall be kept current and, in a place, known to and accessible to the County.

10.10 The County’s Right to Perform

In the event Licensee fails to perform any of its obligations under this section or any Environmental Laws, the County shall have the right, upon giving Licensee ten (10) business days written notice, except no prior notice shall be required in the event of an emergency, to perform such obligations and charge Licensee all resulting Environmental Costs. The County may not commence performance on behalf of Licensee under this section, if during the ten (10) business day period, Licensee promptly begins and diligently pursues to completion the performance of the obligations set forth in the County's notice. In the event the County determines that an emergency exists, and Licensee is unavailable, unwilling or unable to take immediate and appropriate action, the County may take whatever immediate action it deems necessary and charge Licensee the resulting Environmental Cost.
10.11 Survival of Obligations

Licensee’s obligations herein shall survive any termination of this Agreement or Licensee’s activities at the Airport.

11. THE COUNTY'S RIGHT TO IMPROVE AIRPORT

County reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, including the Operating Area and existing vehicle and pedestrian traffic patterns, as County deems appropriate without interference or hindrance by the Licensee, and County shall have no liability hereunder to Licensee by reason of any interruption to Licensee's operations on the Airport occasioned by such County activities; provided, however, that County shall consult in advance with Licensee on such changes. Additionally, possibility of terminal and airfield closures due to construction, security or bad weather might occur. Good faith efforts will be attempted by County to minimize the effects on operations.

12. TITLE TO CAPITAL ADDITIONS AND IMPROVEMENTS

Upon termination or expiration of this Agreement, other than for Licensee's default, and upon reimbursement of Licensee by the successor Licensee in accordance with this Agreement, title to all Capital Additions, structures, installations, and improvements placed upon the Operating Area shall automatically vest in the successor Licensee. If there is no successor Licensee, title to all Capital Additions except underground storage tanks shall vest in the County; title to underground storage tanks shall remain in Licensee under all circumstances. Nothing in this section shall be deemed to prevent Licensee from removing its trade fixtures and moveable equipment and furniture, including but not limited to car wash equipment, maintenance racks, and counter inserts.

13. DAMAGE TO THE OPERATING AREA

13.1 Repairs

If all or part of the Operating Area, offices and/or check-in counter space only, is damaged, the County shall repair the Operating Area at County’s expense, except for any Capital Additions made by Licensee; Licensee shall be responsible for repairing its Capital Additions at Licensee's own expense. If the waiver of subrogation does not apply, Licensee shall reimburse the County for the reasonable cost of repairs to the extent damage to the Operating Area is caused by Licensee or by Licensee’s employees, agents, contractors, or invitees. If the waiver of subrogation does not apply, the County shall reimburse Licensee for the reasonable cost of repairs to the extent Licensee’s Capital Additions are damaged by the County or its employees.

13.2 Fees During Repairs

If repairs can be completed and the Operating Area made tenable within 30 calendar days after the damage occurs, Licensee shall continue to pay all fees due during the period of repairs. If the Operating Area cannot be made tenable within 30 calendar days, or if the parties sooner agree that the Operating Area cannot be made tenable within 30 days, the fees due under this Agreement shall be suspended between the date the damage occurred and the date the Operating Area is returned to tenable condition. If the Operating Area cannot be made tenable within 12 months after the damage occurred, or if the parties sooner agree that the Operating Area cannot be made tenable within 12 months, either party may terminate this Agreement upon written notice to the other. Notwithstanding any other provision of this section, if the damage was caused in part
by the negligence or other fault of Licensee or Licensee's employee, contractor, agent, customer, or business invitee, the fees due under this Agreement shall not abate sooner than the end of the 12th month following the occurrence of the damage, and then only if the Agreement is terminated pursuant to this section.

13.3 Liability for Repair Costs
To the extent the damage was caused by the negligence or other fault of Licensee or Licensee's employees, contractors, agents, customers, or business invitees, Licensee shall reimburse the County for the cost of the repairs, subject to any express waiver of subrogation under this Agreement.

13.4 Limits of County's Obligation to Repair
Notwithstanding any other provision of this Article, the County's obligation to make repairs under this Article shall be limited to repair of the Operating Area to the extent necessary to return the Operating Area to its condition prior to the damage and shall not exceed the amount of insurance proceeds available to the County for repairs. The County shall have no duty to redecorate or to replace furniture, equipment, or supplies. Notwithstanding any other provision of this Article, the County may decline to make repairs upon determining that demolition and reconstruction is in the County's best interest, in which case the County may terminate this Agreement by written notice to Licensee.

13.5 Damage to Licensee's Capital Additions and Improvements
Licensee shall repair at its own expense, whether covered by insurance or not and notwithstanding any waiver of subrogation, any of Licensee's Capital Additions or improvements that may be damaged during the term of this Agreement. If Licensee fails to repair Licensee's damaged Capital Additions or improvements within 30 days, or a commercially reasonable time, and the damaged Licensee Capital Additions or improvements interfere with the efficient and effective provision of rental car services, the County may make the repairs and recover the cost of the repairs from Licensee, including the County's overhead.

13.6 No Duty to Protect
The County shall have no duty to protect or insure against loss of Licensee's Capital Additions or improvements or property in the Operating Area by fire or otherwise.

14. DEFAULT
14.1 Events of Default by County
The County shall be in default under this Agreement if, after reasonable written notice from Licensee, the County fails without excuse to remedy any of the following occurrences:

14.1.1 The permanent abandonment of the Airport for scheduled certificated airline service;
14.1.2 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport for 60 calendar days or more in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;
14.1.3 The exercise by an agency of the United States Government for 90 calendar days or more of control over the Airport and its facilities in a manner that substantially prevents Licensee from conducting the operations authorized by this Agreement;

14.1.4 The County’s failure to substantially comply with a material provision of this Agreement for more than 60 calendar days after written notice of the failure from Licensee.

14.2 Remedies for County's Default
In addition to any other remedies Licensee may have at law or in equity, if the County is in default under this Agreement, Licensee may terminate this Agreement by written notice to the County. The County shall not be deemed in default if the County has initiated appropriate remedial action prior to the notice of termination and diligently pursues that remedial action to completion. In no event shall Licensee be entitled to recover lost profits or consequential damages from the County for a default under this Agreement.

14.3 Events of Default by Licensee
Licensee shall be in default under this Agreement if, after 10 calendar days written notice from the County, Licensee fails to remedy, or to commence remediation if the remedy cannot reasonably be completed within 10 days, any of the following occurrences:

14.3.1 Licensee's failure to comply with a material provision of this Agreement, including but not limited to a failure to pay any fee or other amount due under this Agreement within 10 business days after it is due, or any different period expressly provided by this Agreement or by applicable law; or

14.3.2 To the extent permitted by the United States Bankruptcy Code:
14.3.2.1 Licensee's insolvency;
14.3.2.2 An assignment by Licensee for the benefit of creditors;
14.3.2.3 Licensee's filing of a voluntary petition in bankruptcy;
14.3.2.4 An adjudication that Licensee is bankrupt;
14.3.2.5 The appointment of a receiver with respect to Licensee's property, and the receiver is not discharged within 30 calendar days;
14.3.2.6 The filing of an involuntary petition of bankruptcy and Licensee's failure to secure a dismissal of the petition within 30 calendar days after filing;
14.3.2.7 Attachment of or the levying of execution on any interest in this Agreement and Licensee's failure to secure discharge of the attachment or release of the levy of execution within 10 calendar days;
14.3.2.8 Licensee becomes a corporation in dissolution or voluntarily or involuntarily forfeits its corporate charter; or
14.3.3 Licensee's failure to comply with all applicable federal, state, and local laws and rules, including but not limited to County ordinances and reasonable rules established by the Airport Director, for more than 30 calendar days after Licensee's receipt of written notice of the failure, or a reasonable longer period if Licensee promptly undertakes and works diligently toward effecting a cure of the breach; or

14.3.4 Licensee's failure to timely commence operating a rental car concession in its Operating Area; or

14.3.5 Licensee's abandonment of rental car concession operations in all or any part of its Operating Area; or

14.3.6 The creation, maintenance, failure to correct or sufferance of a dangerous or hazardous condition on or emanating from its Operating Area; or

14.3.7 Failure to provide and maintain current, all required types and amounts of insurance and proof thereof; or

14.3.8 Loss or surrender by Licensee of its franchise rights under its national system license.

14.3.9 Making an assignment, conveyance or transfer of Licensee’s rights and obligations hereunder without the consent of County; or

14.3.10 Failure to comply with any other obligation under this License and Use Agreement.

14.4 Notice of Defaults/Right to Cure

The party aggrieved by an Incident of Default hereunder shall declare a default hereunder by delivering a written Notice of Default to the other party (and its surety, if applicable), which Notice shall specify the Incident(s) of Default asserted and a specific cure therefore. After the effective date of such Notice, the time periods for cure shall be:

1) Within three (3) business days if the default is maintenance of a hazardous condition or failure to maintain and/or prove required insurance coverage(s); or

2) Within ten (10) calendar days if the default is failure to make full and timely payments hereunder; or

3) Within twenty (20) calendar days if the default is in the performance of any other obligation or conditions to be performed under the provisions of this Agreement.

If, in the discretion of the aggrieved party, the cure required cannot reasonably be completed within the foregoing time periods and the cure is promptly undertaken by the defaulting party and diligently prosecuted, the aggrieved party will, upon request and proof of these mitigating circumstances, extend the period to cure by a reasonable time. In the event of multiple Incidents of Default, the cure periods above shall be concurrent, not consecutive.

c. Notice of Termination/Right to Re-enter. If such Incident(s) of Default are noticed as provide herein and remain uncured after the cure period specified, the aggrieved party may thereafter terminate this Agreement and the defaulting party’s rights hereunder by delivery of written Notice of Termination to the defaulting party, which Notice shall be effective on the date delivered to the defaulting party. Upon termination of this Agreement by County, County may re-
enter the Licensee’s Operating Area and remove all persons and property there from, using all necessary force to do so.

d. Remedy Not Exclusive. The parties shall have such other rights and remedies as may be provided for by law or in equity, including damages.
14.4.1 Suit

If Licensee is in default under this Agreement, the County may sue Licensee to recover fees due under this Agreement or damages arising from Licensee’s breach of this Agreement, or to bar Licensee from operating a rental car concession in the Operating Area or elsewhere on the Airport. Nothing in this Agreement shall be deemed to require the County to await the expiration of this Agreement before suing Licensee under this subsection.

14.4.2 Remedies Nonexclusive

The remedies provided by this subsection are in addition to any remedies the County may have at law or in equity.

14.5 Cumulative Nature of Remedies

The remedies provided by this Article are nonexclusive and in addition to any other remedy provided by this Agreement and any remedy to which a party otherwise may be legally or equitably entitled.

15. GENERAL PROVISIONS

15.1 Coordination with other Airport Users.

County and Licensee acknowledge that each has rights and obligations arising from various third-party agreements with other Airport users. County and Licensee agree to cooperate with each other to effectuate these third-party agreements, so as long as such agreements are not illegal, impossible or do not reasonably interfere with Airport operations or conflict with the right and obligations of the various parties hereunder. County and Licensee acknowledges their respective obligations as signatories under the following agreements:

(a) Those certain on-Airport non-exclusive rental car License and Use Agreements, between the County and other Licensees.
(b) Those certain lease and use agreements between the County and the Airport’s airlines.
(c) Those certain Lease and Use and Redevelopment Agreements between the County and the Airport’s full-service fixed-base operator.
(d) Those certain agreements or permits for off-Airport rental car operators entered into from time to time between the County and the various off-Airport rental car companies.
(e) Those certain License and Use Agreements and Operating Permits between the County and the Airport’s various specialized fixed-base operators.
(f) Those certain agreements for commercial ground transportation including taxis, limousines and buses.
(g) Such further and other agreements or permits as the County may amend or enter into from time to time in the normal operation of the Airport; provided that Licensee shall, upon request, be provided with copies of any agreements that are connected to this obligation to cooperate, as set forth herein.

The County reserves the right to direct Lessee’s operations in the event that such operations are unreasonably interfering, in the reasonable discretion of County, with the use by others of the
Airport; e.g., to restrict the use of "public" areas of the Terminal and public-access curbs, sidewalks and roadways in favor of the public.

15.2 Off-Airport Rental Car Operators

The County reserves the right, but shall not be obligated, to permit other rental car companies, with whom the Airport has not executed On-Airport License and Use Agreements, to enter upon the Airport in general, and the Airline Terminal in particular, to pick up and drop off customers, to purchase advertising space on the Airport and within the Airline Terminal, and to establish a courtesy phone system on the Airport and within the Airline Terminal, all subject to fees and charges in common with other users of that classification.

15.3 Compliance with Applicable Laws and Regulations

In connection with its occupancy and use of its Operating Area and the conduct of its operation thereon, the Licensee acknowledges that the County reserves the right to establish and enforce reasonable rules and regulations for the conduct of activities and uses permitted herein and also to promulgate minimum standards for the conduct of commercial activities related hereto including, without limitation, minimum hours of operation if County determines that the needs of the traveling public are not being met. Licensee shall:

15.3.1 Comply with all applicable laws, rules and regulations of the United States of America, the State of Colorado and the County of Pitkin and any and all departments and agencies thereof, as the same may now exist or may be hereafter promulgated or amended from time to time. Licensee acknowledges that Pitkin County has the continuing authority to enact general legislation pursuant to its power to protect the health, welfare and safety of its citizens, as well as the continuing authority, in its executive capacity, to enact Airport regulations. Present applicable Airport regulations are as follows:

- a. Airport Regulations, Title X, Pitkin County Code:
- b. Aspen-Pitkin County Airport Certification Manual;
- c. Aspen-Pitkin County Airport Security Program
- d. Off-airport rental car regulations
- e. Ground transportation regulations
- f. Airport Financial Policy (Resolution 87-56-A)

15.3.2 Comply with the notification and review requirements of Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the location, or in the event of any planned modification or alteration of any present or future structure or building situated on the locations.

15.3.3 Not discriminate against any person or class of persons by reason of race, color, sex, creed, religion, handicap or national origin in providing any services or in the use of any facilities provided for the public in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation, and shall comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957, as amended, and any other laws and regulations with respect to discrimination in unfair employment practices, and shall comply with such enforcement
procedures as any governmental authority might demand that the County take for the purpose of complying with any such laws and regulations.

15.3.4 With respect to the parking regulations of the City of Aspen and the Town of Snowmass Village, Licensee agrees that pursuant to Section 42-4-1209, C.R.S. (2005), as amended, a “reasonable time” within which the Licensee furnishes to the City and Town the name and address of the person who had custody of the vehicle at the time of a violation, shall be deemed to be forty five (45) days. As a condition precedent to the enforcement of this interpretation, the City and the Town will be required to make every effort to provide notification to the Licensee of any violation as soon as practical after the date of said violation.

15.4 Assignment

15.4.1 Consent

Except for an assignment, sublease or transfer to Licensee’s principal, affiliate, parent, subsidiary of its principal, member or partner, so long as such transferee has the qualifications and financial responsibility necessary and adequate to fulfill the obligations of this Agreement, or as a result of a merger, sale or other business reorganization of substantially all of Licensee’s assets in the market in which the Airport is located (“Permitted Assignment”), Licensee shall not assign or transfer this Agreement or any interest herein, without the prior written consent of County which shall not be unreasonably withheld, conditioned or delayed; provided, however, that Licensee shall notify County in writing of a Permitted Assignment within thirty (30) days thereafter. For purposes of this provision, an “assignment” shall include any sale, grant, conveyance, transfer, sublicense, encumbrance or similar transaction, however styled, disposing of or creating rights or obligations in third parties affecting this Agreement. Examples of transactions covered by this restriction include, without limitation: any assignment for security purposes; any assignment to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; any assignment of all or substantially all of Licensee’s assets; and the assignment, in one or a series of related transactions, of 15% (fifteen percent) or greater of the Licensee’s voting stock.

15.4.2 Automatic Termination

Unless otherwise agreed in writing by the County, this Agreement shall terminate automatically upon:

15.4.2.1 Any transfer of an ownership interest in Licensee, other than the ordinary purchase and sale of stock if Licensee is a publicly held corporation;

15.4.2.2 The transfer of fifteen percent (15%) or more of the outstanding stock if Licensee is a corporation; or

15.4.2.3 The transfer of any partnership or joint venture interest, if Licensee is a partnership or joint venture.

15.4.3 Requests for Approval

Any request by Licensee for approval under this section shall be made in writing at least thirty (30) calendar days before the assignment would occur, and must be accompanied by a full description of the assignment, including copies of relevant documents. The County shall not unreasonably withhold its approval of an assignment or transfer, provided that: (1) immediately
prior to the assignment or transfer, the quality of the successor’s management staff and the successor's financial condition equal or exceed the quality of Licensee's management staff and Licensee's financial condition; (2) the assignee assumes all of the obligations under this Agreement, and (3) if determined necessary by the County in the reasonable exercise of its sole discretion, Licensee guarantees the performance of the successor under this Agreement.

15.5 Choice of Forum

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and venue is agreed to be exclusively in the courts of Pitkin County, Colorado.

15.6 Nondiscrimination

Licensee shall not permit discrimination in employment or in the provision of rental car services on the grounds of race, color, creed, national origin, political ideas, sex, age, or physical or mental handicap.

15.7 No Exclusive Rights

Nothing in this Agreement shall be deemed to grant Licensee any exclusive right or privilege within the meaning of Title 49 USC Section 40103(e).

15.8 Most Favored Nations

In the event that any Agreement granted by the County to any other Licensee shall contain any terms and conditions more favorable to such Licensee than the terms and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other Licensee.

15.9 Subordination to Agreements with the United States

This Agreement is subject and subordinate to the provisions of any agreement already made or to be made in the future between County and the United States relative to the operation or maintenance of the Airport, the execution of which is a condition precedent to the transfer of federal rights or property to County for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended.

15.10 Nonwaiver of Rights

The Failure of either party hereto to exercise any right or remedy hereunder shall not be deemed a waiver thereof or a waiver of the right to exercise the same at any future time, or the waiver of any other right or remedy hereunder. No waiver by either party or any right of remedy hereunder shall be effective unless in writing signed by the party.

15.11 Notices
15.11.1 Method

All notices required or authorized to be given hereunder shall be in writing and shall be served upon the party entitled thereto either by personal delivery to such party, or by overnight courier service, or by certified mail, return receipt requested, addressed to such party pursuant to Section 14.11.2 of this Agreement, or at such other address as either party may so notify the other
party of in writing. Any such notice shall be deemed to have been received on the date so delivered personally to the party entitled thereto or three (3) business days after the same has been properly deposited in the United States mail, with postage thereon fully prepaid, as aforesaid.
15.11.2 Addresses

Until the addressee gives written notice of a change, notices shall be delivered to:

THE COUNTY:  
Airport Director  
Aspen – Pitkin County Airport  
0233 E. Airport Road – Suite A  
Aspen, CO 81611

LICENSEE:  
Mckillop Erlandson  
Sixt Rent a Car, LLC  
1501 NW 49th ST, Suite 100  
Fort Lauderdale, FL 33309

15.12 Headings

The headings in this Agreement are for convenience of reference, and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

15.13 Severability

If a provision of this Agreement is held to be unlawful, invalid, or unenforceable, the remainder of this Agreement shall remain in effect and fully enforceable.

15.14 Waiver of Claims

Licensee waives any claim against County or the County's employees, contractors, or agents for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of any part of this Agreement, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying performance of any part of this Agreement.

15.15 Incorporation of Exhibits

All Exhibits and documents referred to in this Agreement are incorporated into this Agreement by this reference.

15.16 Incorporation of Required Provisions

The parties incorporate into this Agreement by this reference all provisions lawfully required in this Agreement by any unit of federal, state, or local government.

15.17 Successors and Assigns Bound

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their properly qualified successors and assigns.

15.18 Right to Amend

If the U.S. Department of Transportation Federal Aviation Administration, or its successor, requires changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, Licensee agrees to consent to those changes subject to any additional changes to this Agreement required by equity.
15.19 Time of Essence

Time is of the essence of this Agreement.

15.20 Force Majeure

The County shall not be liable to Licensee for any breach of this Agreement due to causes beyond the County's control, including but not limited to strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, and sabotage. Nothing in this section shall be deemed to excuse any part of Licensee's obligations to make any payments due under this Agreement.

15.21 Gender and Number

Words of any gender used in this Agreement shall include any other gender. Words in the singular shall include the plural, unless the context clearly requires otherwise. The words “hereof,” “herein,” “herewith,” “hereunder,” and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of the Agreement.

15.22 Avigation Easement

Licensee's right to use the Operating Area for the purposes as set forth in this Agreement shall be secondary and subordinate to the operation of the Airport. The County specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the air space above the surface of the Operating Area together with the right to cause noise in the air space as may be inherent in the present or future operation of aircraft.

15.23 Attorney's Fees

If either party to this Agreement incurs attorney’s fees and/or costs in connection with the declaration of a Default hereunder or any other legal proceeding to interpret, protect or enforce any of its rights hereunder, the party prevailing in such proceeding shall be entitled to recover its reasonable attorney’s fees and costs in connections with such proceeding.

15.24 Amendment

This Agreement may be modified or amended or supplemented only by an instrument in writing signed by the parties hereto. The County’s representative for the administration of this Agreement shall be the Director of Aviation or his/her designee in writing; provided, however, that all matters affecting material terms of this Agreement, including term, fees and charges and use of Operating Area by Licensee, shall only be modified or amended by a writing approved by a Resolution of the Board of County Commissioners at a duly-noticed public meeting.

15.25 Relationship of Parties

It is the intent and agreement of the County and the Company that they shall have the relationship respectively of Licensor/Licensee and Permittor/Permittee hereunder, and nothing contained herein shall be deemed or construed to constitute the parties as partners or joint ventures, and in no event shall County be liable for any loss which may result from the operations of
Licensee upon its Operating Area or for any indebtedness incurred by Licensee in the operation of its business from its Operating Area or for the claims of third parties against Licensee in the conduct of its business. In addition, County shall not be liable in any manner to the Licensee for any damages the Licensee may incur due to the inability of the County to deliver possession of Licensee’s Operating Area, or any part thereof, to the Licensee for reasons beyond the reasonable control of the County.

15.26 Non-Liability of County’s Agents and Employees

No official, agent, or employee of County shall be personally liable to Licensee in the event of any default or breach hereunder by County.

15.27 Entire Agreement

This License contains the entire agreement of the parties and there have been no oral or written promises, representations or agreements, either express or implied, except as expressly set forth herein. Any and all prior agreements or understandings between the parties are expressly agreed to have merged herein.

15.28 Representations of Licensee

Licensee represents and warrants to County as follows:

a. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that they are familiar with Section 18-8-301, et seq. of the Colorado Revised Statutes (Bribery and Corrupt Influences) and Section 18-8-401, et seq. of the Colorado Revised Statutes (Abuse of Public Office) and that no violations of the provisions thereof are present.

b. Licensee, and those individuals executing this License on behalf of Licensee, represent and warrant that to the best of their knowledge no employee of Pitkin County has personal or beneficial interest whatsoever in this License or in the business to be conducted upon the Location by the Licensee.

15.29 Execution in Duplicate

This Agreement shall be executed in duplicate originals, with one original to be held by each party.

15.30 Authority to Sign

As an inducement to the County to execute this Agreement, the undersigned officer of Licensee represents that he/she is expressly authorized to execute this Agreement and to bind Licensee to the terms and conditions hereof and acknowledges that the County is relying on this representation, authorization and execution.

/////////////////////////////////NOTHING FURTHER FOLLOWS EXCEPT SIGNATURES/////////////////////////////////
LICENSEE

________________________

By:________________________________________________

Printed Name/Title:________________________

LICENSOR
PITKIN COUNTY, COLORADO
0233 E. Airport Rd., Suite A
Aspen, Colorado 81611

ATTEST:                                               BOARD OF COUNTY COMMISSIONERS OF
PITKIN COUNTY, COLORADO

________________________                                   __________________________
Jeanette Jones                                                John Ely
Deputy Clerk and Recorder                                    County Attorney
                                                            __________________________
Date: __________________________                          John Kinney
                                                            Airport Director

APPROVED AS TO FORM:                                   APPROVED AS TO CONTENT:

________________________                                   __________________________
John Ely                                               John Kinney
County Attorney                                    Airport Director
EXHIBIT A

OPERATING AREA

Exhibit A consists of Exhibits A.1 & A.2
EXHIBIT A.1

READY RETURN LOT

AND

RENTAL CAR STORAGE AND SERVICE FACILITY AREA

SPACE ALLOCATION
EXHIBIT A.1
READY RETURN PARKING AREA AND RENTAL CAR STORAGE AND SERVICE FACILITY AREA


LEGEND
- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC
- Shared Use Area

12,638 sq ft
13,131 sq ft
14,408 sq ft
42,000 sq ft
6,000 sq ft
8,157 sq ft
11,948 sq ft
7,644 sq ft

Drawing: P:\Project-Cincinnati\Clients\Aspen\Task 03 - Rental Car Concessions\ASE Rental Car\CAD\ASE Rental Car Program Areas.dwg
Layout: A.1 Plotted: Jul 24, 2019, 02:59PM
EXHIBIT A.2

RENTAL CAR COUNTER/OFFICE/CUSTOMER SERVICE

SPACE ALLOCATION
EXHIBIT A.2
CUSTOMER SERVICE COUNTER


Legend:
- Avis Budget Car Rental, LLC
- The Hertz Corporation
- Enterprise Leasing Company of Denver, LLC
- Sixt Rent A Car, LLC

Drawing: P:\Project-Cincinnati\Clients\Aspen\Task 03 - Rental Car Concessions\ASE Rental Car\CAD\ASE Rental Car Program Areas.dwg
Layout: Exhibit E
Plotted: Jul 24, 2019, 02:50PM

ASPEN PITKIN COUNTY AIRPORT

July 2019

352
On-Airport Licensee Monthly Statement
Of
Gross Revenues and Customer Facility Charge Revenue

Date: ________________

Period Covered (Month/Year): ________________

Rental Car Company: ___________________________

Gross Revenue Statement

Gross Revenues: $______________

10% of Gross Revenues: $______________

Customer Facility Charge Statement

Total Number of Vehicle Contracts: _________

Total Number of Vehicle Contract Days: _________

Total CFC Collections: $________

Certification by Licensee's Chief Financial Officer or the Chief Financial Officer's designee:

Signature: ___________________________  Print Name: ___________________________

Title: ___________________________

Date: ___________________________

Remit by the 20th day of each month to:

Jennifer Mitchley
Aspen/Pitkin County Airport
0233 E. Airport Road, Suite A
Aspen, CO 81611
EXHIBIT C

OPERATING AREA MAINTENANCE AND REPAIR RESPONSIBILITIES
## LICENSEE OPERATING AREA MAINTENANCE RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Rental Car Service Counter/Office Space</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shell Building (structural, mechanical &amp; electrical)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Monthly Utility Costs (electrical, water, sanitary sewer, and natural gas)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>General Maintenance (HVAC &amp; fire suppression)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Janitorial Services</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Monthly data &amp; telecommunications services</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Overall Cleanliness &amp; Appearance</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Cleaning of Floors, Walls, Ceilings &amp; Surfaces</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Carpet Cleaning (Minimum of Twice per Year)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Proprietary Operating Systems, furnishings, signage, fixtures, &amp; equipment specific to Concessionaire</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

### Parking Spaces (Ready/Return)

| Repair and maintenance of paved surfaces                                 |        | x        |
| Pavement Markings                                                        |        | x        |
| Common Area Lighting                                                     |        | x        |
| Directional Signage                                                      |        | x        |
| Code-required Signage                                                    |        | x        |
| Landscape Maintenance                                                    |        | x        |
| Monthly Utility Costs – electrical                                       |        | x        |
| Stormwater management system                                             |        | x        |
| Parking Space Stall Signage & Concessionaire Branding                    |        | x        |
| Snow Control                                                             |        | x        |
| Snow Removal                                                             |        | x        |
| Disposal of Trash, Refuse, Debris and Recycling                          |        | x        |

### Storage & Service Facility Area

<table>
<thead>
<tr>
<th>Storage Area and Vehicular Common Area</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Perimeter security fence</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Perimeter security fence gates</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common Area Lighting</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Delineation barriers between brands</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Monthly Utility Costs – electrical</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Control</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Removal</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Entry/Exit security</td>
<td>County</td>
<td>Licensee</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------</td>
<td>----------</td>
</tr>
<tr>
<td>Code-required signage</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Common circulation striping</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Common circulation paving</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Landscaping</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

**Fuel Islands**

| Fuel area paving | x      |          |
| Fuel area drainage and drainage system | x      |          |
| Code-required signage | x      |          |
| Bollards | x      |          |
| Disposal of Trash, Refuse, Debris and Recycling | x      |          |

**Fueling System**

| Facility fueling system | x      |          |
| Fuel dispenser including nozzles | x      |          |
| Fuel accounting system | x      |          |
| Fuel monitoring system | x      |          |
| O/H Hose reel system | x      |          |
| O/H fluid distribution system | x      |          |
| Common-use, vehicle vacuum system | x      |          |

**Service Facility Utilities**

| Fire/Life/Safety systems | x      |          |
| Lighting | x      |          |
| Electrical Conduit | x      |          |
| Electrical Wiring | x      |          |
| Electrical outlets (Outlets provided as part of overhead hose reel system) | x      |          |
| Data/Comms conduit Fuel management system | x      |          |
| Data/Comms wiring Fuel management system | x      |          |
| Data/Comms systems Fuel management system | x      |          |

**Car Wash Building**

<p>| Building roof system | x      |          |
| Building structural | x      |          |
| Exterior walls | x      |          |
| Exterior signage | x      |          |
| Exterior glazing | x      |          |
| Exterior doors Includes fast-closing overhead doors at car wash bay ends | x      |          |
| Roll-up doors Automatic, fast-acting roll-up doors | x      |          |
| Code-required signage | x      |          |
| Directional signage | x      |          |
| General circulation striping | x      |          |
| Bollards | x      |          |
| Eye wash stations | x      |          |</p>
<table>
<thead>
<tr>
<th>Description</th>
<th>County</th>
<th>Licensee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water supply hose bib</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay structure</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay exterior walls</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay enclosure-bay demising wall</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wash bay slab and wall waterproofing</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Car Wash System</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Car Wash System</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash rocker panel system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash blower drying power infrastructure</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vehicle wash R.O. system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Excess water drainage system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Oil/Water Separator(s)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vacuum Room and Fluids Room finish-out</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td><strong>Fuel Farm Area</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delivery Area</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common Circulation Striping</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Common Circulation paving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Site lighting</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel farm fencing and pedestrian gates</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel tanks and required improvements</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Fuel fill system</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Security – fuel tank fill point</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Pedestrian access – fuel farm area</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Control</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Snow Removal</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Disposal of Trash, Refuse, Debris and Recycling</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>
EXHIBIT D

SAMPLE FORM OF CERTIFICATE OF INSURANCE
CERTIFICATE OF LIABILITY INSURANCE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder.

Important: If the certificate holder is an additional insured, the policy(ies) must have additional insured provisions or be endorsed. If subrogation is waived, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**Producer**
AON Risk Services Central, Inc.
5600 West 83rd Street, Suite 1100 Tower
Minneapolis, MN 55437-1027

**Insured**
Car Rental Company
DBAS
Address, City, State, Zip Code

**Contact**
NAME: (866) 283-7122
Phone (A/C, No. Ext): (847) 953-5390
E-mail Address:

**Insurers Affording Coverage**

<table>
<thead>
<tr>
<th>Insurer</th>
<th>NAIC #</th>
</tr>
</thead>
<tbody>
<tr>
<td>AON Risk Services Central, Inc.</td>
<td>20443</td>
</tr>
<tr>
<td>Continental Casualty Company</td>
<td>90029</td>
</tr>
<tr>
<td>Ace Property &amp; Casualty Insurance Company</td>
<td>20699</td>
</tr>
</tbody>
</table>

**Coverages**

<table>
<thead>
<tr>
<th>Ins</th>
<th>LTR</th>
<th>Type of Insurance</th>
<th>Addl. Subro</th>
<th>Policy Number</th>
<th>Policy Eff Date</th>
<th>Policy Exp Date</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>X</td>
<td>Commercial General Liability</td>
<td>Claims-Made</td>
<td>GL9001603xx</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>EACH OCCURRENCE $2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MED EXP (Any one person) $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PERSONAL &amp; ADV INJURY $10,000</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>GENERAL AGRGATE $20,000,000</td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>PRODUCTS - COMPLIANCE $5,000,000</td>
</tr>
<tr>
<td>A</td>
<td>X</td>
<td>Garage Liability</td>
<td>Occur</td>
<td>BUA7001700830</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>COMBINED SINGLE LIMIT (GA accident) $1,000,000</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per person)</td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per accident)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PROPERTY DAMAGE (Per accident)</td>
</tr>
<tr>
<td>E</td>
<td>X</td>
<td>Umbrella Liability</td>
<td>Occur</td>
<td>G28130168004</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>EACH OCCURRENCE $4,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>AGGREGATE $4,000,000</td>
</tr>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>Y/N</td>
<td>Workers Compensation</td>
<td>N/A</td>
<td>WC4014106301 - DED. WC4014106346 - CA WC4014106265 - RETRO</td>
<td>7/1/2019</td>
<td>7/1/2020</td>
<td>E.L. EACH OCCURRENCE $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>E.L. DISEASE - EA EMPLOYEE $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>E.L. DISEASE - POLICY LIMIT $1,000,000</td>
</tr>
</tbody>
</table>

**Description of Operations / Locations / Vehicles**
See Attached

**Certificate Holder**
Aon Risk Services Central, Inc.

**Cancellation**
Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

© 1988-2015 ACORD CORPORATION. All rights reserved. 360
Certificate Holder:
ASPEN/PITKIN COUNTY AIRPORT

Cert Number:
XX

RE: ASPEN/PITKIN COUNTY AIRPORT, 233 E. AIRPORT ROAD, ASPEN, CO 81611.
ASPEN/PITKIN COUNTY AIRPORT IS ADDITIONAL INSURED TO THE GENERAL LIABILITY POLICY WITH RESPECT TO THEIR INTEREST IN THE
WRITTEN CONTRACT AGREEMENT WITH AVIS BUDGET CAR RENTAL, LLC. THIS CERTIFICATE OF INSURANCE (COI) RELATES TO A POLICY
(POLICIES) ISSUED TO THE INCLUDED INSURED AND IS INTENDED TO DEMONSTRATE COVERAGE AS PROVIDED SOLELY TO THE INCLUDED
INSURED AND IS FOR INFORMATIONAL PURPOSES ONLY. THE CERTIFICATE HOLDER LISTED ON THIS COI MAY BE INCLUDED AS AN
ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES) ONLY TO THE LIMIT THAT SUCH CERTIFICATE HOLDER'S INTEREST APPEARS ONLY IF
SUCH INCLUSION IS REQUIRED IN WRITING SPECIFICALLY AND EXPRESSLY STATING THAT SUCH CERTIFICATE HOLDER BE INCLUDED AS AN
ADDITIONAL INSURED UNDER SUCH POLICY (POLICIES). UMBRELLA COVERAGE MAY BE SUBJECT TO DEDUCTIBLE AND/OR SELF INSURANCE.
EXHIBIT E

MONTHLY ALLOCATION OF MINIMUM ANNUAL GUARANTEE
MONTHLY ALLOCATION OF
MINIMUM ANNUAL GUARANTEE

<table>
<thead>
<tr>
<th>Month</th>
<th>% of MAG</th>
<th>Yr1 Monthly MAG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>16%</td>
<td>$24,161.28</td>
</tr>
<tr>
<td>Feb</td>
<td>12%</td>
<td>$18,120.96</td>
</tr>
<tr>
<td>Mar</td>
<td>13%</td>
<td>$19,631.04</td>
</tr>
<tr>
<td>Apr</td>
<td>5%</td>
<td>$7,550.40</td>
</tr>
<tr>
<td>May</td>
<td>2%</td>
<td>$3,020.16</td>
</tr>
<tr>
<td>Jun</td>
<td>5%</td>
<td>$7,550.40</td>
</tr>
<tr>
<td>Jul</td>
<td>12%</td>
<td>$18,120.96</td>
</tr>
<tr>
<td>Aug</td>
<td>12%</td>
<td>$18,120.96</td>
</tr>
<tr>
<td>Sep</td>
<td>7%</td>
<td>$10,570.56</td>
</tr>
<tr>
<td>Oct</td>
<td>4%</td>
<td>$6,040.32</td>
</tr>
<tr>
<td>Nov</td>
<td>4%</td>
<td>$6,040.32</td>
</tr>
<tr>
<td>Dec</td>
<td>8%</td>
<td>$12,080.64</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>$151,008.01</td>
</tr>
</tbody>
</table>
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: 2nd Reading, A Resolution of the Board of County Commissioners of Pitkin County, Colorado, Providing Supplemental Appropriations to the 2019 Budget and Amending the 2019 Budget (3rd Quarter)

STAFF RESPONSIBLE: Connie Baker

ISSUE STATEMENT: This budget resolution is required to formally adopt the budget supplemental requests presented to the BOCC during the September 10th work session.

BACKGROUND: Budget supplemental requests are submitted to the BOCC on a quarterly basis. County departments may submit supplemental requests when a grant has become available, a new project or acquisition has been identified, the scope of an existing project has changed significantly, or when budgetary changes cross funds. A budget resolution and public hearing is required to legally amend the budget.

LINK TO STRATEGIC PLAN: Each supplemental request has identified its link to the County’s strategic plan.

KEY DISCUSSION ITEMS: The Board should be familiar with these items from the work session conversations. Should supplemental appropriations to the 2019 Pitkin County budget be approved as proposed?

BUDGETARY IMPACT: This budget resolution increases the County’s 2019 budgeted expenditures by $5,348,200.

RECOMMENDED BOCC ACTION: The Board of County Commissioners approved A Resolution Providing Supplemental Appropriations to the 2019 Budget and Amending the 2019 Budget (3rd Quarter) at first reading on September 11, 2019. It is before the Board at this time for second reading and public hearing.

ATTACHMENTS:
1. A Resolution of the Board of County Commissioners of Pitkin County, Colorado Providing Supplemental Appropriations to the 2019 Budget and Amending the 2019 Budget (3rd Quarter)
2. Budget Supplemental Requests
A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS ("BOCC") OF PITKIN COUNTY, COLORADO, PROVIDING SUPPLEMENTAL APPROPRIATIONS TO THE 2019 BUDGET AND AMENDING THE 2019 BUDGET (3RD QUARTER)

RESOLUTION NO. _____, 2019

RECITALS:

1) Pursuant to Section 2.8.3 (Actions) of the Pitkin County Home Rule Charter ("HRC") official action by formal resolution shall be required for all actions of the Board not requiring ordinance power on matters of significant importance affecting citizens; and

2) Pitkin County desires to amend its 2019 budget and approve supplemental budget appropriations from the funds set forth in this Resolution in order to fund unanticipated but necessary operating expenditures and capital outlay; and

3) Unanticipated revenues were received in 2019 that were not appropriated; and

4) Unappropriated fund balances (reserves and prior year savings) are available and adequate to cover the new appropriations; and

5) Upon due and proper notice, published in accordance with the law, said supplemental budget was open for inspection by the public at a designated place, a public hearing was held on September 25, 2019 and interested citizens were given an opportunity to file or register any objections to said supplemental budget; and

6) The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts a resolution providing supplemental appropriations to the 2019 budget and amending the 2019 budget as shown below and authorizes the Chair to sign the Resolution and, upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.

### GENERAL FUND

<table>
<thead>
<tr>
<th>Facilities</th>
<th>2019 Budget</th>
<th>Revenue Change</th>
<th>Expenditure Change</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>HHS Snow Removal</td>
<td>-</td>
<td>-</td>
<td>28,400</td>
<td>28,400</td>
</tr>
<tr>
<td>Admin/SO Building Electricity</td>
<td>23,000</td>
<td>-</td>
<td>34,500</td>
<td>57,500</td>
</tr>
<tr>
<td>Basalt River Park Center Electricity</td>
<td>3,500</td>
<td>-</td>
<td>15,300</td>
<td>18,800</td>
</tr>
<tr>
<td>Fleet Shop Flooring Repair &amp; Resurfacing</td>
<td>91,000</td>
<td>-</td>
<td>75,000</td>
<td>166,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td>153,200</td>
</tr>
</tbody>
</table>

FUND BALANCE CODING:

- Unassigned General Fund Total
  - 153,200

- Net Increase/(Decrease) in Fund Balance
  - (153,200)
### SOLID WASTE CENTER FUND

<table>
<thead>
<tr>
<th>2019 Budget</th>
<th>Revenue Change</th>
<th>Expenditure Change</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stormwater Cover Replacement</td>
<td>-</td>
<td>380,000</td>
<td>380,000</td>
</tr>
</tbody>
</table>

FUND BALANCE CODING:
- Solid Waste Center Fund Total: - 380,000
- Net Increase/(Decrease) in Fund Balance: (380,000)

### OPEN SPACE & TRAILS FUND

<table>
<thead>
<tr>
<th>2019 Budget</th>
<th>Revenue Change</th>
<th>Expenditure Change</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>AVLT Conservation Plan Contribution</td>
<td>8,000</td>
<td>-</td>
<td>25,000</td>
</tr>
<tr>
<td>Upper Crystal River Grazing Allotment Agree</td>
<td>8,000</td>
<td>-</td>
<td>32,000</td>
</tr>
</tbody>
</table>

FUND BALANCE CODING:
- Open Space & Trails Fund Total: - 57,000
- Net Increase/(Decrease) in Fund Balance: (57,000)

### AIRPORT FUND

<table>
<thead>
<tr>
<th>2019 Budget</th>
<th>Revenue Change</th>
<th>Expenditure Change</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Project</td>
<td>250,000</td>
<td>-</td>
<td>2,355,000</td>
</tr>
<tr>
<td>Interim Terminal Project</td>
<td>-</td>
<td>-</td>
<td>2,403,000</td>
</tr>
</tbody>
</table>

FUND BALANCE CODING:
- Airport Fund Total: - 4,758,000
- Net Increase/(Decrease) in Fund Balance: (4,758,000)

### TOTAL FOR RESOLUTION

<table>
<thead>
<tr>
<th>Revenue Change</th>
<th>Expenditure Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNASSIGNED GENERAL FUND TOTAL</td>
<td>-</td>
</tr>
<tr>
<td>SOLID WASTE CENTER FUND TOTAL</td>
<td>-</td>
</tr>
<tr>
<td>OPEN SPACE &amp; TRAILS FUND TOTAL</td>
<td>-</td>
</tr>
<tr>
<td>AIRPORT FUND TOTAL</td>
<td>-</td>
</tr>
</tbody>
</table>

- Total Net Increase/(Decrease) All Fund Balances: (5,348,200)
INTRODUCED AND FIRST READ ON THE 11TH DAY OF SEPTEMBER, 2019 AND SET FOR SECOND

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE RESOLUTION PUBLISHED IN
THE ASPEN TIMES WEEKLY ON THE _____ DAY OF ____________, 2019.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION POSTED ON THE OFFICIAL


PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY WEBSITE

ATTEST:

Jeanette Jones
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS

Greg Poschman, Chair

DATE: ____________________________

MANAGER APPROVAL:

Jon Peacock, County Manager
3rd Quarter 2019 Budget Supplemental Requests

- General Fund:
  - HHS Snow Removal
  - Facilities Electricity Costs
- Fleet Fund:
  - Flooring Repair & Resurfacing
- Solid Waste Center Fund:
  - Stormwater Cover Replacement
- Open Space:
  - AVLT Conservation Plan
  - Upper Crystal River Grazing Allotment
- Airport Fund:
  - Parking Project
  - Interim Terminal Project
**Budget Supplemental Request**

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>Health and Human Services Snow Removal</th>
<th>Work Session Date:</th>
<th>September 10, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Facilities Management</td>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Adjustment to Operations</td>
<td>Adjustment Type:</td>
<td>One Time Adjustment</td>
</tr>
<tr>
<td>Fund:</td>
<td>General Fund</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Staff Responsible:    | Jodi Smith                             | Prepared By:      | Mike Fleagle       |
| Budget Staff Review - Name: | Connie Baker                     | Date:             | 8/29/19            |

1) **PROJECT DESCRIPTION AND FISCAL IMPACT:**

Due to the new HHS parking lot design and a heavy snowfall season, Facilities staff were unable to perform snow removal with traditional methods and equipment. We instead were required to rent a piece of snow removal equipment, as well as pay to haul off accumulated snow because of lack of snow storage space. This resulted in unanticipated and unbudgeted for expenditures in the amount of $28,400.

2) **STRATEGIC PLAN GOAL(S) ADVANCED:**

Flourishing Natural & Built Environment- Responsibly maintained and enhanced County assets.

3) **REQUESTED EXPENDITURE APPROPRIATIONS:** Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Snow Plowing / Ice Removal</td>
<td>10021217.543000</td>
<td>$0</td>
<td>$28,400</td>
<td>$28,400</td>
</tr>
</tbody>
</table>

Total New Appropriations $28,400

4) **FUNDING**

**NEW REVENUE APPROPRIATIONS:**

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
</table>

Total New Revenue

**USE OF FUND BALANCE:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Funding</td>
<td>$28,400</td>
</tr>
</tbody>
</table>

5) **NET CHANGE TO FUND BALANCE**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total GF Balance projected at 12/31/2019</td>
<td>$8,258,293</td>
</tr>
<tr>
<td>Unassigned GF Balance projected at 12/31/2019</td>
<td>$2,161,360</td>
</tr>
<tr>
<td>Use of Fund Balance</td>
<td>$-28,400</td>
</tr>
<tr>
<td>Unassigned GF Balance after Supplemental Request</td>
<td>$2,132,960</td>
</tr>
</tbody>
</table>
6) ALTERNATIVE ANALYSIS

BOCC Approval: ______________________  ______________________
    Date                          County Manager Signature

For Budget Department Use:

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>Electricity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Facilities</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Adjustment to Operations</td>
</tr>
<tr>
<td>Fund:</td>
<td>General Fund</td>
</tr>
<tr>
<td>Work Session Date:</td>
<td>September 10, 2019</td>
</tr>
<tr>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Adjustment Type:</td>
<td>One Time Adjustment</td>
</tr>
<tr>
<td>Staff Responsible:</td>
<td>Jodi Smith</td>
</tr>
<tr>
<td>Prepared By:</td>
<td>Mike Fleagle</td>
</tr>
<tr>
<td>Budget Staff Review - Name:</td>
<td>Connie Baker</td>
</tr>
<tr>
<td>Date:</td>
<td>8/29/19</td>
</tr>
</tbody>
</table>

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

Without an adequate tracking history to establish a 2019 budget for electrical use at 2 facilities, the Basalt River Park Center and the Administration and Sheriff Office, we underestimated actual electrical costs at these facilities. The Administration and Sheriff Office is projected to be short $34,500 and the River Park Center is projected to be short $15,300.

2) STRATEGIC PLAN GOAL(S) ADVANCED:

Prosperous Economy- Responsible and accountable stewardship.

3) REQUESTED EXPENDED APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin/SO Facility Electricity</td>
<td>10021211.541500</td>
<td>$23,000</td>
<td>$34,500</td>
<td>57,500</td>
</tr>
<tr>
<td>Basalt RPC Facility Electricity</td>
<td>10021215.541500</td>
<td>$3,500</td>
<td>$15,300</td>
<td>18,800</td>
</tr>
<tr>
<td><strong>Total New Appropriations</strong></td>
<td></td>
<td><strong>$49,800</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4) FUNDING

NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total New Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$49,800</strong></td>
</tr>
</tbody>
</table>

USE OF FUND BALANCE:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Funding</strong></td>
<td><strong>$49,800</strong></td>
</tr>
</tbody>
</table>

5) NET CHANGE TO FUND BALANCE

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
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<tr>
<td>Total GF Balance projected at 12/31/2019</td>
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</tr>
<tr>
<td>Unassigned GF Balance projected at 12/31/2019</td>
<td>$2,132,960</td>
</tr>
<tr>
<td><strong>Use of Fund Balance</strong></td>
<td><strong>-$49,800</strong></td>
</tr>
<tr>
<td>Unassigned GF Balance after Supplemental Request</td>
<td>$2,083,160</td>
</tr>
</tbody>
</table>
6) ALTERNATIVE ANALYSIS

BOCC Approval: ____________________________
Date ____________________________ County Manager Signature

For Budget Department Use:

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; Transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>Fleet Shop Flooring Repairs &amp; Resurfacing</th>
<th>Work Session Date:</th>
<th>September 10, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Fleet Management &amp; Facilities</td>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Adjustment to Operations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund:</td>
<td>General Fund</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Staff Responsible:</th>
<th>Jonah Frank</th>
<th>Prepared By:</th>
<th>Jonah Frank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Staff Review - Name:</td>
<td>Connie Baker</td>
<td>Date:</td>
<td>8/29/19</td>
</tr>
</tbody>
</table>

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

In 2018 the County funded a Fleet shop floor resurfacing project that would provide a durable and serviceable floor surface for Fleet shop functions. Several events occurred over the last year, which resulted in the project going over budget. Time line of events for this project over the last 2 years;

1. $91,000 budget approved in 2018 for flooring repair
2. Project postponed until 2019 due to construction activity at the Public Works complex
3. Project scope expanded due to failing concrete, pit steel edge, in floor I-beam heaving, and floor slab heaving. This work was completed for $47,462
4. RFP bids for the flooring resurfacing came in over $110,000

Due to RFP bids that were received and concrete repairs that were required before resurfacing, staff is requesting an additional $75,000 to complete this capital maintenance project.

2) STRATEGIC PLAN GOAL(S) ADVANCED:

Prosperous Economy, Responsibly and Accountable stewardship of County Assets County assets

3) REQUESTED EXPENDITURE APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>PW/Fleet Building Repair &amp; Maint.</td>
<td>10021216.544500</td>
<td>$91,000</td>
<td>$75,000</td>
<td>$166,000</td>
</tr>
<tr>
<td></td>
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<tr>
<td>Total New Appropriations</td>
<td></td>
<td></td>
<td></td>
<td>$75,000</td>
</tr>
</tbody>
</table>

4) FUNDING

NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
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</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td>Total New Revenue</td>
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</tbody>
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USE OF FUND BALANCE:

<table>
<thead>
<tr>
<th>Total Funding</th>
<th>$75,000</th>
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</thead>
</table>
5) NET CHANGE TO FUND BALANCE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total GF Balance projected at 12/31/2019</td>
<td>$8,258,293</td>
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<tr>
<td>Unassigned GF Balance projected at 12/31/2019</td>
<td>$2,083,160</td>
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<tr>
<td>Use of Fund Balance</td>
<td>-$75,000</td>
</tr>
<tr>
<td>Unassigned GF Balance after Supplemental Request</td>
<td>$2,008,160</td>
</tr>
</tbody>
</table>

6) ALTERNATIVE ANALYSIS

This is basic facility maintenance that is required for efficient operations and employee safety.

BOCC Approval: ______________________  ______________________
Date                                               County Manager Signature

For Budget Department Use:

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
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<tbody>
<tr>
<td>374</td>
<td></td>
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</tbody>
</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>SWC Stormwater Cover Replacement</th>
<th>Work Session Date:</th>
<th>September 10, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Solid Waste Center</td>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Capital Improvements</td>
<td>Adjustment Type:</td>
<td>One Time Adjustment</td>
</tr>
<tr>
<td>Fund:</td>
<td>Solid Waste Center</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Staff Responsible: Cathy Hall
Prepared By: Cathy Hall
Budget Staff Review - Name: Connie Baker
Date: 8/29/19

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

Over the last few years the Solid Waste Center (SWC) has been in the process of making improvements to its stormwater and leachate management systems. In May 2017 a stormwater cover was installed on the south and southeast slopes of the landfill and is under a two year warranty. In May 2019 the cover had a significant failure on the southern landfill slope. The company who installed the cover was informed of the failure in May 2019 and a request was made by SWC staff to do warranty repair work. The company responsible has refused to do the repair work. Another significant failure occurred in July 2019.

In June 2019 staff had a third party liner expert come to the site and evaluate the cover. They observed a number of problems with the cover system, including: the field seams were done improperly using the wrong field seamer, the temperature on the field seamer was likely too high which resulted in weak seams, and the anchors holding the cover down were not properly welded to the cover allowing it to pull loose. Staff collected four samples of the seams and sent them to a third party lab for testing; all of the seam samples failed. The third party liner expert has stated the cover will continue to fail and recommended completely removing the cover and replacing it.

The County will be pursuing litigation against the company responsible for initial installation of the cover system to reimburse for removal and disposal of the existing cover, replacement of the cover system, attorney fees, and for staff time. Staff will be sending out an RFP to remove and replace the existing cover in the fall of 2019. Staff estimate the cost to replace the cover and removal and disposal of the old cover at $380,000.

2) STRATEGIC PLAN GOAL(S) ADVANCED:

Conserve Natural Resources and Environment of the Flourishing Natural and Built Environment Core Focus Area of the Pitkin County Strategic Plan.

3) REQUESTED EXPENDITURE APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
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</thead>
<tbody>
<tr>
<td>Stormwater Infiltration</td>
<td>41652150.571500</td>
<td>$0</td>
<td>$380,000</td>
<td>$380,000</td>
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</table>

Total New Appropriations $380,000

4) FUNDING

NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
</table>

Total New Revenue
**USE OF FUND BALANCE:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Funding</td>
<td>$380,000</td>
</tr>
</tbody>
</table>

**5) NET CHANGE TO FUND BALANCE**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fund Balance projected at 12/31/2019</td>
<td>$2,074,701</td>
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<tr>
<td>Addition to Fund Balance / (Use of Fund Balance)</td>
<td>-$380,000</td>
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<tr>
<td>Fund Balance after Supplemental Request</td>
<td>$1,694,701</td>
</tr>
</tbody>
</table>

**6) ALTERNATIVE ANALYSIS**

No alternative analysis done. The cover is approved by the Colorado Department of Public Health and Environment (CDPHE) and is part of the site's overall stormwater and leachate management plan.

**BOCC Approval:**

Date ____________________ County Manager Signature ____________________

**For Budget Department Use:**

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
</tr>
</thead>
</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

Project/Service Name: AVLT Conservation Plan  Work Session Date: September 10, 2019
Department: Open Space & Trails  Budget Year: 2019
Request Type: Adjustment to Operations  Adjustment Type: One Time Adjustment
Fund: Open Space & Trails

Staff Responsible: Dale Will  Prepared By: Dale Will
Budget Staff Review - Name: Connie Baker  Date: 8/29/19

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

The Aspen Valley Land Trust (AVLT) is doing a land conservation plan for its service area, which includes the entire Roaring Fork Watershed and the Colorado River valley from Glenwood to Debeque. The Trust would like our financial assistance with the Roaring Fork Valley portion of the plan, which encompasses all of Pitkin County and parts of Eagle, Garfield, and Gunnison Counties as well. Our acquisitions have heretofore recognized that Pitkin County citizens benefit from land conservation throughout the watershed. The AVLT plan will help guide conservation efforts that are central to the mission of the Pitkin County Open Space Department. The plan will likely facilitate co-funding opportunities on future open space projects.

2) STRATEGIC PLAN GOAL(S) ADVANCED:

The following “Core Focus Areas & Success Factors” are related to this item:
Flourishing Natural & Built Environment – Success Factors
1. Conserved natural resources and environment

3) REQUESTED EXPENDITURE APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants and Contributions</td>
<td>11836100.581000</td>
<td>$8,000</td>
<td>$25,000</td>
<td>$33,000</td>
</tr>
</tbody>
</table>

Total New Appropriations $25,000

4) FUNDING

NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
</table>

Total New Revenue

USE OF FUND BALANCE:

| Total Funding               | $25,000         |

5) NET CHANGE TO FUND BALANCE

| Total Fund Balance projected at 12/31/2019 | $16,668,848 |
| Use of Fund Balance                      | -$25,000     |
| Fund Balance after Supplemental Request  | $16,643,848  |
6) ALTERNATIVE ANALYSIS

BOCC Approval: __________________ ________
Date County Manager Signature

For Budget Department Use:

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
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</table>
**Budget Supplemental Request**

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>Upper Crystal River Grazing Allotment Agreement</th>
<th>Work Session Date:</th>
<th>September 10, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Open Space &amp; Trails</td>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Adjustment to Operations</td>
<td>Adjustment Type:</td>
<td>One Time Adjustment</td>
</tr>
<tr>
<td>Fund:</td>
<td>Open Space &amp; Trails</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Staff Responsible:    | Gary Tennenbaum                                 | Prepared By:       | Gary Tennenbaum      |
| Budget Staff Review - Name: | Connie Baker                                  | Date:               | 8/29/19              |

1) **PROJECT DESCRIPTION AND FISCAL IMPACT:**

The Upper Crystal River US Forest Service domestic sheep grazing allotment is located in one of the highest elevation and most remote areas of Colorado, high in the Elk Mountains high above the City of Aspen. The allotment is largely located inside the spectacular Maroon Bells Wilderness Area and has been used by a sheep ranching family for decades. But this allotment is also home to one of the highest priority herds of bighorn sheep in Colorado. This extremely rugged mountain range provides ideal habitat for this iconic ungulate and indeed, these bighorn herds rely on the high elevation meadows and peaks found here. Unfortunately, domestic sheep carry a number of diseases that can and often do, decimate entire herds of Bighorn sheep. The good news is that National Wildlife Federation has successfully negotiated a financial agreement with the rancher that holds the permit to this allotment allowing them to give up their grazing rights. This will permanently remove the risk of contact between these domestic sheep and Bighorns and given that this is the only domestic sheep allotment in the area, the agreement will eliminate the risk of disease transmission between domestic sheep Bighorns across the entire Elk Range.

During the Carbondale to Crested Butte Trail planning, protecting and enhancing biodiversity was a major component of the plan. An action item in the plan called for bighorn resiliency to enhance the health of the declining herd in the Crystal River watershed. The bighorn herd uses Filoha Meadows Nature Preserve and historically used other open space properties in the past when herd size was larger. Removing disease transmission is the most important way to begin improving the health of the bighorn and helping fund this grazing allotment agreement will directly benefit the biodiversity in the Crystal Valley.

National Wildlife Federation negotiated the agreement and is now seeking ways to fund the retirement of the Upper Crystal River grazing allotment. With the final cost of the agreement coming to $96,000, staff is recommending Pitkin County fund a third of that cost with another third committed by an anonymous donor. The rest is being raised from the Rocky Mountain Bighorn Society, Wild Sheep Foundation, and individual donors.

2) **STRATEGIC PLAN GOAL(S) ADVANCED:**

The following “Core Focus Areas & Success Factors” are related to this item:
Flourishing Natural & Built Environment – Success Factors
1. Conserved natural resources and environment
2. Responsibly maintain and enhance County assets

3) **REQUESTED EXPENDITURE APPROPRIATIONS:** Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants and Contributions</td>
<td>11836100.581000</td>
<td>$8,000</td>
<td>$32,000</td>
<td>$40,000</td>
</tr>
</tbody>
</table>

| Total New Appropriations    | $32,000           |
### 4) FUNDING

#### NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
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</table>

**Total New Revenue**

<table>
<thead>
<tr>
<th>USE OF FUND BALANCE:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Funding</td>
<td>$32,000</td>
</tr>
</tbody>
</table>

### 5) NET CHANGE TO FUND BALANCE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fund Balance projected at 12/31/2019</td>
<td>$16,643,848</td>
</tr>
<tr>
<td>Use of Fund Balance</td>
<td>-$32,000</td>
</tr>
<tr>
<td>Fund Balance after Supplemental Request</td>
<td>$16,611,848</td>
</tr>
</tbody>
</table>

### 6) ALTERNATIVE ANALYSIS

**BOCC Approval:**

Date __________________________ County Manager Signature __________________________

**For Budget Department Use:**

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<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
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</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

<table>
<thead>
<tr>
<th>Project/Service Name:</th>
<th>Parking Project</th>
<th>Work Session Date:</th>
<th>September 10, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Airport</td>
<td>Budget Year:</td>
<td>2019</td>
</tr>
<tr>
<td>Request Type:</td>
<td>Capital Improvements</td>
<td>Adjustment Type:</td>
<td>One Time Adjustment</td>
</tr>
<tr>
<td>Fund:</td>
<td>Airport Fund</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Staff Responsible:</th>
<th>John Kinney, Aaron Buob</th>
<th>Prepared By:</th>
<th>Chris Padilla</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Staff Review - Name:</td>
<td>Connie Baker</td>
<td>Date:</td>
<td>8/30/19</td>
</tr>
</tbody>
</table>

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

This project reconfigures the existing employee, economy and rental car parking areas to increase capacity for today’s operational levels and enhanced our passenger experience for travelers, workers and rental car operations at ASE. These improvements consist of the following:

- Interior berms will be removed to increase parking areas for all three uses
- Lighting will be upgraded to LED to enhance safety and energy efficiency
- Drainage will be improved to provide infiltration and better routing thereby reducing existing storm water runoff and enhancing roadway safety along Airport Way.
- Parking lots will be seal coated and restriped as preventative maintenance and to enhance wayfinding and the user experience in the long term and employee lots

This project also provides for a cell phone lot at the south end of Airport Way to provide a place for cars to wait for arriving passengers. In the past year TSA has required that cars no longer park or dwell in front of the terminal and the result has been increased traffic circling past the terminal, cars parking unsafely along Airport Way, and Lot A (Short Term Parking) being filled to capacity. The cell phone lot provides a safe yet conveniently close space for cars to wait for arriving passengers.

The estimated cost is $2,605,000. With estimated $1,052,400 eligible to be funded by Customer Facilities Charges (CFC).
2) STRATEGIC PLAN GOAL(S) ADVANCED:

Support the safety of the traveling public and increase passenger experience in the terminal parking areas.
Enhance safety for airport employees.
Provide for safe and efficient rental car operations at the airport.

3) REQUESTED EXPENDITURE APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/ (Decrease)</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Infrastructure</td>
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<td>$2,355,000</td>
<td>$2,605,000</td>
</tr>
</tbody>
</table>

Total New Appropriations  $2,355,000
### 4) FUNDING

#### NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Revenue Increase/Decrease</th>
<th>Total Adjusted Budget</th>
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<tr>
<td>Total New Revenue</td>
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</table>

**USE OF FUND BALANCE:** $2,355,000

**Total Funding**

### 5) NET CHANGE TO FUND BALANCE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unassigned Fund Balance projected at 12/31/2019</td>
<td>$13,371,192</td>
</tr>
<tr>
<td>Addition to Fund Balance / (Use of Fund Balance)</td>
<td>($2,355,000)</td>
</tr>
<tr>
<td>Unassigned Fund Balance after Supplemental Request</td>
<td>$11,016,192</td>
</tr>
</tbody>
</table>

### 6) ALTERNATIVE ANALYSIS

Continue to have parking constraints commensurate to current operational level.

**BOCC Approval:**

Date _______________  County Manager Signature _______________

**For Finance Dept Use:**

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
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</tbody>
</table>
Budget Supplemental Request

For increases above budgeted revenues or expenditures; new or increased programs, services, or personnel; transfers over $50,000; or transfers across funds.

Project/Service Name: Interim Terminal Project  Work Session Date: September 10, 2019
Department: Airport  Budget Year: 2019
Request Type: Capital Improvements  Adjustment Type: One Time Adjustment
Fund: Airport Fund

Staff Responsible: John Kinney, Aaron Buob  Prepared By: Chris Padilla
Budget Staff Review - Name: Connie Baker  Date: 8/30/19

1) PROJECT DESCRIPTION AND FISCAL IMPACT:

The purpose of this project is to restore the capacity of the ASE terminal to approximately 500 people. A Fire Code re-evaluation in 2017 reduced the allowed number of passengers to approximately 400 people. Relocating the Admin Staff to temporary modular space and converting the current Admin offices restores capacity back to just over 500 passengers. Additionally, the project provides a tent to store baggage delivered by truck due to schedule delays, thus freeing up passenger space and enhancing passenger safety in baggage claim. Finally, the project provides an awning and baggage makeup improvements for Delta and American Airlines to improve worker safety and improve baggage handling efficiency in winter.

Fiscal Impact will be the Airport initially funding the project and the Airlines will pay back the Airport over a 5 year period with 5% interest.

Cost
Construction of Phase 1: Approximately $1,500,000
Baggage Claim Equipment Phase 2: Approximately $500,000
Design and Project Management: $ 402,136

2) STRATEGIC PLAN GOAL(S) ADVANCED:

Support the safety of the traveling public and airline staff while increasing passenger experience in the terminal

3) REQUESTED EXPENDITURE APPROPRIATIONS: Full Cost of Project

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
<th>Original Budget Amount</th>
<th>Expenditure Increase/Decrease</th>
<th>Total Adjusted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Services</td>
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<td>$2,403,000</td>
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</table>

Total New Appropriations $2,403,000

4) FUNDING

NEW REVENUE APPROPRIATIONS:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
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<th>Revenue Increase/Decrease</th>
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Total New Revenue

USE OF FUND BALANCE:

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Account Coding</th>
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<th>Revenue Increase/Decrease</th>
<th>Total Adjusted Budget</th>
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Total Funding $2,403,000
5) NET CHANGE TO FUND BALANCE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unassigned Fund Balance projected at 12/31/2019</td>
<td>$11,016,192</td>
</tr>
<tr>
<td>Use of Fund Balance</td>
<td>-$2,403,000</td>
</tr>
<tr>
<td>Unassigned Fund Balance after Supplemental Request</td>
<td>$8,613,192</td>
</tr>
</tbody>
</table>

6) ALTERNATIVE ANALYSIS

Decrease in passenger experience due to Fire Code revaluation.

BOCC Approval: ____________________________
Date: ____________________________
County Manager Signature: ____________________________

For Finance Dept Use:

<table>
<thead>
<tr>
<th>TRANSACTION #</th>
<th>DATE ENTERED</th>
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</table>
AGENDA ITEM SUMMARY

MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, AUTHORIZING BOUNDARY AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION

STAFF RESPONSIBLE: Dale Will

SUMMARY OF ISSUE: Should the BOCC ratify a boundary agreement with CDOT regarding the boundary between North Star and the James H. Smith North Star properties and the State Highway Right of Way.

BACKGROUND: It has come to our attention that the legal boundaries in the deeds for the North Star Preserve and the adjacent James H. Smith North Star Open Space encroach into State Highway 82. The highway was constructed in its current location prior to the County’s purchase of North Star in 1979. James H. Smith Open Space was purchased in 2001. We believe the current highway configuration was established in the late nineteen fifties. We recognize that the State’s right to that alignment became vested prior to our purchases.

As we have discussed, for the past several months OST staff have been working with CDOT and our surveyors at SGM to determine a legal boundary based on the pre-existing highway use. The faulty legal description buts the boundary of the parcel within the CDOT improvements, including the banks of the road, associated parking and culverts, and along the asphalt of the highway itself in much of the approximate .8 mile boundary. We now reached an agreement with CDOT that comports with the State Highway standards. The resulting size of the North Star preserve will be approximately 3.2 acres less than previously believed. The location of the highway will remain the same, the conservation purposes will not be changed or diminished.

North Star is subject to a conservation easement held by AVLT, which has agreed to adjust the legal boundaries of that deed once our Boundary Agreement with CDOT is executed. The James H. Smith Open Space is co-owned by the City of Aspen, and we have briefed their staff and the City Attorney, who also now recognize that a Boundary Agreement is appropriate, and will be brought to the City Council for approval.

LINK TO STRATEGIC PLAN: This project supports the Strategic Plan Goal to diligently manage County assets, and to acquire and/or preserve lands with significant environmental values.

KEY DISCUSSION ITEMS (ALTERNATIVES): The alternative to this agreement would be to continue to show the CDOT improvements within our open space parcel boundaries, which limits our management effectiveness as to the policing of road site parking, etc.
BUDGETARY IMPACT: NA

RECOMMENDED BOCC ACTION: Staff recommends that the Chair open the public hearing and the Board of County Commissioners approve the attached Ordinance on second reading.

ATTACHMENTS:

Ordinance
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, AUTHORIZING A BOUNDARY AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION

ORDINANCE NO. __________-2019

RECITALS:

WHEREAS, Pursuant to 30-35-301 C.R.S., the Board of County Commissioners ("BOCC") of Home Rule Counties is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary.

WHEREAS, Pursuant to Section 2.81 of the Home Rule Charter, the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended.

WHEREAS, Board of County Commissioners Resolution No. 57-1977 authorized Pitkin County to purchase the North Star Preserve and this acquisition was finalized by the recording of a deed in 1979.

WHEREAS, pursuant to the Board of County Commissioners Ordinance No. 024-2001, Pitkin County and the City of Aspen acquired the Joy Smith North Star Parcel aka James H. Smith North Star Parcel and the deed was recorded in 2001.

WHEREAS, surveyors have recently determined that the legal boundaries on the deeds for both the North Star Preserve and the James H. Smith North Star encroach onto State Highway 82, which had been there since the nineteen fifties.

WHEREAS, the State Highway Right of Way had vested in its location along the edge of the North Star Preserve and the James H. Smith Nature Preserve prior to the acquisition of those properties by the County and the City.

WHEREAS, the Colorado Department of Transportation has proposed a Boundary Agreement by which the County, the City, and the State would recognize the actual property boundaries.

WHEREAS, the BOCC finds that adoption of this ordinance is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Pitkin County and therefore declares this ordinance and legislation to be effective immediately upon adoption.

WHEREAS, the Chair or Chair’s designee shall be authorized to sign the documents necessary to complete this transaction in substantially that form approved by the County Attorney.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance Authorizing a Boundary Agreement with the Colorado Department of Transportation and authorizes the Chair or the Chair’s designee to sign the Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter. Further, that the Chair or the
Chair’s designee shall be authorized to execute the Boundary Agreement upon approval of the form by the County Attorney.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____DAY OF ____________, 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE _____DAY OF ____________, 2019.


ATTEST: BOARD OF COUNTY COMMISSIONERS

By _________________________ By: _____________________________
Jeanette Jones Greg Poschman, Chair
Deputy County Clerk

Date: ______________

APPROVED AS TO FORM: MANAGER APPROVAL

_____________________________ _________________________________
John Ely, County Attorney Jon Peacock, County Manager

_____________________________
Gary Tennenbaum,
Director Open Space & Trails
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN PITKIN COUNTY AND THE STATE OF COLORADO GOVERNOR’S OFFICE OF INFORMATION TECHNOLOGY (OIT) PUBLIC SAFETY COMMUNICATIONS NETWORK (PSCN) FOR SHARED COMMUNICATION SITES IN THE STATE OF COLORADO

Second Reading

STAFF RESPONSIBLE: Phylis Mattice, Deputy County Manager

ISSUE STATEMENT: When the County migrated to the State’s Digital Trunked Radio (DTR) public safety radio system we did so knowing the State would have the desire and capacity to take on the maintenance, operations, upgrades and replacement of the DTR equipment at the sites that were built to complete the system. This ownership transfer of equipment at Hunter Creek, Loge, Snowmass Village and Williams will transfer the responsibility for the DTR equipment to the State for 25 years.

BACKGROUND: Pitkin County provides and supports public safety radio services to all Law, EMS and Fire agencies in the mid to upper valley. In 2017, at the direction of the Public Safety Council, public radio services migrated emergency radio services from a VHF system to the State’s DTR system after building additional sites to cover a majority of the County’s physical area. The DTR equipment at the Crown and Ajax communication sites were transferred to the State’s responsibility in 2015. Hunter Creek, Loge, Snowmass Village and Williams now meet the infrastructure critical for the equipment to be transferred. The next communication site being developed for the public safety radio system is Ruedi (above the Ruedi Dam) and is expected to be completed in 2020.

By entering into this MOU transferring the equipment, the State will be responsible for upgrading the equipment, including installation, programming, optimization and future maintenance. The County will retain ownership of the communication site, providing shared tower and building space, microwave connections and electrical and back-up power to the State for the DTR equipment for 25 years at no cost to the state.

There are no changes from First Reading.

LINK TO STRATEGIC PLAN:
- Flourishing Natural and Built Environment: Conserved natural resources and environment
- Prosperous Economy: Responsible and accountable stewardship of county assets

KEY DISCUSSION ITEMS: Staff will be present to answer any questions the Board may have.

BUDGETARY IMPACT: None
RECOMMENDED BOCC ACTION: Approve the MOU for Pitkin County to transfer the DTR equipment at Hunter Creek, Loge, Snowmass Village and Williams communication sites to the State Office of Technology Public Safety Communications Network.

ATTACHMENTS:
- Resolution
- MEMORANDUM OF UNDERSTANDING BETWEEN PITKIN COUNTY AND THE STATE OF COLORADO GOVERNOR’S OFFICE OF INFORMATION TECHNOLOGY (OIT) PUBLIC SAFETY COMMUNICATIONS NETWORK (PSCN) FOR SHARED COMMUNICATION SITES IN THE STATE OF COLORADO
RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN PITKIN COUNTY AND THE STATE OF COLORADO GOVERNOR’S OFFICE OF INFORMATION TECHNOLOGY (OIT) PUBLIC SAFETY COMMUNICATIONS NETWORK (PSCN) FOR SHARED COMMUNICATION SITES IN THE STATE OF COLORADO

RESOLUTION NO.______, 2019

RECITALS

WHEREAS, Pursuant to Section 2.8.3 (Actions) of the Pitkin County Home Rule Charter (“HRC”) official action by formal resolution shall be required for all actions of the Board not requiring ordinance power on matters of significant importance affecting citizens, and

WHERAS, The digital trunked radio (DTR) voice communication system infrastructure and equipment currently owned by Pitkin County is operated as part of the State of Colorado’s Public Safety DTR system.

WHEREAS, The State of Colorado, Governor’s Office of Information Technology (OIT), Public Safety Communications Network (PSCN) operates and maintains the State’s 800 MHz (DTR) network including equipment upgrades, installation, programming and optimization.

WHEREAS, The Public Safety Communications Network has local technicians that are specifically trained in maintenance of equipment in the DTR system and have the capacity to accept the maintenance, operations, upgrades and replacement DTR equipment located at the Hunter Creek, Loge, Snowmass Village and Williams communication sites and has expressed a desire to do so.

WHEREAS, Pitkin County Board of County Commissioners acknowledge that sharing the telecommunications facilities and services with the State of Colorado Public Safety Network substantially reduce costs for both parties and enhances the performance of public safety communications.

WHEREAS, The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts a RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN PITKIN COUNTY AND THE STATE OF COLORADO GOVERNOR’S OFFICE OF INFORMATION TECHNOLOGY (OIT) PUBLIC SAFETY COMMUNICATIONS NETWORK (PSCN) FOR SHARED COMMUNICATION SITES IN THE STATE OF COLORADO as attached hereto as Exhibit “A” and authorizes the Chair to sign the Resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.
INTRODUCED AND FIRST READ ON THE _____ DAY OF ______________, 2019
AND SET FOR SECOND READING AND PUBLIC HEARING ON THE _____ DAY
OF _______________ 2019.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE
RESOLUTION PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE _____
DAY OF ______________, 2019.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION
POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com )
ON THE _____ DAY OF _______________ 2019.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____
DAY OF _______________ 2019.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE
ASPEN TIMES WEEKLY ON THE _____ DAY OF ______________, 2019.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY

ATTEST: BOARD OF COUNTY COMMISSIONERS

By: ___________________________ By: ___________________________
   Jeanette Jones       Greg Poschman, Chair
   Deputy County Clerk

Date: ______________

APPROVED AS TO FORM: MANAGER APPROVAL

John Ely, County Attorney       Jon Peacock, County Manager
MEMORANDUM of UNDERSTANDING

BETWEEN

PITKIN COUNTY

And the

STATE of COLORADO
GOVERNOR’S OFFICE of INFORMATION TECHNOLOGY (OIT)
PUBLIC SAFETY COMMUNICATIONS NETWORK (PSCN)

For

SHARED COMMUNICATION SITES IN THE STATE of COLORADO

1. THIS MEMORANDUM of UNDERSTANDING (“MOU”) is entered into this ____ day of __________, 2019, by and among Pitkin County, Colorado, located at 530 E. Main St, Suite 302, Aspen, Colorado 81611, and hereinafter referred to as the “County”, and the State of Colorado, Governor’s Office of Information Technology, Public Safety Communications Network, 601 E. 18th Avenue, Suite B100, Denver, Colorado 80203 (“State”), and jointly referred to as the “Parties”.

2. PURPOSE

County and State have entered into this MOU to effectuate the transfer of ownership of, and responsibility for, some assets owned by the County and to share building and tower space for the assets located at:

a) “Hunter Creek”, located at 39°12’4.46”N 106°48’44.67”W, Pitkin County, Colorado;
b) “Loge”, located at 39°8’31.04”N 106°52’24.90”W, Pitkin County, Colorado;
c) “Snowmass Village”, located at 39°12’41.45”N 106°56’50.52”W, Pitkin County, Colorado;
d) “Williams”, located at 39°14’51.07”N 106°55’14.72”W, Pitkin County, Colorado;

hereinafter referred to individually as the ‘Site’ and collectively as the ‘Sites’.

Furthermore, the County and the State wish to establish a framework for allowing the State to co-locate communications equipment at tower sites leased or owned by the County at the Sites, and to share in the use of the equipment identified and defined in the attached Exhibit(s) for purposes of support and delivery of public safety communications and supporting
microwave connectivity through the state digital trunked radio (DTR) system in the County.

3. **AUTHORITIES**

Colorado Revised Statute, Part 5 of Article 37.5 of Title 24.

4. **STATEMENT OF MUTUAL INTERESTS AND BENEFITS**

The Parties acknowledge that each has provided good and adequate consideration for this MOU through the sharing of these telecommunication facilities and services provided by the Parties in an effort to reduce costs and enhance communications performance.

The County has approached the State with a request to divest itself of the ownership of, responsibility for, and interest in, the equipment defined in the attached Exhibits and currently located at the Sites, unto the State and at no cost to the State.

The State has agreed to receive ownership of, responsibility for, and all interest in, the equipment described in the Exhibits, and currently located at the Sites.

5. **DEFINITIONS**

A. **Equipment** refers to the DTRS assets described in the Exhibits, including, but not limited to, all equipment related to voice, data, routers, radio base stations, repeaters, and antenna systems.

B. **Transfer** refers to transfer of ownership, responsibility for, and interest in the equipment listed in the Exhibits from the County to the State.

6. **AFFIRMATION OF TITLE:**

County affirms that:

A. It possesses the equipment described in the attached Exhibits.

B. It has good and complete right, title, and interest in and to the equipment.

C. It has full authority to give, transfer, and assign all right, title and interest in and to the equipment.

D. The equipment is free and clear of all encumbrances and restrictions.

E. To the best of the County’s knowledge, the equipment has not been imported or exported into or from any country contrary to its laws.
F. It has authority to use the site, including, but not limited to, any necessary tower, building, right of way access and additional equipment as set out in the attached Exhibits.

7. The County shall establish and provide the following, as needed:

A. Transfer title and ownership of all equipment listed in attached Exhibits to the State, at no cost to the State. The County shall cooperate with the State to transfer such ownership including completing, signing and filing any necessary paperwork to effectuate the transfer.

B. Sharing tower space and building space with the State at the Sites in concurrence and alignment with the County lease(s), permit(s), easement(s), right(s)-of-way for use of the Site(s), commencing on the date of the last signature on this MOU. The State shall not be required to make any payment, cash or otherwise, to the County or to the property owner/s for continued use of the building space and tower space; as identified in this MOU in the attached Exhibits.

C. In the event the County terminates, or otherwise allows any lease, permit, right-of-way, easement, etc. to expire at a Site(s), the State reserves the unconditional right to remove all state owned assets and equipment from the site(s).

D. Provide electrical power to the equipment at the Sites at no cost to the State.

E. Perform routine preventive maintenance on HVAC systems at the Sites, where applicable. The electronic equipment contained within the Sites is sensitive and vulnerable to extreme temperatures. Expeditious response to reported temperature alarm/s at the Sites is required for the protection and preservation of the equipment, and ultimately the protection and preservation of life and property.

F. Provide a backup power generator and maintain an adequate supply of generator fuel at no cost to the State.

8. THE STATE SHALL:

A. After the equipment listed in the attached Exhibits becomes the property of the State, the State will accept full responsibility for the insurance, licensing, operation, monitoring, maintenance, labor, repair, upgrade, and
replacement of the equipment for its useful life, as determined by the State.

B. The State shall provide casualty and property coverage of the equipment upon receipt of ownership. State obligation to provide said casualty and property coverage to the equipment may be satisfied through self-insurance as allowed by CRS 24-30-1502(4.5).

C. Upon request of the County, provide a list of personnel authorized by the State to access the Sites.

D. Upon request of the County, provide an inventory of State owned equipment at the Sites.

E. Allow the County to continue use of the equipment for its own public safety communication needs at the Sites.

9. THE JOINT PARTIES MUTUALLY AGREE THAT:

This MOU provides for the installation, operation, and maintenance of the DTR network equipment and sharing of technical expertise. In addition, shared facilities and sites established under this MOU, within the County or any Colorado State jurisdiction may require separate instruments between the affected parties.

A. To the extent legally possible and within the legal control of the County, the State shall have access to the Sites for maintenance and repair purposes at all times, twenty-four hours a day, 365 days a year, weather and safety permitting.

B. Each Party will be responsible for the operations and maintenance of their own equipment except as otherwise noted in this MOU.

C. Each Party will be responsible for conducting good maintenance practices and ensuring good operating procedures at the Sites.

D. When activity by the Parties would require the disruption of service all affected Parties must be notified 48 hours prior to the planned disruptions of service. In emergency situations, all affected Parties must be notified as soon as possible.

E. All Parties will manage frequencies assigned to them. In accordance with FCC (Federal Communications Commission), NTIA (National
Telecommunications & Information Administration), and agency regulations, an interagency radio frequency agreement may be required for frequencies jointly used.

F. When necessary, both parties shall establish and coordinate security guidelines to follow when accessing facilities.

G. Radio frequency interference caused or created by radio equipment owned, operated or maintained by either Party, or permitted tenant, at the tower Site(s) shall be considered an immediate threat to public safety and shall be immediately resolved by the interfering Party, or tenant. All costs associated with the identification of radio frequency interference shall be borne by the interfering Party or tenant. Should harmful interference occur to either party’s equipment, the County and State will work together to identify the source of interference. If the State equipment is determined to be the cause of interference, the State shall correct the problem and pay all costs associated with the remedy. If the County equipment is determined to be the cause of the interference, the County shall correct the problem and pay all costs associated with the remedy.

10. SPECIAL TERMS AND CONDITIONS

A. Irreconcilable disputes will be resolved through joint decisions by the County Commissioners for County and the Manager of the Public Safety Communications Network for the State of Colorado. Should resolution to any dispute go unresolved, such dispute may be submitted to an alternative dispute resolution or other manner as agreed between the parties.

B. This instrument in no way restricts the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

C. NON-FUND OBLIGATING DOCUMENT. This instrument is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government Procurement and printing.

11. TERMS OF THE MOU

A. The term of this MOU is for a period of twenty-five (25) years from the last signature of this document.
B. State access to and permitted presence on the tower(s) and building(s) at the Site(s) shall be authorized through the County lease(s), permit(s), easement(s), right(s)-of-way, etc. and shall remain in force in concurrence and alignment with said lease(s), permit(s), easement(s), right(s)-of-way, etc. commencing on the date of the last signature on this MOU. The State shall not be required to make any payment, cash or otherwise, to the County or to the property owner/s for continued use of the building space and tower space; as identified in this MOU in the attached Exhibits.

C. This agreement may be modified (renegotiated, extended, or renewed) at the request of either party and such modification must be in writing duly executed by both parties. If this MOU lapses with no action taken by either party the terms may continue without modification for a period of up to three (3) years. During the lapse period, this MOU may be renewed or extended as if it had not lapsed.

D. The State is responsible for keeping an accurate inventory of equipment maintained by the State at the site.

E. Any change to the tower, tower space, building or building space as defined in the attached Exhibits including, but not limited to, replacement of the tower, request to move the equipment on the tower, replacement of the building or request to move the equipment in the building must be preceded by a duly executed written notice to the State and signed by both Parties.

12. TECHNICAL CONTACTS:

(Contact information can be changed by written notice to the other party.)

**County Contacts:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeff Goelz, Radio Technician</td>
<td>Jeff Krueger, Communications Site Manager</td>
</tr>
<tr>
<td>Pitkin County</td>
<td>Pitkin County</td>
</tr>
<tr>
<td>351 Southside Dr., Basalt, CO.81621</td>
<td>351 Southside Dr., Basalt, CO. 81621</td>
</tr>
<tr>
<td>970-319-7677</td>
<td>970-429-6114</td>
</tr>
<tr>
<td><a href="mailto:jeff.goelz@pitkin911.org">jeff.goelz@pitkin911.org</a></td>
<td><a href="mailto:jeff.krueger@pitkincounty.com">jeff.krueger@pitkincounty.com</a></td>
</tr>
</tbody>
</table>

**State Contacts:**

<table>
<thead>
<tr>
<th>State Contacts:</th>
<th>State Contacts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor’s Office of Information Technology</td>
<td>Governor’s Office of Information Technology</td>
</tr>
<tr>
<td>Public Safety Communications Network</td>
<td>Public Safety Communications Network</td>
</tr>
<tr>
<td>Attention: PSCN Manager</td>
<td>Attention: PSCN Engineer</td>
</tr>
<tr>
<td>601 E 18th St, Suite B100, Denver, CO</td>
<td>601 E 18th Ave, Suite B100, Denver, CO</td>
</tr>
</tbody>
</table>
**THE PARTIES HERETO HAVE EXECUTED THIS MOU**

Persons signing for Parties hereby swear and affirm that they are authorized to act on their behalf and acknowledge that the Parties are relying on their representations to that effect.

<table>
<thead>
<tr>
<th>BOARD OF COUNTY COMMISSIONERS</th>
<th>STATE OF COLORADO</th>
</tr>
</thead>
<tbody>
<tr>
<td>PITKIN COUNTY, COLORADO</td>
<td>Jared S. Polis, GOVERNOR</td>
</tr>
<tr>
<td></td>
<td>Governor’s Office of Information Technology</td>
</tr>
<tr>
<td>By: Greg Poschman</td>
<td>Theresa M. Szczurek, Ph.D., Chief Information Officer and Executive Director</td>
</tr>
<tr>
<td>Title: CHAIR</td>
<td>By: ____________________________</td>
</tr>
<tr>
<td></td>
<td>□ Laura Calder, Interim Chief Financial Officer</td>
</tr>
<tr>
<td></td>
<td>□ David McCurdy, Chief Technology Officer</td>
</tr>
</tbody>
</table>

*Signature*

Date: _________________________

Date: _________________________
Exhibit A

HUNTER CREEK SITE  
PITKIN COUNTY

At the Hunter Creek Site, the Equipment referred to in this agreement consists of the following:

<table>
<thead>
<tr>
<th>SITE / EQUIPMENT</th>
<th>MAKE</th>
<th>MODEL</th>
<th>SERIAL #</th>
</tr>
</thead>
<tbody>
<tr>
<td>RX CMU</td>
<td>Bird (TXRX) Base</td>
<td>428E-831-01-C110</td>
<td>204805-A</td>
</tr>
<tr>
<td>RX TTA</td>
<td>Bird (TXRX) Top</td>
<td>428E-831-01-T</td>
<td>206214-A</td>
</tr>
<tr>
<td>UPS</td>
<td>Eaton</td>
<td>5PX1500RT</td>
<td>G090F45083</td>
</tr>
<tr>
<td>Router/ GGM8000</td>
<td>Motorola</td>
<td>GGM8000</td>
<td>147CSF1691</td>
</tr>
<tr>
<td>SDM 3000</td>
<td>Motorola</td>
<td>F4544A</td>
<td>469SSE000Z</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack – 5 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0740</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack – 5 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0742</td>
</tr>
</tbody>
</table>

At the Hunter Creek Site the County Shall:

1. Maintain all land, real estate, property, and/or facility leases, permits, rights of way, easements, etc., where applicable. Provide written notice to all land or property owners of the States presence, and requirement for continued presence at the Site. Obtain written authorization from all land owners for the State to be granted access and maintain a presence at the Sites under the County lease, permit, out grant, right of way, easement, etc.

2. Provide space on the tower for installation of State DTRS linear antennas.

3. Provide space in the equipment building for all necessary State radio equipment as agreed upon by both parties. The equipment will include two 7 foot racks for DTR equipment, each rack with a footprint of 20” by 20 ½”.

4. Maintain the tower and building at the Site to industry standards. Site must meet or exceed the grounding requirements in the ‘Standard and Guidelines for Communications Sites’ defined as Motorola Publication R56.

5. Provide routine preventive maintenance of the air conditioning equipment.

6. Provide electric utilities to power and sustain the equipment at the site.

7. Maintain its own radios and associated equipment.

8. Maintain an adequate supply of fuel in support of the backup power generator, as detailed in paragraph 7(F) above.
Exhibit A (cont)

At the Hunter Creek site the State Shall:

1. Assume ownership of and full responsibility for DTRS voice communications equipment.

2. License, operate, maintain, monitor and manage State owned radios and associated equipment, including all DTRS voice communications equipment.

3. Provide DTRS voice communications capabilities through the Hunter Creek site for Pitkin County public safety. The County is responsible for providing its own end user radio subscriber equipment.

4. In the event the County terminates, or otherwise allows the lease, permit, out grant, rights of way, easements, etc. to lapse or expire, the State reserves the unconditional right to remove all state owned assets and equipment from the site.
At the Loge Peak Site, the Equipment referred to in this agreement consists of the following:

<table>
<thead>
<tr>
<th>SITE / EQUIPMENT</th>
<th>MAKE</th>
<th>MODEL</th>
<th>SERIAL #</th>
</tr>
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<tbody>
<tr>
<td>RX CMU</td>
<td>Bird (TXRX) Base</td>
<td>428E-831-01-M110</td>
<td></td>
</tr>
<tr>
<td>RX TTA</td>
<td>Bird (TXRX) Top</td>
<td>428E-831-01-T</td>
<td>206215-A</td>
</tr>
<tr>
<td>UPS</td>
<td>Eaton</td>
<td>5PX1500RT</td>
<td>G090F45088</td>
</tr>
<tr>
<td>Router/ GGM8000</td>
<td>Motorola</td>
<td>GGM8000</td>
<td>147CSF1689</td>
</tr>
<tr>
<td>SDM 3000</td>
<td>Motorola</td>
<td>F4544A</td>
<td>469SSJ0010</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 5 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0752</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 5 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0744</td>
</tr>
</tbody>
</table>

At the Loge Peak Site the County Shall:

1. Maintain all land, real estate, property, and/or facility leases, permits, rights of way, easements, etc., where applicable. Provide written notice to all land or property owners of the States presence, and requirement for continued presence at the Site. Obtain written authorization from all land owners for the State to be granted access and maintain a presence at the Sites under the County lease, permit, out grant, right of way, easement, etc.

2. Provide space on the tower for installation of State DTRS linear antennas.

3. Provide space in the equipment building for all necessary State radio equipment as agreed upon by both parties. The equipment will include two 7 foot racks for DTR equipment, each rack with a footprint of 20” by 20 ½”.

4. Maintain the tower and building at the Site to industry standards. Site must meet or exceed the grounding requirements in the ‘Standard and Guidelines for Communications Sites’ defined as Motorola Publication R56.

5. Provide routine preventive maintenance of the air conditioning equipment.

6. Provide electric utilities to power and sustain the equipment at the site.

7. Maintain its own radios and associated equipment.

8. Maintain an adequate supply of fuel in support of the backup power generator, as detailed paragraph 7(F) above.
At the Loge Peak site the State Shall:

1. Assume ownership of and full responsibility for DTRS voice communications equipment.

2. License, operate, maintain, monitor and manage State owned radios and associated equipment, including all DTRS voice communications equipment.

3. Provide DTRS voice communications capabilities through the Loge Peak site for Pitkin County public safety. The County is responsible for providing its own end user radio subscriber equipment.

4. In the event the County terminates, or otherwise allows the lease, permit, out grant, rights of way, easements, etc to lapse or expire, the State reserves the unconditional right to remove all state owned assets and equipment from the site.
At the Snowmass Village Site, the Equipment referred to in this agreement consists of the following:

<table>
<thead>
<tr>
<th>SITE / EQUIPMENT</th>
<th>MAKE</th>
<th>MODEL</th>
<th>SERIAL #</th>
</tr>
</thead>
<tbody>
<tr>
<td>RX CMU</td>
<td>Bird (TXRX) Base</td>
<td>428E-831-01-M110</td>
<td>204930-A</td>
</tr>
<tr>
<td>RX TTA</td>
<td>Bird (TXRX) Top</td>
<td>428E-831-01-T</td>
<td>206216-A</td>
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<tr>
<td>UPS</td>
<td>Eaton</td>
<td>5PX1500RT</td>
<td>G090F38025</td>
</tr>
<tr>
<td>Router/ GGM8000</td>
<td>Motorola</td>
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<td>147CSF1690</td>
</tr>
<tr>
<td>SDM 3000</td>
<td></td>
<td>F4544A</td>
<td>46955E000V</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 4 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0754</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 4 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0758</td>
</tr>
</tbody>
</table>

At the Snowmass Village Site the County Shall:

1. Maintain all land, real estate, property, and/or facility leases, permits, rights of way, easements, etc., where applicable. Provide written notice to all land or property owners of the States presence, and requirement for continued presence at the Site. Obtain written authorization from all land owners for the State to be granted access and maintain a presence at the Sites under the County lease, permit, out grant, right of way, easement, etc.

2. Provide space on the tower for installation of State DTRS linear antennas.

3. Provide space in the equipment building for all necessary State radio equipment as agreed upon by both parties. The equipment will include two 7 foot racks for DTR equipment, each rack with a footprint of 20” by 20 ½”.

4. Maintain the tower and building at the Site to industry standards. Site must meet or exceed the grounding requirements in the ‘Standard and Guidelines for Communications Sites’ defined as Motorola Publication R56.

5. Provide routine preventive maintenance of the air conditioning equipment.

6. Provide electric utilities to power and sustain the equipment at the site.

7. Maintain its own radios and associated equipment.

8. Maintain an adequate supply of fuel in support of the backup power generator, as detailed in paragraph 7(F) above.
Exhibit C (cont)

At the Snowmass Village site the State Shall:

1. Assume ownership of and full responsibility for DTRS voice communications equipment.

2. License, operate, maintain, monitor and manage State owned radios and associated equipment, including all DTRS voice communications equipment.

3. Provide DTRS voice communications capabilities through the Snowmass Village site for Pitkin County public safety. The County is responsible for providing its own end user radio subscriber equipment.

4. In the event the County terminates, or otherwise allows the lease, permit, out grant, rights of way, easements, etc to lapse or expire, the State reserves the unconditional right to remove all state owned assets and equipment from the site.
Exhibit D

WILLIAMS SITE
PITKIN COUNTY

At the Williams Site, the Equipment referred to in this agreement consists of the following:

<table>
<thead>
<tr>
<th>SITE / EQUIPMENT</th>
<th>MAKE</th>
<th>MODEL</th>
<th>SERIAL #</th>
</tr>
</thead>
<tbody>
<tr>
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<td>204926-A</td>
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<tr>
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<td>428E-831-01-T</td>
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</tr>
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<td>UPS</td>
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<td>G090F45089</td>
</tr>
<tr>
<td>Router/ GGM8000</td>
<td>Motorola</td>
<td>GGM8000</td>
<td>147CSF1692</td>
</tr>
<tr>
<td>SDM 3000</td>
<td>Motorola</td>
<td>F4544A</td>
<td></td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 4 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0748</td>
</tr>
<tr>
<td>GTR 8000 ESS (1-rack - 4 channel)</td>
<td>Motorola</td>
<td>T7054A</td>
<td>112CSF0756</td>
</tr>
</tbody>
</table>

At the Williams Site the County Shall:

1. Maintain all land, real estate, property, and/or facility leases, permits, rights of way, easements, etc., where applicable. Provide written notice to all land or property owners of the States presence, and requirement for continued presence at the Site. Obtain written authorization from all land owners for the State to be granted access and maintain a presence at the Sites under the County lease, permit, out grant, right of way, easement, etc.

2. Provide space on the tower for installation of State DTRS linear antennas.

3. Provide space in the equipment building for all necessary State radio equipment as agreed upon by both parties. The equipment will include two 7 foot racks for DTR equipment, each rack with a footprint of 20” by 20 ½”.

4. Maintain the tower and building at the Site to industry standards. Site must meet or exceed the grounding requirements in the ‘Standard and Guidelines for Communications Sites’ defined as Motorola Publication R56.

5. Provide routine preventive maintenance of the air conditioning equipment.

6. Provide electric utilities to power and sustain the equipment at the site.

7. Maintain its own radios and associated equipment.

8. Maintain an adequate supply of fuel in support of the backup power generator, as detailed in paragraph 7(F) above.
Exhibit D (cont)

At the Williams site the State Shall:

1. Assume ownership of and full responsibility for DTRS voice communications equipment.

2. License, operate, maintain, monitor and manage State owned radios and associated equipment, including all DTRS voice communications equipment.

3. Provide DTRS voice communications capabilities through the Williams site for Pitkin County public safety. The County is responsible for providing its own end user radio subscriber equipment.

4. In the event the County terminates, or otherwise allows the lease, permit, out grant, rights of way, easements, etc to lapse or expire, the State reserves the unconditional right to remove all state owned assets and equipment from the site.
AGENDA ITEM SUMMARY

REGULAR MEETING DATE: September 25, 2019

AGENDA ITEM TITLE: An Emergency Ordinance Of The Board Of County Commissioners Of Pitkin County, Colorado Accepting A Rock Fall Mitigation Easement From Castle Ridge Associates, Ltd.

STAFF RESPONSIBLE: Gary Tennenbaum

SUMMARY OF ISSUE: To perform rock fall mitigation along Castle Creek Road as part of the Castle Creek Road corridor improvements project an easement is necessary on adjacent private property. The project is underway and the easement has taken time to draft and receive approval from the private property owners, so an emergency ordinance is needed to keep the project on schedule. Staff would like to thank the private property owners for this easement since the safety of Castle Creek Road will be enhanced.

BACKGROUND: Pitkin County has been working over the past 2 years on a public process to design and implement safety improvements along the Castle Creek road corridor from the Marolt Trail to the Aspen Music and Country Day School. Rock fall mitigation is critical for this stretch of Castle Creek Road and some private land is needed to install the rockfall netting.

The BOCC approved this Ordinance as an emergency on August 28th and it is before you at this time for a confirmatory reading and public hearing.

LINK TO STRATEGIC PLAN:
Flourishing Natural and Built Environment:
1. Ease of mobility via safe and efficient transportation systems
2. Responsibly maintained and enhanced County assets
Livable and Supportive Community:
1. Access to recreation, education, arts and culture.
2. A sense of personal and community safety

KEY DISCUSSION ITEMS: This easement will allow Pitkin County to install rockfall mitigation on private property.

BUDGETARY IMPACT: None as the easement is being provided at no cost and the County is paying attorney fees that will total less than $1,000 and can be covered in the trail and road project budget.

RECOMMENDED BOCC ACTION: Staff recommends that the Board of County Commissioners confirms approval of the attached emergency ordinance.

ATTACHMENTS:
A. Emergency Ordinance
B. Easement Agreement
AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO ACCEPTING A ROCK FALL MITIGATION
EASEMENT FROM CASTLE RIDGE ASSOCIATES, LTD.

ORDINANCE NO. ___- 2019

RECITALS

1. Pursuant to C.R.S. § 30-35-301, the Board of County Commissioners (the “BOCC”) of Home Rule Counties is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary; and

2. Pursuant to Section 2.8.1 of the Pitkin County Home Rule Charter, the Board of County Commissioners of the County of Pitkin, Colorado (the “BOCC”) is authorized to take official action by Ordinance for certain matters as set forth in the Home Rule Charter as well as the Colorado Revised Statutes as amended; and

3. Section 2.8.1.1 of the Pitkin County Home Rule Charter provides that official action by ordinance shall be required for the “granting of easements in public lands, acquisition, vacation, sale, or purchase of any real property asset, lease in excess of one year of public lands, and authorization of proceedings in eminent domain;” and

4. Castle Ridge Associates, Ltd. ("Castle Ridge") is the owner of certain real property having a physical street address of 1175 Doolittle Circle, Aspen, Colorado (Pitkin County PID 273513201701), whereon the Castle Ridge Apartments are located (the “Castle Ridge Property”); and

5. Pitkin County, through the Pitkin County Open Space and Trails Department, and the City of Aspen are constructing a bicycle and pedestrian trail along and in the right-of-way for Castle Creek Road that requires widening and improving the as-built road surface for Castle Creek Road; and

6. In connection with construction of the Castle Creek Trail and widening of the as-built road surface for Castle Creek Road, Pitkin County finds that it is necessary and desirable to provide rock fall mitigation along the Castle Creek Road right-of-way, including on that portion of the Castle Ridge Property immediately adjacent to and above Castle Creek Road; and

7. Generally that portion of the Castle Ridge Property located adjacent to Castle Creek Road consists of steep slopes above and along Castle Creek Road; and

8. Pitkin County has engaged the services of Rock Solid Solutions, a Colorado engineering firm that specializes in, among other things, rock fall mitigation, to design and implement certain rock fall mitigation measures along Castle Creek Road, including on that portion of the Castle Ridge Property immediately adjacent to and above Castle Creek Road; and

9. As depicted on the design sheet appended to the Rock Fall Mitigation Easement as Exhibit A, Pitkin County desires to install “mesh anchors” and a “top cable” (the “Mitigation
Measures”) on the Castle Ridge Property for which an easement is necessary from Castle Ridge; and

10. Castle Ridge desires to convey the attached Rock Fall Mitigation Easement to Pitkin County, and Pitkin County desires to accept such conveyance; and

11. As partial consideration for Castle Ridge granting the Rock Fall Mitigation Easement to Pitkin County, Pitkin County agrees to reimburse Castle Ridge for attorney fees incurred in reviewing and amending the Rock Fall Mitigation in an amount up to ONE THOUSAND AND 00/100 DOLLARS ($1,000.00); and

12. Section 2.8.2 of the Pitkin County Home Rule Charter provides that a majority of a quorum of the BOCC can adopt an emergency ordinance at one (1) public meeting, provided that the circumstances of the emergency are set forth in the body of this Ordinance; and

13. The emergency circumstance making it necessary to adopt this Ordinance at one public meeting is that the trail construction described above on the Castle Creek right-of-way has already commenced, and it is necessary to install the rock fall mitigation measures described in the Easement attached hereto to safely complete construction of the trail; and

14. The Board shall schedule a confirmatory reading of this emergency ordinance at a public hearing. Notice of said public hearing shall be published in the official newspaper of record no later than ten (10) days in advance of said public hearing; and

15. The BOCC finds that adoption of this Ordinance is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Pitkin County and therefore declares this Ordinance to be effective immediately upon adoption.

NOW THEREFORE, BE IT ORDAINED that the Board of County Commissioners of the County of Pitkin, Colorado, hereby adopts this Emergency Ordinance of the Board of County Commissioners of Pitkin County, Colorado Accepting a Rock Fall Mitigation Easement from Castle Ridge Associates, Ltd. The Chair of the Board of County Commissioners of the County of Pitkin, Colorado is further authorized to execute such documents as necessary to consummate this transaction subject to the recommendation for approval as to form by the County Attorney.
INTRODUCED AND FIRST READ ON THE ________ DAY OF ________________ 20__ AND SET FOR SECOND READING AND PUBLIC HEARING ON THE ________ DAY OF ________________ 20__. 

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE ________ DAY OF ________________ 20__. 

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE ________ DAY OF ________________ 20__. 

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE ________ DAY OF ________________ 20__. 

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE ________ DAY OF ________________ 20__. 

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE ________ DAY OF ________________ 20__. 

ATTEST: 

By: ___________________________ By: _________________________________ 
   Jeanette Jones                   Greg Poschman, Chair 
   Deputy County Clerk             Date: ____________ 

APPROVED AS TO FORM: 

By: ___________________________ By: _________________________________ 
   Richard Y. Neiley III           Jon Peacock, County Manager 
   Asst. County Attorney
ROCK FALL MITIGATION EASEMENT AGREEMENT

THIS ROCK FALL MITIGATION EASEMENT AGREEMENT ("Agreement") is made and entered into this ____ day of August 2019 (the “Effective Date”) by and between CASTLE RIDGE ASSOCIATES LTD ("Grantor" or “Castle Ridge”) a Colorado limited partnership and the BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO ("Grantee" or “Pitkin County”), a body corporate and politic whose address is 530 East Main St., Suite 302, Aspen, Colorado 81611. Grantor and Grantee are sometimes referred to collectively herein as the “Parties.”

RECITALS

WHEREAS, Grantor is the owner of certain real property having a physical street address of 1175 Doolittle Circle, Aspen, Colorado (Pitkin County PID 273513201701), whereon the Castle Ridge Apartments are located (the “Castle Ridge Property”); and

WHEREAS, Grantee is the owner of the right-of-way for Castle Creek Road; and

WHEREAS, Castle Creek Road is adjacent to and borders along the eastern most property line of the Castle Ridge Property; and

WHEREAS, Pitkin County and the City of Aspen are constructing a bicycle and pedestrian trail within the Castle Creek Road right-of-way that requires widening and improving the as-built road surface for Castle Creek Road; and

WHEREAS, generally that portion of the Castle Ridge Property located adjacent to Castle Creek Road consists of steep slopes above and along Castle Creek Road; and

WHEREAS, in connection with construction of the Castle Creek Trail and widening of the as-built road surface for Castle Creek Road, Pitkin County finds that it is necessary and desirable to provide rock fall mitigation along the Castle Creek Road right-of-way, including on that portion of the Castle Ridge Property immediately adjacent to and above Castle Creek Road; and

WHEREAS, Pitkin County has engaged the services of Rock Solid Solutions, a Colorado engineering firm that specializes in, among other things, rock fall mitigation, to design and implement certain rock fall mitigation measures along Castle Creek Road, including on that portion of the Castle Ridge Property immediately adjacent to and above Castle Creek Road; and

WHEREAS, as depicted on the design sheet appended hereto as Exhibit A, Pitkin County desires to install “mesh anchors” and a “top cable” (the “Mitigation Measures”) on the Castle Ridge Property generally in the areas depicted on Exhibit A; and

WHEREAS, by the execution of this Agreement, Grantor desires to convey to Grantee, and Grantee desires to accept, a non-exclusive easement over, upon, and across, in and through the Castle Ridge Property, in the areas depicted on Exhibit A appended hereto, incorporated herein by this reference and made a part of this Agreement, for the purposes and on the terms and conditions herein provided.
AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of terms, conditions, covenants and mutual promises contained herein, the parties hereto agree as follows:

1. **Grant of Rock Fall Mitigation Easement.** Grantor does hereby grant and convey to Grantee, and its successors and assigns forever, and Grantee hereby accepts a perpetual, non-exclusive rock fall mitigation easement (the “Rock Fall Mitigation Easement”) to allow for the installation of the Mitigation Measures depicted on Exhibit A over, upon, and across, in and through that portion of the Castle Ridge Property depicted on Exhibit A. The purpose of the Rock Fall Mitigation Easement is for the construction, installation, and maintenance of the Mitigation Measures consistent with this Agreement.

2. **Use of Rock Fall Mitigation Easement by Grantee.** Use of the Rock Fall Mitigation Easement shall be for the construction, installation, and maintenance of the Mitigation Measures as well as for access to the Castle Ridge Property reasonably necessary for the installation of the Mitigation Measures, which use of the Castle Ridge Property for access, except in the case of exigent circumstances, shall be subject to notice as set forth below and which shall not interfere with the use and enjoyment of the Castle Ridge Property outside the Rock Fall Mitigation Easement area except with the prior written consent to Grantor. The Parties acknowledge and agree that the location of the Mitigation Measures depicted on Exhibit A is approximate and may need to vary to account for actual conditions on the ground.

3. **Use of Rock Fall Mitigation Easement by Grantor.** Grantor shall retain the right to use and enjoy the Rock Fall Mitigation Easement area for all uses and purposes consistent with its ownership of the Castle Ridge Property, so long as such uses do not interfere with the Grantee’s right to reasonable use of the Rock Fall Mitigation Easement for the purposes set forth herein. The parties acknowledge that the easement granted herein is not an access, driveway or road easement that could subject Grantor to a reduction in Net Lot Area as the term is defined in City of Aspen Land Use Code § 26.575.202.C, or any amendments thereto that would otherwise cause a reduction in the allowable floor area on the Castle Ridge Property.

4. **Repairs.** In the event that any repairs to the Rock Fall Mitigation Easement, or the improvements or landscaping located thereon are necessitated solely by the negligence of one party hereto or the party’s contractors, agents, licensees, employees, or guests, then such repair shall be undertaken by such party at its sole cost and expense within a reasonable time after the negligence which caused the need for the repair. So long as any damage to the Mitigation Measures is not caused by Grantors gross negligence or intentional acts, Grantee shall be solely responsible for all maintenance and repairs to the Mitigation Measures and all costs associated therewith. Grantee shall keep and maintain the Rock Fall Mitigation Easement and all of its improvements therein in good condition and repair, free of defects, damages and erosion that could negatively impact the Castle Ridge Property.

5. **No Interference or Obstruction.** Neither Grantor nor Grantee shall obstruct, impede or interfere in the reasonable use of the Rock Fall Mitigation Easement Area for the purposes described herein without first providing notice to the other party as set forth below. (Non-interference)
6. Notices. Any notice required or permitted under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified regular mail, postage pre-paid to the addresses of the parties as follows. Each party by notice sent under this paragraph may change the address to which future notices should be sent. Electronic delivery of notices shall also be deemed sufficient and considered delivered upon receipt of confirmation of delivery on the part of the sender.

   To Grantor Pitkin County:  
   County Manager  
   530 East Main St., Suite 302  
   Aspen, Colorado 81611  
   Email: jon.peacock@pitkincounty.com

   With copies to:  
   Pitkin County Attorney’s Office  
   530 East Main St., Suite 301  
   Aspen, Colorado 81611  
   Email: attorney@pitkincounty.com

   To Grantor: Utilities  
   Castle Ridge Associate, Ltd.  
   c/o Hill Management Company  
   P.O. Box 95  
   St. Ann, MO 63074  
   Email: dhilldjh@aol.com

   With copies to:  
   Richard Y. Neiley, Jr.  
   Neiley Law Firm, LLC  
   6800 Highway 82, Suite 1  
   Glenwood Springs, CO 81601  
   Email: aspenlaw@neileylaw.com

7. Liability to Others.

   a. Grantee shall be responsible for any and all claims, demands, actions, losses, liabilities, or expenses of whatever sort, including attorney fees, that are incurred by any person or entity arising out of or in connection with Grantee’s use or occupation of the Rock Fall Mitigation Easement, or the use or occupation of the Rock Fall Mitigation Easement by its agents, employees, contractors, lessees, invitees, licensees or members of the general public, provided, however, that nothing herein shall be construed to abrogate or diminish any protections and limitations afforded to Grantee by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq. as amended, or other law. In the event that either party, or their respective elected officials, officers, directors, members, employees, agents, contractors, representatives, heirs or assigns may be held jointly and severally liable under any statute, decision, or other law providing for such joint and several liability for their respective activities on the Rock Fall Mitigation Easement, the obligations of each to respond in damages shall be apportioned, as between Grantor and Grantee, in proportion to the contributions of each.

   b. The parties acknowledge that Grantor is granting this easement as part of a trail system being constructed for public recreational purposes and, therefore, Grantor shall be entitled to the limitations of liability set forth in C.R.S. § 33-41-101 et seq. as such may be amended from time to time.

8. Binding Effect; Covenants Running with the Land. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns forever and the benefits and burdens hereof shall constitute covenants running with the title to the County right-of-way and the Castle Ridge Property, respectively. Notwithstanding anything to the contrary, this easement may be subject to existing easements of record or accruing
under common law.

9. **Attorney Fees.** In the event legal remedies must be pursued to resolve any dispute or conflict regarding the terms of this Agreement or the rights and obligations of the parties hereto, the substantially prevailing party shall be entitled to recover costs incurred in pursuing such remedies, including expert witness fees and reasonable attorney fees.

10. **No Waiver of Governmental Immunity.** Grantee, its directors, officials, officers, agents, and employees are relying upon and do not waive or abrogate, or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights, immunities, or protections afforded by the Colorado Governmental Immunities Act, C.R.S. §§ 24-10-101, et seq., as it may be amended from time to time.

11. **No Assignment Without Written Consent.** Grantee shall not, without first obtaining the prior written consent of Grantor, sell, assign, transfer, encumber, hypothecate, or sublease any or all of the rights, interests, or obligations under this Agreement.

12. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter hereof. All preceding representations or agreements relating to the subject matter hereof, whether written or oral, are hereby merged into this Agreement.

13. **Modification.** No provision or term of this Agreement may be amended, modified, revoked, supplemented, waived, or otherwise changed except by a written instrument duly executed by the parties hereto or the parties’ successors and/or assigns.

14. **Severability.** If any term or provision of this Agreement shall be held to be invalid or unenforceable by a Court with competent jurisdiction or by operation of statute, the remaining terms and provisions of this Agreement shall continue to exist and shall be valid and enforceable to the fullest extent permitted by law.

15. **Waiver.** Any waiver by either party hereto of any breach of any kind or character whatsoever by the other party, whether such shall be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement on the part of the other party.

16. **Default.** Either party shall have the right to enforce the obligations of performance of the other party as contained herein through litigation seeking an award of damages and injunctive relief.

17. **Counterparts.** This Agreement may be executed in counter-parts and, as executed, shall constitute one agreement, binding on all of the parties hereto notwithstanding that all said parties are not signatory to the original or same counterpart.

18. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue for all actions arising under this Agreement shall be Pitkin County, Colorado.

19. **Recordation.** Upon execution by the parties, this Agreement shall be recorded in
the real estate records of Pitkin County, Colorado.

20. **Authority to Sign.** The parties acknowledge and represent to each other that all procedures necessary to validly contract and execute this Agreement have been performed and that the persons signing for each party have been duly authorized to do so.

21. **Termination of Easement.** Notwithstanding anything contained herein to the contrary, should the purposes for which this Rock Fall Mitigation Easement is granted no longer exist, as a consequence of the abandonment or relocation of the recreational bicycle and pedestrian trail or Castle Creek Road such that the Mitigation Measures are no longer needed for public safety, Grantor may request in writing the termination of this easement and Grantee agrees to terminate and vacate the easement upon receipt of such request.

[Signature Page(s) Follow]
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY

By: ____________________________
    Greg Poschman, Chair

APPROVED TO FORM:

By: ____________________________
    Richard Y. Neiley III, Assistant County Attorney

STATE OF COLORADO
COUNTY OF PITKIN

The foregoing was acknowledged (sworn) before me this ____ day of ______________ 2019 by Greg Poschman as Chair of the Board of County Commissioners of Pitkin County.

Witness my hand and official seal

My commission expires:_____________________
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

Castle Ridge Associates, Ltd. a Colorado limited partnership

By:____________________________________

STATE OF _____________ )
COUNTY OF ___________ )ss.

Subscribed and sworn to before me this ____ day of __________________ 2019 by __________________ as __________________ of Castle Ridge Associates, Ltd, Colorado, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires:________________________________

_______________________
Notary Public
Exhibits

Exhibit A: Legal description of the Rock Fall Easement
MEMORANDUM

TO:        Pitkin County, Board of County Commissioners

THRU:      Cindy Houben, Community Development Director

FROM:      Leslie Lamont, Senior Planner

RE:        Resolution Approving Le Chamonix Planned Unit Development (PUD) Major Amendment, Activity Envelope and Site Plan Review

DATE:      September 25, 2019

REQUEST:  The Applicant is requesting a Major Amendment to the PUD, Activity Envelope and Site Plan Review to expand the existing residences and renovate the building’s exterior. The Applicant obtained a GMQS allotment for additional floor area to expand the residences.

APPLICANT: Le Chamonix Homeowners, Inc. PID#:273514202008.

REPRESENTATIVE: Davis Horn, Inc. and Scot Broughton Architects

LOCATION:  1501 Maroon Creek Road – Across from Highlands Ski Area

ZONING/LOT SIZE: Residential Multi-Family (RMF)/7.18 acres

AERIAL PHOTOGRAPHY: The subject units are highlighted in orange.
EXISTING CONDITIONS: The Le Chamonix complex includes twelve dwelling units, a small trash enclosure, and common laundry facility. Unit 1 has a second dwelling unit that was acknowledged and approved in the 2014 PUD process. There are approximately 24 surface parking spaces. Units 1 and 12 each have a one-car garage.

The property 7.18 acres. The land slopes down steeply to Maroon Creek behind the structure. The front of the building is mostly paved with parking in front of each unit. The parking and front yard setbacks were established by the BOCC through the PUD approvals. The building is laid out in a shallow U-shaped arc with units 1 and 12 on each end being closest to Maroon Creek Road and the units in between gradually set back further from Maroon Creek Road. The staggering of units creates a desirable design interest and relief.

BACKGROUND: In 2011, the BOCC approved an Activity Envelope and Site Plan, Resolution No. 043-2011, for a bank restoration project to repair the failing timber retaining wall on the north side of the building. An Expansion/Restoration of a Legal Non-Conforming Structure with Significant Changes was also approved because the building is within the 100’ road setback of Maroon Creek Road, the 100’ stream setback of Maroon Creek and the side yard setback for the Lot.

The complex obtained a Board of Adjustment variance for encroachments into the 100’ Maroon Creek Road Setback and the side yard setback pursuant to BOA Resolution No. 04-2011, Reception No. 579879.

In 2014, the Le Chamonix complex was rezoned to Residential Multi-Family pursuant to Ordinance No. 030-2012, and received PUD approval to document existing square footage per dwelling unit and direct future renovations. In particular, requirements like parking, setbacks and floor area were established in the PUD Guide based upon a reasonable evaluation of existing units, the specific circumstances of the land under the condominiums and the new RMF Zone District. Importantly, the PUD Guide identified a maximum allowable floor area for each unit, which is 2,855 square feet for all units except Unit 1, which was over the 2,855 square feet. The existing deck sizes were also documented in the PUD Guide. The PUD Guide stipulated that deck and basement expansions may occur exempt from GMQS, but that any other expansions into habitable residential floor area requires use of TDR’s or a GMQS Allotment.

This approval was memorialized in BOCC Resolution No. 068-2014 that also approved the PUD Guide. The land use approvals in 2014 resolved many issues which were in a state of flux over the years due to the Le Chamonix being a legally built use and structure which had been rezoned to a single family zone.

In 2015, the property owner of Unit #12 requested and received a GMQS allotment, pursuant to BOCC Resolution No. 081-2015 for 221 square feet to convert a garage into habitable floor area.

In 2019, a GMQS application for Urban Area additional floor area requested for the entire complex was scored by the PZ at their regular meeting, June 4, 2019. The BOCC allocated 6,000 square feet of additional floor area via Resolution No. 049-2019 at their regular meeting July 10, 2019. These approvals will allow the twelve owners in the complex to expand and/or remodel their units in compliance with the intent and requirements of the rezoning and PUD approvals, and consistent with the overall plan for the building.

PROCEDURE/PROCESS: The proposed development to expand the individual units was contemplated during the 2012-2014 approval process. The HOA has been working with their representatives to develop an overall plan for improvements that accomplishes the development envisioned and approved during the rezoning and PUD process in 2014. Rather than consider individual property owner’s improvement plans in a piece meal fashion, the HOA has calculated the amount of additional floor area available to each
dwelling unit and developed a renovation plan that can be evaluated consistent with the PUD Guide. The GMQS allocation will provide individual property owners to begin the upgrades on their homes, but within the context of an overall plan.

In addition to added floor area, an exterior remodel is proposed. The proposed remodel requires an Activity Envelope and Site Plan Review. A Major PUD Amendment is required because the Final Plat is proposed to be amended as the footprints of some units will change, and the old zoning AR-10 was erroneously shown on the Final Plat. This will be amended to reflect RMF zoning. The PUD Guide that was approved in 2014 will be amended to reflect the new approvals.

A Major PUD Amendment requires a two-step process before the Planning and Zoning Commission and BOCC. The Planning and Zoning Commission is the recommending body for this portion of the application, in addition to the Activity Envelope and Site Plan Review.

PLANNING and ZONING COMMISSION: The P&Z considered the application for Activity Envelope, Site Plan Review, and a Major Amendment to the PUD at their regular meeting June 4, 2019, and recommended approval to the BOCC by a vote of 4-1. Emphasis was paid to the scenic quality aspects of the proposal given the proximity of the building to Maroon Creek Road. The staff memo to the P&Z, which addressed the applicable Land Use Code provisions, is attached for review.

STAFF RECOMMENDATION Staff and the Planning Commission recommend that the Board of County Commissioners adopt a Resolution Approving the Le Chamonix Planned Unit Development (PUD) Major Amendment, Activity Envelope/Site Plan.

ATTACHMENTS:

A. Draft BOCC Resolution
B. P&Z Resolution 07-2019
C. June 4, 2019 P&Z Memo
D. Draft Amended PUD Guide - Redline
E. Application
F. Plans Post Application Submittal
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, APPROVING LE CHAMONIX PLANNED UNIT DEVELOPMENT (PUD) MAJOR AMENDMENT, ACTIVITY ENVELOPE AND SITE PLAN REVIEW

BOCC Resolution No. ___-2019

Recitals

1. Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter (“HRC”), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution.

2. Le Chamonix Association, Inc. collectively units 1 through 12, (“hereafter the Applicant”) has applied to the Pitkin County Board of County Commissioners (“BOCC”) for a Major Amendment to a Planned Unit Development to amend the Final Plat and the PUD Guide, Activity Envelope and Site Plan Review approval. The purpose of the application is to present a cohesive renovation plan for all 12 dwelling units that utilizes GMQS allocations to expand the existing dwelling units and remodel the exterior.

3. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units, as they exist today.

4. In 2011, the BOCC approved an Activity Envelope and Site Plan, Resolution No. 043-2011, for a bank restoration project to repair the failing timber retaining wall on the north side of the building. An Expansion/Restoration of a Legal Non-Conforming Structure with Significant Changes was also approved because the building is within the 100’ road setback of Maroon Creek Road, the 100’ stream setback of Maroon Creek and the side yard setback for the Lot.

5. A Board of Adjustment variance for encroachments into the 100’ Maroon Creek Road Setback and the side yard setback was approved in 2001 pursuant to BOA Resolution No. 04-2011, Reception No. 579879.

6. In 2014, the Le Chamonix complex was rezoned to Residential Multi-Family pursuant to Ordinance No. 030-2012, and received PUD approval.

7. BOCC Resolution No. 068-2014 approved the PUD Guide. The PUD Guide defined a maximum allowable floor area for each unit and stipulated that deck and basement expansions may occur exempt from GMQS, but that any other expansions into habitable residential floor area requires use of TDR’s or a GMQS Allotment.

8. In 2015, the property owner of Unit #12 requested and received a GMQS allotment, pursuant to BOCC Resolution No. 081-2015 for 221 square feet to convert a garage into habitable floor area.

9. The Planning and Zoning Commission reviewed the proposal at a regularly scheduled meeting on June 4, 2019. The Commission voted 5-0 to recommend approval to the BOCC.
10. In 2019, the BOCC allocated 6,000 square feet of additional floor area via Resolution No. 049-2019. This approval allows the twelve owners in the complex to expand and/or remodel their units in compliance with the intent and requirements of the rezoning and PUD approvals, and consistent with the overall plan for the building.

11. The BOCC reviewed the application at a duly noticed public hearing, on September 25, 2019, at which time evidence and testimony were presented with respect to the request.

12. The BOCC finds that the proposal is consistent with the intent of the 2014 approvals, which were intended to eliminate the non-conforming status, document existing conditions, and encourage the owners to collect the renovation proposal that is consistent with the PUD Guide. The collaborative process avoids a piecemeal approach to the building’s upgrade.

13. The BOCC finds that the proposal demonstrates compliance with Major PUD Amendment and Activity Envelope and Site Plan sections of the Land Use Code. The Activity Envelope captures the proposed upgrades and the Site Plan review ensured that the improvements comply with the scenic quality standards given the property’s proximity to the scenic corridor, Maroon Creek Road.

14. The BOCC further finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW THEREFORE BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grant approval for the Le Chamonix PUD Major Amendment and Activity Envelope and Site Plan Review, which shall run with the land and be binding on all successors in interest, and authorizes the Chair to sign the Resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Prior to submission of any future permit applications, the Applicant shall submit the following documents for review and approval by the County Attorney and Community Development Department and recordation with the Pitkin County Clerk:

   A. Amended Final Plat in accordance with Section 2.6 of the Land Use Application Manual.
   B. Revised PUD Guide that documents the Major PUD Amendment approval including the revised Activity Envelope and representations of materials and colors that are approved as part of the review process.
   C. Activity Envelope and Site Plan in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12.

3. Prior to the recordation of the Amended Final Plan, Revised PUD Guide, and Activity Envelope & Site Plan the Applicant shall:

   A. Submit the receipt for the cash payment of $15,000 to the Aspen Fire Protection District to help them purchase a training vehicle, and/or a replacement brush truck.
B. Submit the receipt for the cash payment of $5,000 to the Aspen School District to be used for traffic/vehicle reduction programs.

C. Submit the receipt for the cash payment of $8,000 to Aspen Parks and Open Space for improvements to the Maroon Creek recreational single-track in the Maroon Creek gorge and/or project planning for a new trail connection between the round-about and the Aspen Recreation Center.

D. Record a trail/fishing easement dedicated to the Pitkin County Open Space and Trails within the Creek extending 10 feet beyond the Creek’s high water mark, which amends the previous fishing easement. The draft easement shall be reviewed and preliminarily approved by OST, and then reviewed and accepted by the BOCC prior to recordation.

4. Prior to the issuance of each building permit, where applicable, the Applicant for the building permit shall:
   A. A ROW and/or access permit is required for this work to occur.
   B. Submit a drainage and erosion control plan and accompanying drainage report demonstrating that historical flow patterns and runoff amounts will be maintained, and identify specific measures designed to reduce erosion and stream sedimentation. If the development disturbs one acre or more, a Colorado Department of Public Health and Environment permit for stormwater discharges associated with construction activities shall be applied for and obtained prior to issuance of a permit.
   C. Submit a detailed landscape and revegetation plan for disturbed areas with appropriate native vegetation and seed mixes. The plan shall include a commitment stating that the hillside will continue to be reseeded.
   D. Submit a tree removal and mitigation plan if any trees with larger than 6” DBH are to be removed.
   E. Submit a detailed exterior lighting plan with the corresponding fixture cut sheets. Exterior lighting shall comply with the lighting code.
   F. Submit representation of the exterior indigenous earth tone materials or colors.
   G. Submit a fireplace/woodstove permit application, if applicable.

5. Prior to a building permit issuance for each dwelling unit, the Applicant shall pay the applicable road and employee housing impact fees.

6. Prior to commencement of any earthmoving or construction activity, where applicable, the Applicant shall stake the area of work, including the pertinent area of the recorded activity envelope and install construction fencing. Work is prohibited to occur on the area steep slopes of the property. If there are any improvements on the rear side of the building all construction access and staging shall be from the front of the building, the Maroon Creek Road side of the property.

7. No development, including utilities, fill placement, berming, landscaping, entry or ranch gates, construction parking and staging, and vegetation removal or disturbance, shall occur outside of the approved activity envelope, except to comply with the required wildfire mitigation or an approved weed management plan. Any new utility lines shall be buried and placed within the approved activity envelope.

8. The Applicant shall comply with the applicable codes and requirements of the Aspen Fire Protection District.
9. The Applicant shall comply with the County’s Noxious Weed Management Plan.

10. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project’s completion. Landscaping shall be completed prior to issuance of the Certificate of Occupancy for the residence.

11. No development in excess of 30” above or below natural grade shall occur within the setbacks of the parcel, with the exception of driveways and associated retaining walls of up to 6’ above or below natural grade and fencing. Landscaping in the form of berms within the setbacks shall not exceed four feet from the most restrictive grade. Any development that does not comply with these restrictions and that is located within setbacks mandated by County zoning regulations shall require a variance from the Board of Adjustment. Approval of an activity envelope within such setbacks does not assure approval of a variance.

12. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit.

13. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.

14. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code § 2-20-170 and C.R.S. § 24-68-105. The statutory vested rights granted herein shall expire on ______________, 2022.
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE 22ND DAY OF AUGUST 2019.


PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the ___ day of ________, 2019.

ATTEST:  BOARD OF COUNTY COMMISSIONERS
         OF PITKIN COUNTY, COLORADO

_______________________   __________________________
Jeanette Jones     Greg Poschman,
Deputy Clerk      Chair
Date: _________________________

APPROVED AS TO FORM:  APPROVED AS TO CONTENT:

________________________   __________________________
John Ely,     Cindy Houben,
County Attorney      Community Development Director

PID#'s: 273514202800
Case#: P003-19
RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF PITKIN COUNTY, COLORADO, RECOMMENDING APPROVAL OF THE LE CHAMONIX MAJOR PUD AMENDMENT, AND ACTIVITY ENVELOPE AND SITE PLAN REVIEW

Resolution No. PZ- 07-2019

RECITALS

1. Le Chamonix (hereafter "Applicant") has applied to the Planning and Zoning Commission of Pitkin County, Colorado ("Planning Commission") to request a growth management allotment of 6,000 square feet of additional floor area in the Urban Growth Boundary (UGB), and Major PUD Amendment, and Activity Envelope and Site Plan Review approval.

2. The property is located at 1501 Maroon Creek Road, PID# 273514202800.

3. The lot is zoned Residential Multi-Family, contains 7.18 acres, and is located within the Urban Growth Boundary.


5. In 2014 the BOCC approved a rezoning of the property to Residential Multi-Family and Planned Unit Development for Le Chamonix and approved a PUD Guide that documented existing conditions and directed future renovations and additions, Resolution No. 68-2014, Reception No. 611807. The PUD Guide stated that all future additions required the use of Transfer of Development Rights or GMQS allotments.

6. The Planning Commission considered the proposed application at a duly noticed public hearing on June 4, 2019.

7. The Planning Commission gave the growth management application a score of 15.2 points, which exceeds the threshold and makes the Applicant eligible for the requested allotment.

8. The Planning Commission finds that the Activity Envelope and Site Plan are consistent with the applicable provisions of the Pitkin County Land Use Code as follows:

   A. The amended Activity Envelope is similar to the envelope approved in 2011, but has been adjusted to define the proposed improvements.

   B. The property contains slopes in excess of 30%, but those slopes are behind the building and drop away from the building down to Maroon Creek. All renovations and proposed expansions avoid the steep slopes and if any work occurs on rear side of the building, the Applicant commits that staging and access will be from the front of the building which is a completely flat, paved surface. There is no expansion of the footprint proposed on the rear side of the building.

   C. The exterior renovations and additions as viewed from Maroon Creek Road, a scenic corridor, have been carefully considered to be compatible with the surrounding environment and surrounding neighborhood; the height will not exceed 28' as established in the PUD Guide; no more than two
stories will face the road; and the improvements do not encroach into the Maroon Creek Road setback as established by the PUD Guide.

D. There are no natural hazards that exist on the site other than the steep slopes which will be avoided. The wildfire hazard is mapped as low and there are no wildlife areas regulated by the Code.

E. The maximum allowed floor area per dwelling unit is 2,855 square feet. The proposed expansions per dwelling unit, as outlined in this application, are consistent with the PUD Guide as approved in 2014 and as amended. There will be no reduction in on-site parking and no additional dwelling units are proposed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby recommends approval of the Le Chamonix Activity Envelope and Site Plan, and Major PUD Amendment subject to the following conditions, which shall run with the land and be binding on all successors in interest, and authorizes the Chair to sign the Resolution and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter:

1. The Applicants shall adhere to all material representations made during the application process or in public meetings or hearings and shall consider those representations to be conditions of approval.

2. A covenant documenting the representations made in the application for the additional square footage shall submitted for review and approval by the Community Development Department and recorded against the property, prior to submitting a building permit to utilize the awarded floor area.

3. Prior to submission of any future permit applications, the Applicant shall be required to submit for approval by the County Attorney and Community Development an Activity Envelope in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12 to be recorded. The above referenced approvals shall be a condition precedent to finalization and recordation.

4. Prior to submission of any future permit applications, the Applicants shall be required to submit for approval by the County Attorney and Community Development a revised PUD Guide that documents the Major PUD Amendment approval including the revised Activity Envelope and representations of materials and colors that are approved as part of the review process.

5. Prior to the recordation of the Activity Envelope & Site Plan, the Applicant shall:
   A. Submit the receipt for the cash payment of $15,000 to the Aspen Fire Protection District to help them purchase a training vehicle, and/or a replacement brush truck.
   B. Submit the receipt for the cash payment of $5,000 to the Aspen School District to be used for traffic/vehicle reduction programs.
   C. Submit the receipt for the cash payment of $8,000 to Aspen Parks and Open Space for improvements to the Maroon Creek recreational single-track in the Maroon Creek gorge and/or project planning for a new trail connection between the round-about and the Aspen Recreation Center.
   D. Record a trail/fishing easement dedicated to the Pitkin County Open Space and Trails within the Creek extending 10 feet beyond the Creek's high water mark which amends the previous fishing easement. The draft easement shall be reviewed and preliminarily approved by OST, and then reviewed and accepted by the BOCC prior to recordation.
6. Prior to the issuance of each building permit, where applicable, the Applicant for the building permit shall:
   A. Submit a drainage and erosion control plan and accompanying drainage report demonstrating that historical flow patterns and runoff amounts will be maintained, and identify specific measures designed to reduce erosion and stream sedimentation. If the development disturbs one acre or more, a Colorado Department of Public Health and Environment permit for stormwater discharges associated with construction activities shall be applied for and obtained prior to issuance of a permit.
   B. Submit a detailed landscape and revegetation plan for disturbed areas with appropriate native vegetation and seed mixes. The plan shall include a commitment stating that the hillside will continue to be reseeded for.
   C. Submit a tree removal and mitigation plan if any trees with larger than 6" DBH are to be removed.
   D. Submit a detailed exterior lighting plan with the corresponding fixture cut sheets. Exterior lighting shall comply with the lighting code.
   E. Submit representation of the exterior indigenous earth tone materials or colors.
   F. Submit a fireplace/woodstove permit application, if applicable.

7. Prior to a building permit issuance for each dwelling unit, the Applicant shall pay the applicable road and employee housing impact fees.

8. Prior to commencement of any earthmoving or construction activity, where applicable, the Applicant shall stake the area of work, including the pertinent area of the recorded activity envelope and install construction fencing. Work is prohibited to occur on the area steep slopes of the property. If there are any improvements on the rear side of the building all construction access and staging shall be from the front of the building, the Maroon Creek Road side of the property.

9. No development, including utilities, fill placement, berming, landscaping, entry or ranch gates, construction parking and staging, and vegetation removal or disturbance, shall occur outside of the approved activity envelope, except to comply with the required wildfire mitigation or an approved weed management plan. Any new utility lines shall be buried and placed within the approved activity envelope.

10. The Applicant shall comply with the applicable codes and requirements of the Aspen Fire Protection District.

11. The Applicant shall comply with the County’s Noxious Weed Management Plan.

12. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project’s completion. Landscaping shall be completed prior to issuance of the Certificate of Occupancy for the residence.

13. No development in excess of 30" above or below natural grade shall occur within the setbacks of the parcel, with the exception of driveways and associated retaining walls of up to 6' above or below natural grade and fencing. Landscaping in the form of berms within the setbacks shall not exceed four feet from the most restrictive grade. Any development that does not comply with these restrictions and that is located within setbacks mandated by County zoning regulations shall require a
Resolution No. PZ-07-2019
Page 4

variance from the Board of Adjustment. Approval of an activity envelope within such setbacks does not assure approval of a variance.

14. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit.

15. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.

16. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code § 2-20-170 and C.R.S. § 24-68-105. The statutory vested rights granted herein shall expire on July 4, 2022.

RECOMMENDED FOR APPROVAL AND ADOPTED ON THE 4th day of June, 2019.

PLANNING AND ZONING COMMISSION
OF PITKIN COUNTY, COLORADO

Jeffrey Woodruff
Date

ATTEST:

Bonnie Shiles
Bonnie Shiles, Administrative Assistant

APPROVED AS TO FORM:

Suzanne Wolff
Cindy Houben, Community Development Director

APPROVED AS TO CONTENT:

John Ely, County Attorney

P003-19
273514202800
MEMORANDUM

TO: Pitkin County Planning and Zoning Commission

FROM: Leslie Lamont, Senior Planner

RE: Le Chamonix HOA, Urban Area GMQS Application for Additional Floor Area, Major PUD Amendment, Activity Envelope and Site Plan, and Scenic Review

DATE: June 4, 2019

SUMMARY OF REQUEST: The Applicant is requesting 6,000 square feet of floor area through the GMQS process. If successful, the floor area would be divided between the 11 of the 12 dwelling units of the Le Chamonix condominium complex pursuant to the BOCC Resolution No. 68-2014, Reception No. 611807 and the PUD Guide.

The Applicant is seeking a Major PUD Amendment, Activity Envelope and Site Plan Review, Scenic Review and a Residential Growth Management Quota system allotment for additional floor area.

APPLICANT: Le Chamonix HOA

REPRESENTATIVE: Davis Horn Inc. & Scot Broughton Architects

LOCATION: 1501 Maroon Creek Road, PID#: 2735-142-02-800

ZONING/LOT SIZE: The lot is zoned Residential Multi-Family (RMF) and is 7.18 acres

PROCEDURE/PROCESS: Scoring of a Growth Management application is conducted by the Planning and Zoning Commission. The Planning Commission forwards, by resolution, the ranking of the development applications. Upon receipt of the Planning Commission resolution forwarding the scores or subsequent to the conclusion of all appeal hearings, the BOCC, by resolution, allocates development allotments to the eligible applicants.

A Major PUD Amendment requires a two-step process before the Planning and Zoning Commission and BOCC. The Planning and Zoning Commission is the recommending body for this portion of the application, in addition to the Activity Envelope and Site Plan Review.

BACKGROUND: In 2011, the BOCC approved an Activity Envelope and Site Plan, Resolution No. 043-2011, for a bank restoration project to repair the failing timber retaining wall on the north side of the building. An Expansion/Restoration of a Legal Non-Conforming Structure with Significant Changes was also approved.
because the building is within the 100’ road setback of Maroon Creek Road, the 100’ stream setback of Maroon Creek and the side yard setback for the Lot.

The complex obtained a Board of Adjustment variance for encroachments into the 100’ Maroon Creek Road Setback and the side yard setback pursuant to BOA Resolution No. 04-2011, Reception No. 579879.

In 2014, the Le Chamonix complex was rezoned to Residential Multi-Family, pursuant to Ordinance No. 030-2012 and received PUD approval to document existing square footage per dwelling unit and direct future renovations. Importantly, the PUD Guide identified a maximum allowable floor area for each unit which is 2,855 square feet for all units except Unit 1 which was over the 2,855 square feet.

This approval was memorialized in BOCC Resolution No. 068-2014 which also approved a PUD Guide. The PUD Guide stipulated that deck and basement expansions may occur exempt from GMQS, but that any other expansions into habitable residential floor area requires use of TDR’s or a GMQS Allotment.

In 2015, the property owner of Unit #12 requested and received a GMQS allotment, pursuant to BOCC Resolution No. 081-2015 for 221 square feet to convert a garage into habitable floor area.

The HOA has been working with their representatives to develop an overall plan for improvements that accomplishes the development envisioned and approved during the rezoning and PUD process in 2014. Rather than consider individual property owner’s improvement plans in a piece meal fashion, the HOA has calculated the amount of additional square footage available to each dwelling unit and developed a renovation plan that can be evaluated consistent with the PUD Guide. These approvals will allow the twelve owners in the complex to expand and/or remodel their units in compliance with the intent and requirements of the rezoning and PUD approvals, and consistent with the overall plan for the building.

EXISTING CONDITIONS: The Le Chamonix complex includes twelve dwelling units, a small trash enclosure, and common laundry facility. Unit 1 has a second dwelling unit that was acknowledged and approved in the 2014 PUD process. There are approximately 24 surface parking spaces. Units 1 and 12 each have a one car garage.

The building is located on 1.953 acres, or 85,073 square feet of land area. The land slopes down steeply to Maroon Creek behind the structure. The front of the building is mostly paved with parking in front of each unit. The parking and front yard setbacks were established by the BOCC through the PUD approvals. The building is laid out in a shallow U-shaped arc with units 1 and 12 on each end being closest to Maroon Creek Road and the units in between gradually set back further from Maroon Creek Road. The staggering of units creates a desirable design interest and relief.

The Le Chamonix parcel contains 11,726 +/- square feet of land area under water and 39,352 +/-square feet of land with slopes over 45% in grade. The Pitkin County Code lot area definition excludes land under water. Therefore, the total lot area of the site is 73,347 +/-square feet (85,073 total square feet of land less 11,726 square feet of land under water).

Based upon many factors including this adjusted lot size, the maximum floor area allowed for each of the twelve units in the complex were documented and approved by the BOCC as part of the PUD Guide approved in 2014. The existing unit sizes and deck sizes were also documented. The decks on the north side of the structure were legally created and approved by Pitkin County and their sizes are also documented in the PUD Guide.
The land use approvals in 2014 resolved many issues which were in a state of flux over the years due to the Le Chamonix being a legally built use and structure which had been rezoned to a single family zone. In particular, requirements like parking, setbacks and floor area were established in the PUD Guide based upon a reasonable evaluation of existing units, the specific circumstances of the land under the condominiums and the new RMF Zone District.

**REFERRAL COMMENTS:** The application was referred to the County Attorney, Maroon Creek Caucus, Aspen Fire Protection District, City of Aspen, Pitkin County Open Space and Trails. Comments were received from most entities.

**STAFF COMMENTS**

**URBAN AREA GROWTH MANAGEMENT QUOTA SYSTEM (GMQS) ALLOTMENTS FOR ADDITIONS (SECTION 6-40-20; SECTION 6-40-30 AND 6-50):**

An annual ceiling of 10,000 square feet of floor area is available in the Aspen Urban Growth Boundary for additions. The Applicant is requesting 6,000 square feet. (The original application requested 6,200 square feet. An error in the math was discovered and corrected via a Technical Clarifications memo submitted May 21, 2019.)

**Consideration of Comprehensive Plan:** The application is consistent with the Aspen Area Community Plan, the applicable Plan, and compatible with the surrounding neighborhood. (The property is not within the boundary of the Maroon Creek Caucus.) The property is across Maroon Creek Road from Aspen Highlands Village. The property was legally built in the 1968. The property is serviced by City of Aspen water and Aspen Consolidated Sanitation District. The proposal does not create new dwelling units and is consistent with the PUD Guide, as approved in 2014, which established a maximum floor area per dwelling unit: 2,855 square feet.

**Proportionality:** When scoring an application, the Planning and Zoning Commission should consider whether each commitment made by the applicant seeking points is proportional to the size of the allotment being requested. In other words, an applicant seeking an allotment for a large amount of floor area would be expected to make a proportionally greater commitment to obtain the same score as an applicant seeking a lesser amount of floor area.

Staff’s recommended scoring for this project is attached. Please note that a development must meet or exceed the minimum threshold of 12 points. Staff has recommended a score of 15 points for this application.

**SUBDIVISION & PUD REVIEW PROCEDURES (SECTION 2-40-50) & MAJOR AMENDMENT TO A DEVELOPMENT PERMIT (SECTION 2-20-150(e)(2):**

The property was comprehensively reviewed during the rezoning and PUD process in 2014. The result of that process was the PUD Guide which documents the existing floor area, the establishment of a maximum floor area per dwelling unit, and parameters under which a dwelling unit could be renovated and expanded. The current Application outlines how and where expansions can occur per dwelling unit, proposed exterior improvements as seen from Maroon Creek Road, and proposed revisions to the PUD Guide.

Staff recommends a Major Amendment to the PUD because of the amount of additional floor area that is being requested; the existing floor area of Le Chamonix is being exceeded by more than 5%.

It is the intention of this Application to assign a specific amount of additional floor area to each dwelling unit in order for each unit to achieve 2,855 square feet of floor area as approved in the 2014 Resolution and PUD Guide. Please see chart below:
PUD ARCHITECTURAL REVIEW (SECTION 3-70-30(J):

The County may require an applicant for a PUD to submit architectural plans or models at the time of Conceptual or Detailed Subdivision review (if a subdivision of land is being requested) or at the time of Site Plan review (if no subdivision is being approved).

(1) Intent: The intent of architectural review is to promote the preservation and enhancement of the visual character of the County by preventing the development of inappropriate or out of character structures that:

(a) Require the indiscriminate clearing of property, excessive grading and the destruction of trees and shrubbery; and/or
(b) Are out of scale with adjacent land uses; and/or
(c) Significantly reduce solar access to public open spaces or adjacent properties.

Response: Exterior elevations of proposed renovations and expansions have been conceptually designed for the entire building as viewed from Maroon Creek Road. An indication of colors and materials have been provided. The application states that all additions will comply with the conceptual drawings. “It is the intent to have an overall plan of Le Chamonix that enhances the visual character of the building and enhances views of the building from the Maroon Creek Road Scenic Corridor.”

The proposed expansions and upgrades are not out of scale with adjacent land uses particularly when compared to Highlands Village across the Road. In addition, the setback from Maroon Creek Road, was established in the PUD Guide and proposed improvements and/or expansion in the front of the units do not encroach beyond this setback. The additions will not reduce solar access to public open spaces or adjacent properties.

### TABLE 1

Le Chamonix Floor Area
(Square Feet)
December 2018

<table>
<thead>
<tr>
<th>Unit</th>
<th>Proposed and Available to Achieve 2588</th>
<th>Subgrade Floor Area &gt;5 '6&quot; to be moved above Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1:</td>
<td>3,553</td>
<td>105</td>
</tr>
<tr>
<td>#2:</td>
<td>2,855</td>
<td>-</td>
</tr>
<tr>
<td>#3:</td>
<td>2,855</td>
<td>933</td>
</tr>
<tr>
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<tr>
<td>#5:</td>
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</tr>
<tr>
<td>#12:</td>
<td>2,855</td>
<td>130</td>
</tr>
</tbody>
</table>

Laundry: 100
Five Percent Buffer: 285
Total Requested: 6,000 *(rounded)

- Subgrade floor area >5’6” is already counted in floor area so no GMQS allotment is needed for this space. If this existing floor area >5’6” is relocated above grade the vacated space will be converted to crawl space (<5’6”) by pouring slabs.

* Revised May 21, 2019

Source: Davis Horn Incorporated and Scot Broughton Architects, LLC, January 2019.
(2) Standards: The County may require changes to architectural plans to:

(a) Minimize disturbances to the natural terrain; and/or
(b) Reduce the adverse visual impacts of buildings that because of size, scale, color, or location are out of harmony with the neighborhood in which they are to be constructed; and/or
(c) Promote advantageous solar orientation and energy conserving design; and/or
(d) Promote consistency with scenic and rural character guidelines.

Response: The proposed additions and renovations are primarily within the existing footprint of the building although some expansions will expand the footprint. Those expansions into the front yards will not encroach into the setback from Maroon Creek Road as established in the PUD. The size and scale of the building does not change significantly. The height of the building will meet the 28 feet limit established by the PUD and the Applicant has agreed to maintain only two stories in front, along Maroon Creek Road. The submittal of an overall plan is intended to avoid a piece meal approach to design upgrades (although not every owner plans to make the renovations at the same time).

No natural terrain will be disturbed during the expansions or renovations. The colors and materials proposed are in harmony with the surrounding neighborhood. The property is surrounding by forested area and there are no immediate neighbors except Highlands Village across the road.

The property is within the Urban Growth Boundary and the rural character guidelines do not apply.

SITE PLAN & ACTIVITY ENVELOPE REVIEW (SECTION 7-10-50):

An Activity Envelope was approved in 2011 which encompassed the slope stabilization work. This application proposes a similar Activity Envelope but avoids the steep slopes. No expansion of the footprint will occur on the stream side of the building which is the area of steep slopes. Minor expansions would occur on the second level of a few units when feasible and any additions on this side of the building would cantilever over the steep slopes. The Maroon Creek Road side of the building is flat and previously disturbed. This is where there is greatest potential for expansions with expanded dining rooms or front entries. The entire frontage of the property is paved with small fenced in yards at each front door. There is some mature landscaping in the front of the building. The property is rated low wildfire hazard and there is no sensitive wildlife habitat within the Activity Envelope.

Staff finds that the proposed development activity within the defined Activity Envelope is consistent with the review standards outlined in Chapter 7 of the Code. The following section of Chapter 7 pertains to this application:

A. SCENIC VIEW (SECTION 7-20-120):

All non-exempt development located within a mapped Scenic View Protection Area shall comply with the following standards.

(1) The proposed development shall utilize existing topography and natural vegetation, such as ridges, hills, and existing trees, to screen buildings to the maximum extent practicable when viewed from those right-of-ways listed in subsection (b) above.

(2) The proposed development shall avoid the location of structures within the Scenic View Protection Areas, and shall avoid the location of structures within any View plane identified in the State Highway 82 Corridor Master Plan and Down Valley Comprehensive Plan if possible. If location outside the Scenic View Protection Area and defined View planes is not practicable, then the proposed development shall not be located on the highest ground or most visible portion of any site as viewed from those corridors listed in subsection (b) above.
(3) The proposed development's height and bulk shall be designed to avoid, to the maximum extent practicable, the visibility of buildings from those corridors listed in subsection (b) above. This may include, but shall not be limited to, breaking the mass of the building down into a series of smaller forms, articulation of the building façades to avoid a wall or row effect, and staggering rooflines to avoid a long unbroken plane.

(4) The proposed structure shall be placed so it does not project above a ridgeline. The structure shall not silhouette against the sky when viewed from those corridors listed in subsection (b), unless there are no alternate building sites on the lot or parcel.

(5) The proposed development shall be designed to complement the natural topography of the land through the use of techniques such as earth-sheltered design, the use of natural materials and coloring, the use of low-reflectance materials, or clustering of structures on the least visible portions of the site. When a building is proposed near a ridgeline, then its form (particularly its roof form) shall replicate, parallel, or complement the natural form of the ridgeline so that it appears to be an element of the natural ridgeline.

(6) The proposed development shall preserve natural vegetation and avoid development within irrigated meadows, to the maximum extent practicable.

(7) The proposed development shall install utilities in locations and through procedures that minimize visual impacts to the maximum extent practicable.

(8) All satellite dishes in the proposed development shall be located to minimize visibility from those rights-of-way listed in subsection (b), and shall use earth tone colors and/or screening to minimize their visual impact.

(9) The proposed development shall not use earth moving and berms as the primary means of compliance with these regulations, but earth moving may be utilized in conjunction with other techniques to comply with standards in this section. Where earth moving techniques are necessary, man-made forms should be undulating and natural in appearance.

(10) In the Rural Areas only, development shall be located so that activities and development occur in at least one of the locations specified in subsection (e) as they may apply to the particular property.

(11) Earth Tone Materials The exterior of all development, except development located and designed in the form of a ranch compound, shall be built or painted with indigenous earth tone materials or colors. The exterior of a ranch compound should be built or painted with indigenous earth tone materials, or shall be painted or stained using local, traditional ranch colors, which shall include shades of red, brown, or white. Paints or stains that simulate weathered barn wood also shall be permitted.

(12) Roofs. All roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflection, with the exception of materials associated with solar or photovoltaic equipment.

(13) Revegetation of Disturbed Areas. Lands disturbed by earth moving or berms should be revegetated using native species that are already growing on or near the site. Topsoil shall be stockpiled and placed on disturbed areas. Irrigation shall be provided to the revegetated areas if it is necessary to ensure survival of planted native species.

(14) Driveways Avoid Dividing Meadows and Pastures. To the maximum extent practicable, roads and driveways shall be located to skirt the edge of and avoid dividing meadows and pastures and to avoid major road cuts. Roads
and driveways should take advantage of the screening potential of natural topography and existing vegetation. Existing roads and driveways shall be used where practical. To enhance screening, a row of trees may be planted along the roads or driveways. To the maximum extent practicable, roads and driveways located around the edge of or in meadows shall be laid out with soft, curving edges and shall avoid straight line corridors that are incongruous with the natural setting.

**Response:** The Le Chamonix property is on Maroon Creek Road, a designated scenic corridor. The Applicant provided a conceptual design for the entire exterior of Le Chamonix that considers the visual impacts of the proposed improvements from Maroon Creek Road. The condominiums were built in 1968. The proposed improvements are a unified design concept intended to enhance the visual appearance of the building. The height of the building is limited to 28 feet per the PUD Guide and only two stories will be allowed on the Maroon Creek Road side of the property. The bulk and mass of the building will not change significantly. The building façade and window and door patterns breaks up the mass of the front elevation. Earth tones are proposed. There are no natural landscapes that are affected by these proposed renovations and very little existing vegetation will be disturbed.

**TWO STEP REVIEW PROCEDURES (SECTION 2-30-40):**
An application for two-step review shall be recommended for approval and shall be approved if it complies with (a) All applicable provisions of this Land Use Code; (b) All applicable Land Use Policies listed in Section 1-60; and (c) All prior development approvals applicable to the subject property.

Staff finds that the Applicant has addressed these criteria and complies with the applicable provisions of the Land Use Code, all applicable Land Use Policies in Section 1-60, and is in compliance with previous approvals applicable to the subject property.

The following policies are applicable to this proposed Major Amendment to Development Permits:

A. **1-60-20: Conformance with The Pitkin County Comprehensive Plan:** It is the policy of the County to ensure that the use and development of land within Pitkin County and any actions committing such land to development or a change in use should consider Pitkin County's Comprehensive Plan.

**Response:** The application is consistent with the Aspen Area Community Plan, the applicable Plan. Rezoning the property to Residential Multi-Family eliminated the non-conformity for this building that was constructed in 1968. The rezoning and the PUD Guide developed through the PUD process direct future improvements in a manner that is compatible with the surrounding neighborhood and is consistent with County Code standards. The proposed improvements provide a sensitive upgrade to the development within this significant scenic corridor.

B. **1-60-30: Community Balance:** The dominant policy of Pitkin County is to conserve and protect from further degradation the present natural environment and its resources. Development that can be accommodated within these limits will be managed to maintain a balance between residential (free-market and affordable), commercial and tourist accommodations.

**Response:** GMQS has been adopted by the City and the County to insure community balance is maintained.

C. **1-60-40: Growth Management:** It is the policy of the County to manage the rate at which development applications are approved, as well as the type, location, quality and ultimate quantity of growth.
Response: It is appropriate that the amount of square footage that is proposed to be added to this building is managed through the GMQS process.

D. 1-60-50: Growth Rate: Phasing of Public Services and Facilities: It is the policy of the County to maintain and improve the quality of life of its residents. To this end, the County will manage the location and timing of development in the residential, commercial and tourist accommodation sectors. The provision and location of public services and facilities should support development that is consistent with the Pitkin County Comprehensive Plan. To ensure that growth is consistent with the Pitkin County Comprehensive Plan the County will maintain a Growth Management Quota System (GMQS).

Response: The building is currently served by public services and facilities. The GMQS proposal does not create more dwelling units. The proposal represents modest improvements to individual dwelling units in order to upgrade floor plans and enhance areas such as front entrances and dining rooms.

E. 1-60-60: Land Use Patterns: It is the policy of the County that future urban development will be located within adopted Urban Growth Boundaries in order to eliminate residential sprawl and strip commercial development, to ensure the provision of adequate service levels, to preserve agriculture and open space land uses, and to maximize the utility of funds invested in public facilities and services. Lands outside the growth boundaries will be deemed most appropriate for the preservation of agriculture, natural habitat, environmental resources, open space and rural residential uses.

Response: The property is located within the Urban Growth Boundary and is directly served by public transit and trails and central utilities.

F. 1-60-100: Recreation: The County recognizes the fundamental importance of recreation and tourism to the local economy and encourages the provision of services and facilities necessary for the continuation of existing activities, consistent with other goals and policies of the County. It is the policy of the County to support preservation of the physical environment; to improve county-wide recreational and trail opportunities; to support citizens’ rights of appropriate access to public lands on roads and trails historically open to the public; to secure new access points consistent with County and Federal land use plans; and to protect existing open space from urbanization and development in order to maintain quality of life and enjoyment of the environment.

Response: The Applicant has committed $8,000 to the City of Aspen for improvements to two trail projects within the Maroon Creek corridor.

G. 1-60-150: Compatibility with Existing Adjacent Neighborhoods: It is the policy of the County to insure land use proposals are compatible with existing neighborhoods. To this end, the County will provide notification of pending land use applications to the affected adjoining property owners, homeowners associations and neighborhood caucus groups when appropriate.

Response: The multi-family character of the development is compatible with the surrounding neighborhood which includes deed restricted housing, free-market housing, multi-family projects, commercial and lodging. The rezoning and the PUD review process required a significant degree of review by the P&Z, BOCC, staff and the public. This current Application represents agreement from all 12 homeowners of the Le Chamonix!

H. 1-60-190: Natural and Man-Made Hazard and Resource Areas: It is the policy of the County that development be sited in locations that avoid natural hazard areas, and where avoidance is not
possible, in locations where mitigation is designed to minimize potential harm to life, safety, health, and property.

**Response:** Although the building sits on top of a slope greater than 30%, none of the proposed improvements will disturb the steep slope. The Applicant has committed that any work that would occur on the rear of the building will be staged and accessed from the front of the building which is a flat, paved surface.

**I. 1-60-210: Drainage** It is the policy of the County that development not disturb the integrity of existing and natural drainage patterns, and to discourage land use and development activities that subject areas to increased potential for damage by flood, erosion or sedimentation, or increase the potential for water pollution.

**J. 1-60-220: Erosion** It is the policy of the County that development not contribute to the erosion of soil and rock and that natural vegetative cover be maintained and that areas disturbed by land use or development activities be revegetated.

**Response:** The proposed development will comply with the drainage and erosion standards of the building permit process.

**K. 1-60-230: Scenic Quality:** It is the policy of the County that its natural, rural scenery be preserved for the benefit of its residents and the continued viability of its resort economy. Undergrounding of utility lines is supported where and when appropriate to minimize visual impact.

**Response:** The Major Amendment to the PUD has been designed to comply with the Scenic View Protection areas of the Code. See the Scenic View section of this memo. Views from the iconic Maroon Creek Road have been carefully considered when developing the exterior improvements. The colors and materials are compatible with the surrounding environment and neighborhood.

**L. 1-60-260: Energy Conservation:** New development is encouraged to incorporate energy conserving and alternative energy systems and building systems that minimize consumption of energy.

**Response:** The Applicant commits to meeting Pitkin County’s energy standards when applicable.

**M. 1-60-270: Noise:** It is the policy of the County that development will not generate noise which would adversely impact community noise levels.

**Response:** The Applicant commits to meeting Pitkin County’s noise standards.

**N. 1-60-300: Logical Extension of Utilities:** It is the policy of the County to regulate public and private utility extensions. Areas served by such extensions must be found suitable for development in accordance with the Pitkin County Comprehensive Plan.

**O. 1-60-310: ADEQUATE PROVISION FOR WATER NEEDS** It is the policy of the County that the availability of a water supply of adequate quantity, pressure and dependability for fire protection and support of a proposed land use be in place prior to approval of the use.

**P. 1-60-320: SEWAGE TREATMENT** It is the policy of the County that adequate sewage treatment facilities are feasible and available to serve existing and new developments.

**Q. 1-60-330: SOLID WASTE MANAGEMENT** Pitkin County is committed to all economically and environmentally appropriate processes that are directed toward reuse opportunities and the prolonging of landfill life. The County supports efforts to reduce waste generation and the amount of
solid waste disposed of in landfills, and to implement effective resource recovery and recycling activities.

Response: The property is currently served by all necessary utilities and public services. Upgrades are not necessary with the proposed improvements.

R. 1-60-340: Transportation/Transit/Roads:
(a) The County encourages transportation programs consistent with the County Asset Management Plan; modes and land use patterns that minimize automobile congestion, promote safety and reduce sources of air pollution.
(b) The County supports preservation of rail corridors for potential development of rail or other improved transit/trail alternatives in the future. No development should be allowed to prevent the options of the Community to pursue rail, trail or other improved transit alternatives along such corridors.
(c) Where practical as a means of retaining rural character, the County seeks to retain existing unpaved roads and to preclude the extension of winter maintenance on rural roads.
(d) The County seeks cooperation with emergency service agencies in establishing emergency access road standards that adequately address safety needs in the context of rural character.
(e) Development that generates traffic volumes in excess of the capacity of the County road system or that causes significant service level reductions is discouraged.
(f) Appropriate buffer strips should be preserved along federal, state and local roadways to protect public views, minimize safety concerns and environmental impacts, and to preserve corridors for future transportation facilities.
(g) Roadway capacity improvements should integrate alternative modes of transportation, such as bicycles and transit, and pedestrian ways so as to add "people carrying" capacity to the roadway, not just vehicular capacity, whenever feasible.
(h) New and upgraded roadways should be designed, engineered and constructed to minimize environmental and aesthetic damage and future maintenance costs consistent with public safety needs.

Response: The proposed development is consistent with this policy as demonstrated in the Residential GMQS section of the Application.

S. 1-60-380: Require That Development Bear an Equitable Share of Related Burdens: It is the policy of the County that new development must pay an equitable share that would otherwise be borne by the general public, and/or make equitable contributions, commensurate with its impacts, to ensure that no reduction in the quality of services, public facilities or programs occurs as a result of the development.

Response: The proposed development is consistent with this policy as demonstrated in the Residential GMQS section of the Application.

RECOMMENDATION: Staff recommends that the Planning Commission recommend approval to the BOCC to grant a growth management allotment for 6,000 square feet of gross floor area, conditioned upon recordation of a covenant documenting the representations made in the application for the additional square footage. This covenant shall be reviewed and approved by the Community Development Department and recorded against the property, prior to submitting a building permit to utilize the awarded floor area.

Staff further recommends that the Planning Commission recommend approval of the Activity Envelope and Site Plan, and Major Amendment to a Development Permit and Revised PUD Guide, subject to the attached Resolution.
ATTACHMENTS:
A. Staff proposed scoring
B. Open Space and Trails Comments
C. Activity Envelope and Site Plan
D. Proposed Improvements:
   • Layout
   • Existing Setbacks
   • Setbacks at Build Out
   • Front Sections Existing & Proposed
   • Maroon Creek Road Elevations
   • Maroon Creek Road Elevations Units 1-9: North & South Perspectives
   • Maroon Creek Road Elevations Units 10-12: North & South Perspectives
   • Materials & Finishes
E. PUD Allowances Matrix
F. Application
ATTACHMENT A

URBAN AREA RESIDENTIAL GROWTH MANAGEMENT COMPETITION FOR ADDITIONAL FLOOR AREA

STAFF’S RECOMMENDED SCORING

NAME OF PROJECT: LE CHAMONIX HOA DATE: 6-4-2019

6-10-10: STANDARDS FOR SCORING APPLICATIONS FOR RESIDENTIAL ALLOTMENTS

The Planning and Zoning Commission shall consider each application with respect to the standards described below, and shall assign points according to the following schedules:

(a) Impacts on Public and Private Facilities

(1) Considering whether an applicant has provided a commitment to install those public and private facilities that are necessary to serve the development and also to install facilities that may be of benefit to the surrounding neighborhood. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed facilities do not comply with the County's adopted standards or do not meet the needs of the project.

(b) One (1) means the proposed facilities comply with the County's adopted standards and provide for the needs of the project, but do not improve services to the surrounding neighborhood.

(c) Two (2) means the proposed facilities comply with the County's adopted standards, provide for the needs of the project, and help to solve a problem or resolve a constraint with existing facilities, or otherwise are of benefit to the surrounding neighborhood. Any such improvements proposed must also be consistent with adopted County plans addressing such facilities and must be determined to be necessary and appropriate by the referral agency charged with utilizing the facility or providing the related service.

(2) The categories in which points shall be awarded are as follows:

(a) Fire Protection

1. Capability of the appropriate fire protection district to provide fire protection according to its established response standards, including whether appropriate access has been provided to the development site, with necessary vehicle turnouts and turn-around pads;

2. Adequacy of available water pressure and capacity for providing fire-fighting flows; and

3. Commitment of an applicant to provide or pay for fire protection facilities that may be necessitated by the project or that may improve fire protection capabilities in the neighborhood, including but not limited to fire hydrants, water storage tanks or ponds, and fire fighting vehicles or equipment.

Maximum Score 2  Score: 2 x 1 (multiplier) = 2
The property is within the Aspen Fire Protection District. The District is capable of serving the existing facility and can easily access the building from Maroon Creek Road in the event of an emergency. The Applicant consulted with the Fire Marshall and there are several items in the District’s budget that, if acquired, would facilitate firefighting capability and enhance their services within the urban/rural wildfire interface. The Applicant has committed $15,000 toward the purchase of the small brush truck and training. The Fire District confirmed with staff that a brush truck is in the budget and new firefighter training is a Board priority. Water is provided by the City of Aspen Water Department and additional onsite water storage is not needed. The Applicant is deserving of a score of 2.

(b) Road System

1. Capability of the public road network to provide for the needs of the proposed development within acceptable levels of safety, as defined in the Pitkin County Asset Management Plan; and

2. Applicant's commitment to provide or pay for necessary road system improvements attributable to the proposed development or to improve road capacity or safety in the neighborhood.

Maximum Score 2  Score: 2 x 1 (multiplier) = 2

The property is accessed directly off Maroon Creek Road which does not pose any emergency access issues. The proposed expansions for 10 of the 12 units are relatively minor in nature and would not cause an increase in traffic. The proposed improvements are intended to increase the ceiling heights and improve the floor plan of the units. No new dwelling units are proposed. The Applicant has consulted the Aspen School District and proposes to donate $5,000 to the District to be utilized for transportation planning and traffic management strategies. It is the intent that traffic mitigation measures will improve the Maroon Creek Corridor. The District confirmed with staff that growth management commitments support teacher bus passes and provide other incentives to discourage staff, students and parents from driving to and from the schools. The Applicant is deserving of a score of 2.

(c) Transit and Trail Systems

1. Whether the proposed development site is located in proximity to existing transit routes and trail systems and whether appropriate on-site connections are made to these routes and trails;

2. Capability of the transit system to accommodate the proposed development without the need for additional equipment or route shifts;

3. Commitment of the applicant to finance or provide capital improvements (such as a bus, bus shelter, or trail connection) that enhance the ability of the transit or trail system to serve the proposed development, or to provide an easement for a trail that has been identified in the Pitkin County Comprehensive Plan; and/or an easement for a trail that has generally been identified as a public access need.

Maximum Score 4  Score: 2 x 2 (multiplier) = 4

The property is well served by existing transit and pedestrian/bike trails. The Castle Creek/Maroon Creek RFTA bus route serves the condominiums and the property is within
easy walking and biking distance of the City of Aspen recreational trail network. The Applicant has discussed the need for neighborhood trail improvements with the City of Aspen’s Parks and Open Space Director. There are several projects that the City is proposing to implement in the Maroon Creek Road Corridor that could benefit from a GMQS donation. In anticipation of the Aspen School District increasing campus security, the City intends to provide an alternative paved trail connection between the round-about and the Aspen Recreation Center. A second project within this corridor is the Maroon Creek Trail. Last year the City re-built an old footbridge that crosses Maroon Creek in the bottom of the gorge and next year the City plans to make improvements to the trail on the east side of the gorge down to the bridge. The Applicant commits to donate $8,000 to the City of Aspen Parks and Open Space program for these improvements. Staff recommends a score of 2.

**Impacts on Public and Private Facilities Subtotal: 8**

**(b) Effect on the Environment**

1. Considering the environmental impacts of the proposed development and whether the applicant commits to actions that will have a positive effect on the natural environment in Pitkin County, thereby achieving an overall benefit for the community. Points shall be awarded according to the following schedule:

   a. Zero (0) means the proposed development does not comply with the applicable adopted County environmental standards.

   b. One (1) means the proposed development complies with (but does not exceed) the applicable adopted County environmental standards.

   c. Two (2) means the proposed development exceeds the applicable adopted County environmental standards, or the proposed development complies with the applicable adopted County environmental standards and helps to solve an existing environmental problem. To receive a score of 2 in any category, an applicant shall exceed an adopted standard or solve an existing problem as expressed in at least one of the standards in that category, but need not do so in all of the standards of that category.

2. The categories in which points shall be awarded are as follows:

   a. **Water Resources**

      Considering the overall impacts of the development on local and regional water resources, including:

      1. The extent to which the proposed development of the property will comply with or will exceed (by more than fifty (50) percent) the minimum stream setbacks and riparian and wetland buffers established in Table 5-1 and Sec. 7-20-80 of this Land Use Code.

      2. Whether an applicant commits to the dedication of water rights to an appropriate public agency or other actions that will contribute to the protection of minimum stream flows and address a documented need in Pitkin County.

      3. Whether an applicant commits to retain irrigation water rights with agricultural or open space lands that are part of the development.

      4. Whether an applicant commits to the implementation of techniques that will improve the efficiency of existing irrigation systems and commits to dedicate the
remaining water to minimum instream flows, or increases the amount of agricultural land or protected open space that is able to be irrigated within the development.

5. Whether an applicant proposes a water augmentation plan that will replace water that is to be used by the development with augmentation water that re-enters the stream either (i) upstream of the development, or (ii) at the same point of diversion employed by the development (that is, bringing "wet water" to the County), or (iii) downstream of the development, but still upstream of the in-stream depletion areas in Pitkin County.

   Maximum Score 4    Score: 1 x 2 (multiplier) = 2

COMMENT: The Le Chamonix property sits atop a very steep slope above Maroon Creek and the setbacks from Maroon Creek were established through the Planned Unit Development process in 2014 for the property that was legally built in 1968. The proposed improvements will not encroach into this setback. An existing City of Aspen water main is adjacent to the property and the City has served the project since it was constructed. No new dwelling units are being created. The development meets but does not exceed the applicable County environmental standards and is deserving of a score of 1.

(b) Wildlife Habitat Protection

Considering the extent to which the proposed development will contribute to the protection of wildlife habitat in Pitkin County by exceeding the standards of Sec. 7-20-70. The County has identified the following activity that qualifies as exceeding the adopted standards:

1. An applicant could commit to a program that would enhance or would restore native wildlife habitat that has been degraded by human or animal activity (for example, by creating or restoring wetlands and/or riparian habitat). On-site enhancement is preferred, but where there are no significant opportunities for on-site enhancement or restoration, a commitment to enhance or restore other sites in Pitkin County may be considered.

2. Applicants may also identify other innovative ways in which wildlife habitat can be protected in Pitkin County that would exceed the County's adopted wildlife standards.

Applicants with no mapped or known wildlife habitat on their entire lot or parcel shall receive a score of two (2) in this category.

   Maximum Score 2    Score: 2 x 1 (multiplier) = 2

COMMENT: The property does not contain any mapped or known County regulated wildlife habitat. Therefore, the Applicant is eligible for a score of 2.

Effect on the Environment Subtotal: 4
(c) **Achievement of Community Goals**

(1) **OPEN SPACE PRESERVATION**

(a) Considering the extent to which the proposed development will contribute to the preservation of open space in Pitkin County. Valued open space that an applicant could preserve includes:

1. Undeveloped lands that have wildlife, scenic, and other desirable resource values;
2. Agricultural lands, including those that have been historically irrigated, used for food, grains or other feed production, and those used for dry pasture and rangeland;
3. Lands, or easements over lands, which provide access to public lands or public waters; and
4. Other undeveloped lands whose preservation would be consistent with the adopted Pitkin County Comprehensive Plan.

(b) Points shall be awarded according to the following schedule:

1. Zero (0) means the proposed development does not preserve any of the valued open space within the property.
2. One (1) means the proposed development preserves some, but not all of the valued open space within the property.
3. Two (2) means the proposed development preserves all of the valued open space within the property.
4. If the entire lot or parcel does not contain any valued open space, the applicant shall receive a score of two (2).

   Maximum Score 2   Score: 2 x 1(multiplier) = 2

**COMMENT:** The property drops off dramatically down to Maroon Creek behind the Le Chamonix building. It is so steep that there is no safe access from the building to the creek below. However, in 2014, when the PUD plat was approved, the Applicant granted a fishing easement along Maroon Creek from the center line of the Creek (the property boundary) to five feet above high water line. This easement connects to the County’s Aspen Highlands Village Open Space where there is an existing trail along the creek.

The Applicant, following discussions with Paul Holsinger of Pitkin County Open Space and Trails, is offering to expand the easement to 10 feet beyond the high water mark. This expansion provides enough room for a trail and perhaps a picnic spot making the creek area more appealing/useable to the public.

The easement will enhance the usability of Maroon Creek for the public and is not anticipated to create negative impacts to the riparian area. The staff recommends a score of 2.

(2) **HAZARD MITIGATION AND AVOIDANCE**

Considering the extent to which the proposal mitigates the impacts of development or avoids locating development in floodplain hazard, geologic hazard, or wildfire hazard areas, as these areas are described in Chapter 7 of this Land Use Code. Points shall be awarded according to the following schedule:
(a) Zero (0) means the proposed development does not comply with the County's adopted standards for floodplain, geologic, and wildfire hazard areas.

(b) One (1) means the proposed development complies with the County's adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas, but includes some development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards.

(c) Two (2) means the proposed development complies with the County's adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas and includes no development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards.

Maximum Score 2  Score: 1 x 1(multiplier) = 1

COMMENT: The property is not within the Maroon Creek floodplain. The wildfire hazard is rated as low. The development is located on slopes in excess of 30%. In 2011, the Applicant conducted extensive bank restoration on the west side of the building to stabilize the steep slope. Drainage and soil erosion mitigation measures were part of this project. Revegetation is slow due to the shade of the forest and the steep slopes. The applicant commits to spreading approved Pitkin County mountain grass mix on the hillside for four years after this approval to improve the soil erosion conditions.

The majority of the proposed improvements occur on the Maroon Creek Road side of the complex, however some stream side improvements, utilizing a square footage allotment, may occur if owners elect to improve subgrade or basement space, or enclose existing decks. The Applicant commits that this type of work would be accessed from inside, the front of the units.

Staff finds that a score of 1 is appropriate given that Le Chamonix is located on slopes in excess of 30% and some improvements might occur on the area of the property that is constrained with slopes greater than 30% or cantilevered over these steep slopes.

Achievement of Community Goals Subtotal: 3

(d) Creative Bonus

The Planning and Zoning Commission may award bonus points to any development application that meets the overall minimum scoring threshold to obtain an allocation, as specified in Tables 6-7 and 6-8. Bonus points may be awarded to an applicant who proposes creative approaches that are consistent with the purpose and intent of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), and go beyond the standards established in each of the respective categories. Bonus points may also be awarded for creative approaches that have not been addressed in any of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), but that are consistent with and help to implement the Pitkin County Comprehensive Plan. Up to five (5) bonus points may be awarded as follows:

(1) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with the purpose and intent of a scoring category set forth in Secs. 6-50-20 (a), (b), and (c), and goes beyond the standards established in that category.
(2) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with and helps to implement the Pitkin County Comprehensive Plan.

(3) One (1) bonus point may be awarded to any applicant who proposes to build affordable housing, rather than pay the Employee Housing Impact Fee required by Section 8-30 of this Land Use Code. To obtain the bonus point, the proposal to build the housing shall comply with the County’s adopted affordable housing policies and guidelines in terms of its location and the type of housing proposed.

Maximum Score 5  Score: _N/A_

COMMENT: The P&Z may consider a bonus. The Applicant has not proposed a creative approach at this point in time.

TOTAL POINTS (with multiplier):

<table>
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<tr>
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<th>Possible Points</th>
<th>Subtotal (without multipliers)</th>
<th>Subtotal (with multipliers)</th>
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<td>A. Impacts on Public and Private Facilities</td>
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<td>B. Effect on the Environment</td>
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<td>4</td>
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<td>C. Achievement of Community Goals</td>
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<td>D. Creative Bonus</td>
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<td><strong>TOTAL</strong></td>
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Must meet minimum threshold of **12 points** (with multipliers) to obtain an allotment for an addition (bonus points are not included in the minimum threshold).
TO: Leslie Lamont, Pitkin County Community Development
FROM: Pitkin County Open Space and Trails
RE: 1501 Maroon Creek Road – Le Chamonix Association – Land Use Application for a PUD Major Amendment, Activity Envelope and Site Plan Review, Residential GMQS, and Scenic Review.

DATE: May 9, 2019

The mission of the Pitkin County Open Space and Trails Board of Trustees (OSTB) is to acquire, preserve, maintain and manage open space properties for multiple purposes including, but not limited to, recreational, wildlife, agricultural, scenic and access purposes; and to acquire, preserve, develop, maintain and manage trails for similar purposes. Pitkin County OST appreciates the opportunity to comment on the Land Use and GMQS Application for the property located at 1501 Maroon Creek Road, submitted by Le Chamonix Association Incorporated and offers the following comments as the proposal relates to open space and trails within Pitkin County.

Summary: According to the introductory statement in the land use application, the Applicant is seeking a Major PUD Amendment, Site Plan Review, Scenic Review and a Residential Growth Management Quota System (GMQS) allotment for a floor area addition to the Le Chamonix Condominiums. Le Chamonix is a 12-unit condominium complex directly across Maroon Creek Road from the Aspen Highlands Parking Garage. The property has river frontage along Maroon Creek and abuts Pitkin County’s Aspen Highlands Village open space to the east. The application seeks a GMQS allotment of 6,200 sf of floor area to be distributed among the 12 units and the common area laundry room.

One of the categories where the applicant competes to gain GMQS points is under c) Transit and Trails Systems. Under this category, the applicant is proposing to donate $8,000 to the City of Aspen Park and Open Space Department to help fund the Maroon Creek Road paved commuter trail planning effort (a project to look for a trail alignment to bypass the school district property) and upgrades to the Maroon Creek Recreational singletrack that runs through the Maroon Creek gorge.

The other category in GMQS where Open Space and Trails is considered is in c) Achievement of Community Goals – Open Space Preservation. The applicant is proposing to improve the existing fishing and trail easements, which were granted from the centerline of Maroon Creek to five feet above the high water mark in 2014. The applicant, following discussions with Paul Holsinger, is offering to extend this easement 10 feet beyond the high water mark to make the creek more appealing/useable to the public and to extend the trail easement to be consistent with the new fishing easement.

Fishing/Recreational Trail Easement: OST is supportive of the applicant’s proposal and the award of GMQS points to expand the trail and fishing easement across the parcel and supports the award of GMQS points for this donation, though with the easement already existing the additional value is limited. The easement will add some additional usability to the Maroon
Creek River fishing easement that would connect to the County’s Aspen Highlands Village Open Space and is not anticipated to create negative impacts to the riparian area.
COPYRIGHT
ISSUED FOR

All designs ideas, arrangements and plans indicated by these drawings and specifications are the property and copyright of the Architect and shall neither be used on any other work nor be used by any other person for any use whatsoever without written permission.

Written dimensions shall take precedence over scaled dimensions and shall be verified at the job site. Any dimensional discrepancy shall be brought to the attention of the Architect prior to commencement of the work.

PROJECT DATA
PROJECT NO: 5/28/19 RECEIVER: 1501 MAROON CREEK ROAD PITKIN COUNTY CO SBA 5/28/19 AG.9 GENERAL SHEET NO.

#Pln
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RUN(9 11/32"
9.3'
10.4'
18.2'
18.4'
55.1'
67.4'
63.9'
56.1'
34.8'
11.1'
13.3'
11.3'
UNIT 1
UNIT 2
UNIT 3
UNIT 4
UNIT 5
UNIT 6
UNIT 7
UNIT 8
UNIT 9
UNIT 10
UNIT 11
UNIT 12
DECK L.C.E.
FRONT YARD L.C.E.
PROPERTY BOUNDARY MAROON CREEK ROAD
AREA FROM BUILDING FOOTPRINT TO FRONT SETBACK LIMIT

SCALE: 1:153.60
UPPER LEVEL FRONT SETBACKS
MAIN LEVEL FRONT SETBACKS

LE CHAMONIX CONDOMINIUMS
1501 MAROON CREEK ROAD
PITKIN COUNTY
CO

SCOT BROUGHTON Architects, LLC
PO Box 4096 / 23280 Two Rivers Rd., Unit 3 / Basalt, CO 81621
[t] 970/927-0552 [f] 0554 / [e] sbarchitects@sopris.net

AGENDA
ISSUED FOR
PROJECT DATA
COPYRIGHT
PROJECT: LE CHAMONIX
DRAWN BY: SCOT BROUGHTON
CHECKED BY: SCOT BROUGHTON
ISSUE DATE: 5/28/19
SHEET: 9 of 23
5/28/19
WALL FINISH: GREY STUCCO; SMOOTH FINISH.

WALL FINISH: STAINED VERTICAL WOOD SIDING; BROWN TONES.

WINDOWS AND DOORS: BRONZE FINISH

WALL FINISH: STONE VENEER; LEDGE STONE PATTERN; LIGHT BEIGE COLOR.

BEAM: STEEL 'C' CHANNEL PROFILE; BLACK FINISH.

FENCE: BOARD FORMED CONCRETE, NATURAL GREY COLOR.

FENCE & GATES: WELDED WIRE MESH, BRONZE COLOR.
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<td>*PUD does not mention deck area expansion under 15%- possible w/o agreement?</td>
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Per unit cost for SF to reach 2855 SF max per line 31 above:

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**Le Chamonix**  
**PUD Allowances**

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<td>Did height change on Unit 12 from previous remodel?</td>
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<td>*PUD does not mention deck area expansion under 15%—possible w/o amendment?</td>
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<td>15</td>
<td>* Can work commence under PUD on additional allowable deck space?</td>
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<td>Unit 4 previously remodeled—did 367SF change?</td>
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| 22 | Unit 12, 591sf—How???.  
    130SF=2855SF |   |   |   |   |
<p>| 23 |   |   |   |   |   |
| 24 |   |   |   |   |   |
| 25 |   |   |   |   |   |
| 26 |   |   |   |   |   |
| 27 | Unit 12, 130 sf stays in Max, not 591sf |   |   |   |   |
| 28 |   |   |   |   |   |
| 29 | 3439 |   |   |   |   |
| 30 | Current FA per PITCO code = 29,355.35 |   |   |   |   |
| 31 |   |   |   |   |   |
| 32 | Current FA per PITCO code = 29,355.35 |   |   |   |   |
| 33 |   |   |   |   |   |
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Max FAR = 2855 SF. Unit 12 thinks available SF left.

Expand to 15% of allowable FAR = 428 SF deck

Reduce to acquire more SF for unit expansion if possible to reach max FAR.

Motivated to rework existing deck w/o expanding, or reducing.

Schedule; LT=Long Term, M=Motivated, TBD., NM=Not motivated. V= Interested in a vested time frame

Decks and back of building rehab.

Look at keeping and using new gates not installed.

Investigate space at unit 1 end of complex.
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Le Chamonix Association Incorporated

Planned Unit Development
Major Amendment
Activity Envelope and Site Plan
Residential Growth Management
Quota System
Scenic Review

Land Use Application

Prepared by:

Davis Horn Incorporated
215 South Monarch Street
Aspen, CO 81611

&

Scot Broughton Architects
23280 Two Rivers Road
Basalt, CO 81621

January 15, 2019
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Attachment #2: BOCC Resolution No.29-2012 Creating the RMF Zone District;
Attachment #3: Resolution No. 30-2012 Rezoning Le Chamonix to RMF;
Attachment #4: Resolution No. 95-2012 Conceptual Subdivision and PUD;
Attachment #5: Resolution No. 68-2014 Final PUD Plat;
Attachment #6: Le Chamonix Planned Unit Development Final Plat (2014);
Attachment #7: Board of Adjustment Resolution No. 04-2011;
Attachment #8: BOCC Resolution No. 43-2011;
Attachment #9: Le Chamonix Activity Envelope and Site Plan (2011);
Attachment #10: Proposed Amended Le Chamonix Inc. Activity Envelope and Site Plan;
Attachment #11: Proposed Elevations;
Attachment #12: Proposed Perspectives;
Attachment #13: Proposed Amended Le Chamonix PUD Final Plat;
Attachment #14: Proposed Amended PUD Guide;
Attachment #15: Pre application conference summary;
Attachment #16: Aspen Fire Protection District Fire Marshall Parker Lathrop’s Letter on fire protection and Applicant’s proposed donation;
Attachment #17: Aspen School District Superintendent John Maloy’s letter on transportation issues and the Applicant’s proposed donation;
Attachment #18: Letter from City of Aspen Parks and Open Space Director Austin Weiss’ letter on trails/open space needs and the Applicant’s proposed donation;
Attachment #19: Letter from the Applicant authorizing Davis Horn Incorporated to submit this application and to represent them in the land use review process,
Attachment #20: Signed Fee Agreement;
Attachment #21: Property owners within 300 feet of the subject property; and
Attachment #22: Proof of ownership.
INTRODUCTION

Le Chamonix Association Incorporated ("Applicant") is represented by Davis Horn Incorporated and Scot Broughton Architects in this land use request. The Applicant is seeking a Major PUD Amendment, Site Plan Review, Scenic Review and a Residential Growth Management Quota System (GMQS) allotment for a floor area addition to the Le Chamonix Condominiums, a 12 unit condominium complex located at 1501 Maroon Creek Road, across from the Aspen Highlands Ski Area. Attachment 1, a Site Vicinity Map, depicts the location of the Le Chamonix Condominiums in Pitkin County.

The Applicant obtained land use approvals in 2014 for a rezoning of the Le Chamonix property from a single family zone district to a more appropriate multifamily residential zone district to eliminate the nonconformity of the multifamily use and structure which was legally built in 1968. The property was rezoned to Pitkin County’s newly created RMF (Residential Multi Family) zone district with a Planned Unit Development (PUD) overlay designation pursuant to Board of County Commissioners (BOCC) Resolutions Numbers 030-2012 and 068-2014. Resolution 068-2014 includes a comprehensive PUD Guide which establishes setbacks, a height limit, floor area allowed per unit and site specific PUD requirements necessitated by the unique and complex circumstances involved in this legally built multifamily condominium building.

The current application requests the land use approvals necessary to accomplish the development anticipated and envisioned in the rezoning and PUD process. The Site Plan and Scenic Reviews will allow the impacts of the proposed exterior renovation and the individual unit expansions to be properly evaluated pursuant to a consistent, approved architectural elevation from Maroon Creek Road and consistent with the adopted PUD Guide. Previous owner requests and approvals were made in a piecemeal, unit by unit fashion without a consistent overall plan for the complex. The anticipated expansion potential for each individual unit shown within a comprehensive plan for the entire structure is required by the PUD approvals. These approvals will allow the twelve owners in the complex to expand and/or remodel their units in compliance within the intent and requirements of the rezoning and PUD approvals and an approved overall plan for the building.

This application addresses the Applicant’s request under the following headings:

I. Background;
II. Existing Conditions;
III. Project Description,
IV. Land Use Requests; and
V. Land Use Reviews.

I. BACKGROUND

On October 24, 2012 the Board of County Commissioners ("Board or "the Board") approved Ordinance 029-2012 (Attachment 2) which amended the Land Use Code to create the RMF zone district and to add the residential Growth Management Quota System Exemptions for minor expansion of multi-family dwelling units for sub-grade floor area. At the same meeting, the Board approved the rezoning of Le Chamonix Condominiums to the RMF Zone District pursuant
to Ordinance 030-2012 (see Attachment 3). Finally, the Board approved Resolution 095-2012 Granting Conceptual Subdivision and Planned Unit Development Approval for Le Chamonix Association Incorporated, at the Le Chamonix Multi Family Housing Complex, Units 1 through 12 (see Attachment 4).

On July 9, 2014 the BOCC approved Resolution No. 068-2014 granting Detailed/Final Plat Submission and Planned Unit Development Approval for Le Chamonix Association Incorporated, at the Le Chamonix Multi Family Housing Complex, Units 1 through 12. (Attachment 5) This included Attachment B to the Resolution, the Le Chamonix Association Incorporated Planned Unit Development Guide (Le Chamonix PUD Guide or PUD Guide). The PUD Guide established important dimensional requirements for the complex. The Le Chamonix Condominiums Planned Unit Development Final Plat approved on September 8, 2014 and recorded at Plat Book 108, Pages 37-39 is found in Attachment 6.

Prior to the approval of the PUD, Pitkin County granted several other land use approvals for La Chamonix. A Board of Adjustment variance and an Activity Envelope Site Plan were approved in May of 2011. Board of Adjustment Resolution No. 04-2011 granted major road and side yard setback variances for the reconstruction of retaining walls. BOCC Resolution No. 043-2011 granted Activity Envelope and Site Plan approval for the Le Chamonix Homeowners Association (HOA) Bank Restoration Project and Expansion/Restoration of a Legal Nonconforming Structure with Significant Changes was approved. These two resolutions and the 2011 Le Chamonix Activity Envelope and Plan are found in Attachments 7, 8 and 9. The 2011 approvals were patchwork approvals which made it clear to the Applicant, staff and Board that an overall plan for the property was needed.

II.

EXISTING CONDITIONS

The 12 unit Le Chamonix Condominiums are located on 1.953 acres, or 85,073 square feet of land area. The land slopes down steeply to Maroon Creek behind the structure. The front of the building is mostly paved with parking in front of each unit. The parking and front yard setbacks were established by the BOCC through the PUD approvals. The building is laid out in a shallow U shaped arc with units 1 and 12 on each end being closest to Maroon Creek Road and the units in between gradually set back further from Maroon Creek Road. The staggering of units creates a desirable design interest and relief.

The Le Chamonix parcel contains 11,726 +/- square feet of land area under water and 39,352 +/- square feet of land with slopes over 45% in grade. The Pitkin County Land Use Code lot area definition does not include land under water. Therefore, the total lot area of the site is 73,347 +/- square feet (85,073 total square feet of land less 11,726 square feet of land under water). Section 5-10-20 of the Code requires slope density reduction when more than 30 percent of land area is encumbered by slope of 45 percent and greater. The applicant applied the slope density reduction formula in the Code to the 73,347 square foot lot area instead of the total 85,073 square feet of land area in order to be conservative. Approximately 54 percent of the site is encumbered by slopes of 45 percent and greater (39,352 square feet divided by 73,347 square
feet = 54 percent). According to the formula, this means that the permitted density of development on the site was required to be reduced by 24 percent (54% - 30% = 24%).

Based upon many factors including this adjusted lot size, the maximum floor areas allowed for each of the twelve units in the complex were documented and approved by the BOCC as part of the PUD Guide approved in BOCC Resolution No. 068-2014. (Attachment 5) The existing unit sizes and deck sizes were also documented. The decks on the north side of the structure were legally created and approved by Pitkin County and their sizes are also documented in the PUD Guide.

The land use approvals in 2014 resolved many issues which were in a state of flux over the years due to the Le Chamonix being a legally built use and structure which had been rezoned to a single family zone. In particular, requirements like parking, setbacks and floor area were established in the PUD Guide based upon a reasonable evaluation of existing units, the specific circumstances of the land under the condominiums and the new RMF Zone District.

III.
PROJECT DESCRIPTION

The Applicant requests approval to expand the existing units in Le Chamonix in conformance with an approved overall exterior plan for the project. All proposed development was anticipated with the 2012 to 2014 Pitkin County approvals. The proposed unit expansions will be consistent with the intent and conditions of those approvals including maximum height, floor area and setbacks. The maximum height is 28 feet, the maximum floor area is 2,855 square feet per unit and the front yard setbacks have been established on a unit by unit basis based upon proximity to Maroon Creek Road. There are a few cases where minor height and floor area limits above the 28 feet height limit and the 2,855 maximum floor area were varied by the BOCC pursuant to the PUD Guide to accommodate existing conditions. No expansion or increases are proposed in these cases.

The Applicant is also proposing an exterior remodel. The proposed project is illustrated by the proposed Le Chamonix Condominiums Incorporated Activity Envelope and Site Plan (2019) in Attachment 10 and the proposed East Facing Elevations and perspectives shown in Attachments 11 and 12. Elevations from other perspectives are also given, though the impacts will be minimal from other locations. The proposed Amended Le Chamonix PUD Final Plat is found in Attachment 13. Page 1 of the PUD Final Plat does not change, only the specific footprints of some of the units as shown on page 2 need amendment. Also, the old AR-10 zoning was erroneously shown on the Final Plat and that will be amended to indicate the new RMF zoning approved in 2014.

The Le Chamonix PUD Guide from Exhibit B of Resolution 068-2014 will be amended to reflect new approvals. A draft amended PUD Guide is presented in Attachment 14.

Resolution 068-201 requires either a Transferable Development Right (TDR) or a Residential Growth Management Quota System (GMQS) allotment for floor area expansions up to the allowed 2,855 square feet of floor area per unit. Finishing subgrade space which is taller than
5'6" in height is an exception to the requirement for a TDR or GMQS allotment. A Residential GMQS allotment of up to 6,200 square feet of gross floor area is requested to allow the expansion of the twelve units up to the 2,855 square feet of floor area allowed. If awarded, the 6,200 square foot gross floor area allotment will be allocated throughout the twelve units depending upon the specific circumstances of each unit.

Approximately 5,814 square feet of floor area as defined by the Pitkin County Land Use Code is proposed for individual unit expansions, 100 square feet for a laundry room addition, and a five percent buffer. The floor area proposed for Le Chamonix is best described in Table 1 which depicts maximum allowed floor area (2,855 square feet for all but one unit), existing floor area, proposed floor area or the floor area available to achieve the maximum allowed 2,855 square feet of floor area and the subgrade floor area above 5'6" in height which is already counted in floor area calculations.

**TABLE 1**

Le Chamonix Floor Area  
(Square Feet)  
December 2018

<table>
<thead>
<tr>
<th>Unit</th>
<th>Allowed</th>
<th>Existing</th>
<th>Proposed and Available to Achieve 2588</th>
<th>Subgrade Floor Area &gt;5'6' to be moved above Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1:</td>
<td>3,553</td>
<td>3,553</td>
<td>0</td>
<td>105</td>
</tr>
<tr>
<td>#2:</td>
<td>2,855</td>
<td>1,772</td>
<td>1,083</td>
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<tr>
<td>#3:</td>
<td>2,855</td>
<td>1,922</td>
<td>933</td>
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<td>#4:</td>
<td>2,855</td>
<td>2,836</td>
<td>19</td>
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<td>2,511</td>
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<td>471</td>
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<tr>
<td>#8:</td>
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<td>-</td>
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<td>2,544</td>
<td>311</td>
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<tr>
<td>#10:</td>
<td>2,855</td>
<td>2,358</td>
<td>497</td>
<td>-</td>
</tr>
<tr>
<td>#11:</td>
<td>2,855</td>
<td>2,390</td>
<td>465</td>
<td>-</td>
</tr>
<tr>
<td>#12:</td>
<td>2,855</td>
<td>2,725</td>
<td>130</td>
<td>220</td>
</tr>
</tbody>
</table>

5,814  
1,616

Laundry:  
100

Five Percent Buffer:  
285

Total Requested:  
6,200 (rounded)

- Subgrade floor area >5'6" is already counted in floor area so no GMQS allotment is needed for this space. If this existing floor area >5'6" is relocated above grade the vacated space will be converted to crawl space (<5'6") by pouring slabs.

**Source:** Davis Horn Incorporated and Scot Broughton Architects, LLC, January 2019.
Le Chamonix owners have been working diligently for over four years with the Le Chamonix Homeowners Association (HOA) and architect Scot Broughton to create a development plan with elevations that are in conformance with the PUD approvals and that provide consistent, desirable east facing elevations from Maroon Creek Road. Scot has carefully evaluated each unit’s specific conditions, the impacts on development and the current owner’s wishes for redevelopment and/or expansion. Table 1 illustrates the floor area requested by unit, allowing each unit to achieve their build out potential of 2,855 square feet. The elevations and perspectives reflect unit additions and the exterior renovation; these will be a guide for unit additions now and in the future. This is to avoid the haphazard approach of the past where unit owners sought land use approvals one by one without an overall project plan.

As explained previously in this application, the maximum floor area allowed in each unit of 2,855 was a carefully thought out number approved by the Board, based upon the property’s total land area and the lot size after subtractions for land area under water.

As shown in Table 1, the remaining expansion potential (floor area that can be built up to 2,855 square feet) varies greatly from unit to unit. The owners of Unit 4 have already completed a full renovation, only have 19 square feet of floor area remains and nothing is proposed or likely to be proposed in the near future. The owners of Units 5, 7, 8, 9, 10, 11 and 12 have completed some expansions and remodeling prior to or in conformance with the approved rezoning and PUD and have less floor area expansion potential. Units 2, 3 and 6 have the most expansion potential as they are still close to their original size when built in 1968. Unit #1 is over the maximum allowed floor area per unit; the existing 3,553 square feet of floor area was approved by Pitkin County in 2014 pursuant to the PUD. Unit #12 is also over the maximum allowed floor area of 2,855 square feet, but the existing floor area includes unfinished subgrade space already counted in floor area, over 5’6” in ceiling height, which can be finished. The new owner of Unit 12 applied for and won a growth management residential floor area allotment for 221 square feet in the 2015 competition in order to convert half of the garage space to legal, finished living area. That remodel has been completed.

The five owners of Units 1, 5, 6, 7 and 12 would like to have the ability to move their approved subgrade space which is over 5’6” (and already counted in floor area) to above grade space as long as the above grade floor area conforms with the PUD. Since the floor area over 5”6” is already counted as floor area, no GMQS allotment would be required. The visual impacts of moving this space above grade have been considered. The total floor area for each of these units will still be less than or equal to the 2,855 maximum square feet allowed and the impacts of this space will be insignificant. As shown in Table 1, the owners of these five units have a total of 1,616 square feet of subgrade space >5’6”. If existing floor area in subgrade space >5’6” is relocated, the vacated space will be converted to crawl space (<5’6”) by pouring concrete slabs in the floor. This relocated subgrade space is reflected in the drawings, the exterior elevations and perspectives, after completion of the exterior remodel and unit expansions.

Some owners do not have the desire and/or the resources to complete their expansions at this time but want to preserve the ability to complete an expansion in the future, knowing that any future expansion will have to be in conformance with all approvals.
After careful calculations by architect Scot Broughton, a review of the existing floor area measured pursuant to the Code definitions documented in the 2014 PUD Guide and a review of the BOCC Resolution 68-2014 conditions of approval, the conceptual exterior remodel and unit by unit expansions are detailed in the elevations and perspectives in Attachments 11 and 12. Since Scot has not fully planned a remodel of the interior of each unit, the drawings are conceptual based upon discussions with owners, the PUD Guide and minimizing visual impacts, particularly from Maroon Creek Road. The Applicant agrees to maintaining only two levels on the Maroon Creek Road side of the building.

IV. Land Use Request

The Applicant requests the following approvals to complete the proposed Le Chamonix exterior remodel and individual unit expansions anticipated by the rezoning and PUD approvals in 2011 through 2014.

1) Le Chamonix Activity Envelope and Site Plan – An Overall Site Development Plan (Site Plan) for the Le Chamonix Condominiums is found in Attachment 10.

2) Scenic Review – East facing elevations and perspectives which document acceptable visual impacts from the Maroon Creek Road Corridor are in Attachments 11 and 12. Other elevations are included as well.

3) A GMQS Residential floor area allotment for 6,200 square feet of floor area to be distributed among the twelve units and the common area laundry room.

4) Amendments to the Le Chamonix Condominiums Incorporated PUD. The proposed amended Le Chamonix PUD Final Plat and the proposed amended Le Chamonix PUD Guide are found in Attachments 13 and 14.

5) PUD Guide amendments will address:

  a) Height increases to achieve the 28 foot height limit while maintaining only two stories on the southeast, Maroon Creek Road side of the structure. The height increases are required for all units except Unit #4 which has already been completely renovated. Ceiling height can be increased and volume can be added. The rear side of the building has minimal visual impacts and is not visible from a scenic corridor. The southeast side of the structure will maintain only two stories. Height increases cannot occur until County approval is obtained for an overall plan for the complex conceptually showing how the height increases will impact views from the Maroon Creek Road Scenic Corridor. Heights are depicted on Pages 2 and 3 of in the Amended Le Chamonix PUD Final Plat (2019) in Attachment 13 and in the elevations and perspectives in Attachments 11 and 12.
b) **Amendments to reflect these 2018/2019 approvals.** The primary areas needing amendment in the PUD Guide are in Section V Dimensional Requirements. These include Section V.G Maximum Height, Section V.I Existing Floor Area, Section V.J Maximum Floor Area, Section V.L Expansion of Dwelling Units, Section V.M Enclosure of Decks and Section V.O Increases in Floor Area, Finishing Unfinished Crawl Space Over 5’6” and Converting Floor Area Located in Garages to Living Spaces. The proposed Amended Le Chamonix PUD Guide is found in Attachment 14.

c) **A statement that any future unit expansion will be consistent with the Site Plan and Visual simulations/elevations as approved; and**

d) **The approval to convert existing subgrade or garage space that counts in floor area calculations, to above grade space.** As any other residential property owner in Pitkin County can do, this clarification will allow the floor area allowed in a unit to be used anywhere in the structure as long as it is in conformance with the Code, an approved Site Plan, Scenic Review and any other land use conditions placed on the property.

No amendment to increase the approved 28 foot height limit, the 2,855 square foot maximum floor area allowed per unit or to setbacks is requested. The height on the front of the building will be limited to only two stories. The proposed Site Plan and the proposed elevations comply with all dimensional requirements.

V. LAND USE REVIEW

This section of the application identifies the requested land use approvals and demonstrates compliance with the applicable Pitkin County Land Use Code standards. The Applicant is requesting a Major Amendment to a PUD, Activity Envelope and Site Plan Review, Scenic Review and a Residential GMQS allotment for 6,200 square feet of floor area. The Applicant has addressed the Land Use Code standards identified by the Pitkin County Community Development Department in the Pre-Applications Conference Summary Sheet (see Attachment 15) in the following order.

A. Section 2-40-40 - GMQS Scoring Allotments  
B. Section 2-40-50 - Subdivision and PUD Review Procedures  
C. Section 2-20-150(e)(2) - Major Amendment to a Development Permit  
D. Section 3-30-70(j) PUD - Architectural Review  
E. Section 6-50-20 - Standards for Scoring Residential GMQS Allotments  
F. Section 7-10-50 - Activity Envelope and Site Plan  
G. Section 7-20-120 - Scenic View Protection  
H. Section 7-20-80 - Rivers Stream Corridors and Wetlands  
I. Section 1-60 - Land Use Policies
IV.A
GMQS Scoring Allotments
Section 2-40-40

This section of the Land Use Code establishes the procedures for the GMQS Residential floor area competition including scoring, awarding allotments and appealing decisions. The Applicant will abide by these procedures as required.

Although not listed in the pre-application conference summary, the Applicant also understands the rules and guidelines in Section 6-40-20 giving the general standards for allotments and competition which require compliance with Code requirements, when an allotment or exemption is required, consideration of the comprehensive plan, the covenant required to address all commitments and the concept of proportionality. The concept of proportionality suggests an applicant seeking an allotment for a large amount of floor area would be expected to make a proportionally greater commitment to obtain the same score as an applicant seeking a lesser amount of floor area. The Applicant in this submission is requesting a relatively small amount of floor area to be used among the twelve units in the Le Chamonix Condominiums.

IV. B
Subdivision and PUD Review Procedures
Section 2-40-50

These are the procedures for a subdivision or a rezoning to PUD. The Community Development Department is allowing the Major PUD Amendment to proceed in two stages, once to the Planning and Zoning Commission and once to the BOCC. Although the application meets most of the criteria for a Minor Amendment to a PUD, the addition of approximately 6,200 square feet to the entire building, (or additions of 0 to up 1,083 square feet per unit) is above the 5% criteria for a minor PUD amendment. The size of a unit’s addition will vary from unit to unit. Additions for the twelve units will be 0, 19, 130, 311, 344, 363, 465, 497, 510, 933, 959 and 1,083 square feet.

IV. C
Major Amendments to Development Permits
Section 2-20-150(e)(2)

(e) (2) Major Amendments

(a) Major amendments to a development approval or permit approved through the Administrative Review process shall require a new application of the same type required for the original approval, and shall be reviewed and approved by the same decision-making body (Community Development Department staff or the Hearing Officer) that made the original approval, as shown in Table 2-1.

(b) Major amendments to a development approval or permit not approved through the Administrative Review process shall require a new application of the same type required for the original approval, and shall be reviewed through a One-Step
process to the same decision-making body (Board of Adjustment, Planning and Zoning Commission, or Board) that made the original approval, as shown in Table 2-1.

(c) If the original approval required a notice and hearing, the notice and hearing requirements shall be repeated for the proposed amendment.

(d) In the event approval required a recommendation from any other board or commission, the proposed amendment shall be referred to the same board or commission for recommendation.

(e) If the proposed amendment is to a condition imposed as a result of comment from a referral agency, the proposed amendment shall be referred to that agency for comment.

The Applicant will comply with these procedures when appropriate. The Community Development Department is allowing this to proceed in two steps, one to the Planning and Zoning Commission and one to the BOCC.

IV.D
PUD Architectural Review
Section 3-30-70(j) PUD

(j) Architectural Review

The County may require an applicant for a PUD to submit architectural plans or models at the time of Conceptual or Detailed Subdivision review (if a subdivision of land is being requested) or at the time of Site Plan review (if no subdivision is being approved).

(1) Intent

The intent of architectural review is to promote the preservation and enhancement of the visual character of the County by preventing the development of inappropriate or out of character structures that:

(a) Require the indiscriminate clearing of property, excessive grading and the destruction of trees and shrubbery; and/or

(b) Are out of scale with adjacent land uses; and/or

(c) Significantly reduce solar access to public open spaces or adjacent properties.

Elevations and Perspectives of the Le Chamonix proposal by Scot Broughton of Broughton and Associates Architects are found in Attachments 11 and 12. The elevations show the view from Maroon Creek Road and a perspective of what the building will look like after the exterior remodel and when all unit expansions are completed. All additions will comply with these
conceptual drawings. The intent is to have an overall plan for the Le Chamonix building that enhances the visual character of the building and enhances views of the building from the Maroon Creek Road Scenic Corridor. The structure was built in 1968 and if the units have not yet been upgraded, they have very small rooms, low ceilings and outdated floor plans. Very little vegetation will be disturbed, the exterior remodel and unit expansions are not out of scale with adjacent land uses and will not reduce solar access to public open spaces or adjacent properties. These upgrades, including the exterior remodel, will add to the character of the building, the neighborhood and views from Maroon Creek Road.

Land uses surrounding the 1.953 acre Le Chamonix property include Maroon Creek Road and Aspen Highlands to the southeast, Pitkin County open space and Maroon Creek (the water body) to the northwest, the Heatherbed affordable housing and the Aspen Highlands Metro District open space to the west and Pitkin County open space to the north and east as well. Most of the open space was dedicated to Pitkin County as part of the Aspen Highlands Ski Area and base area approvals. All Le Chamonix units are oriented northeast toward the Creek.

(2) Standards
   The County may require changes to architectural plans to:

   (a) Minimize disturbances to the natural terrain; and/or

   (b) Reduce the adverse visual impacts of buildings that because of size, scale, color, or location are out of harmony with the neighborhood in which they are to be constructed; and/or

   (c) Promote advantageous solar orientation and energy conserving design; and/or

   (d) Promote consistency with scenic and rural character guidelines.

Minimal disturbance to the natural terrain will occur. The existing structure will be updated and improved and the size and scale of the building does not significantly change. The building will meet the height limit of 28 feet established in the PUD approval and the Applicant has agreed to maintain only two stories on the front, Maroon Creek Road side of the structure to minimize visual impacts from the scenic corridor. The expansions require an overall plan for the building before any unit expansion can be approved. As mentioned before, this is to prevent the piecemeal approach to unit expansions which have occurred in the past. The earth tone materials and colors used will be in harmony with the neighborhood. The minimal impact of the overall exterior plan which reflects unit expansions will meet these standards.

The footprint will not be increased in the rear of the building, but some of the unit additions will be to the rear where they are not visible from the Maroon Creek Road Scenic Corridor. Only one or two homes can see the building from the rear and their distance to Le Chamonix will make visual impacts from this side of the building insignificant. Very few land uses are impacted by the complex from the northwest side of the building. The Rural Character Guidelines mentioned
in these standards are not applicable as the Le Chamonix is located within the Urban Growth Boundary. The land use application complies with these standards.

IV.E

Standards for Scoring Applications for Residential Additions Allotments

Section 6-50-20

(Urban Growth Boundary)

(a) Impacts on Public and Private Facilities

(1) Considering whether an applicant has provided a commitment to install those public and private facilities that are necessary to serve the development and also to install facilities that may be of benefit to the surrounding neighborhood. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed facilities do not comply with the County's adopted standards or do not meet the needs of the project.

(b) One (1) means the proposed facilities comply with the County's adopted standards and provide for the needs of the project, but do not improve services to the surrounding neighborhood.

(c) Two (2) means the proposed facilities comply with the County's adopted standards, provide for the needs of the project, and help to solve a problem or resolve a constraint with existing facilities, or otherwise are of benefit to the surrounding neighborhood. Any such improvements proposed must also be consistent with adopted County plans addressing such facilities and must be determined to be necessary and appropriate by the referral agency charged with utilizing the facility or providing the related service.

(2) The categories in which points shall be awarded are as follows:

(a) Fire Protection

(1) Capability of the appropriate fire protection district to provide fire protection according to its established response standards, including whether appropriate access has been provided to the development site, with necessary vehicle turnout and turn-around pads;

(2) Adequacy of available water pressure and capacity for providing fire-fighting flows; and

(3) Commitment of an applicant to provide or pay for fire protection facilities that may be necessitated by the project or that may improve fire protection capabilities in the neighborhood, including but not limited to fire hydrants, water storage tanks or ponds, and fire fighting vehicles or equipment.
We have discussed the proposal with Parker Lathrup, the Fire Marshall of the Aspen Fire Protection District. The District is capable of serving the project with the existing facilities which are in place in the site vicinity. A new hydrant is not needed in the area. The Fire Department can easily access a fire at the complex from Maroon Creek Road in the event of a fire and a fire vehicle turn around area is not required because there is easy access in both directions on Maroon Creek Road. After discussion with Fire Marshall Parker Lathrop, several fire protection needs were indicated. Parker has indicated fire protection in the neighborhood could be improved if the District owned either a training vehicle for training new firefighters or a brush truck, a small fire fighting vehicle. Due to the interface with wildfires in the neighborhood, the small truck is much more successful in maneuvering in tight locations and would be a valuable asset to the District and the neighborhood. The Applicant will contribute $15,000.00 to the Aspen Fire Protection District to help the District acquire either of these valuable assets to serve the neighborhood.

This commitment by the Applicant to contribute $15,000.00 toward the purchase of a training vehicle or a small firefighting brush truck helps to solve a problem or resolve a constraint with existing facilities, or otherwise benefit the surrounding neighborhood as confirmed by discussions with the Fire Marshall. Fire Marshall Lathrop addresses the Applicant’s contribution in his letter in Attachment 16. The acquisition of a training vehicle or a small brush truck will benefit the entire neighborhood and represents a disproportionate contribution by the Applicant to the Fire Department in relationship to the development of minor expansions in up to 12 condominium units.

(b) Road System

(1) Capability of the public road network to provide for the needs of the proposed development within acceptable levels of safety, as defined in the Pitkin County Asset Management Plan; and

(2) Applicant's commitment to provide or pay for necessary road system improvements attributable to the proposed development or to improve road capacity or safety in the neighborhood.

There will be no increased traffic with the proposed unit expansions. The condominium units were originally built in 1968 and several still have the original 7.5 foot ceiling heights and other obsolete layouts and design features. Improving the units to create a more modern layout and design will not increase traffic impacts or traffic issues on Maroon Creek Road. No new residential units are proposed. The Maroon Creek Road corridor is capable of accommodating the existing impacts from Le Chamonix Condominiums.

Le Chamonix sits on and is directly accessed by Maroon Creek Road. It is approximately 1.5 miles up Maroon Creek Road from the Highway 82 round-about and is within one mile of the Aspen School District public schools. Traffic congestion at peak times in the Maroon Creek Road corridor continues to be a local issue of concern. The Applicant has discussed the Maroon Creek Corridor traffic issues with John Maloy, Superintendent of the Aspen School District.
Applicant will donate $5,000 to the School District for transportation planning assistance. The monies may be used for various transportation planning and transportation projects to improve traffic in the neighborhood. As the District’s school bus system and the teacher van service are viable alternatives to traveling to school in private automobiles, the success and increased use of the bus system and the van service can be of great benefit to the transportation challenges in the neighborhood. Peak time automobile trips to the School contribute to the traffic in the Maroon Creek Road corridor. John Maloy has said the School District will accept the Applicant’s $5,000 donation and it will be a welcomed gift to help resolve School related traffic issues. Attachment 17, is a letter from John Maloy to the Applicant’s representative, Davis Horn Incorporated, stating that:

"The Aspen School District can put this money to good use for transportation planning or future projects or efforts to improve road capacity or road safety along Maroon Creek Road. The ASD continues to work with the Community Forum Task Force on transportation options in and around the schools, along Maroon Creek Road and in the neighborhood."

Despite the proposed project’s limited impact on peak hour traffic in the Maroon Creek Road Corridor, the Applicant is committing to a contribution to the School District for transportation planning “to improve road capacity or safety in the neighborhood.” The contribution to the Aspen School District for transportation helps to “solve a problem or resolve a constraint with existing facilities or otherwise are of benefit to the surrounding neighborhood.”

(c) Transit and Trail Systems

(1) Whether the proposed development site is located in proximity to existing transit routes and trail systems and whether appropriate on-site connections are made to these routes and trails;

(2) Capability of the transit system to accommodate the proposed development without the need for additional equipment or route shifts;

(3) Commitment of the applicant to finance or provide capital improvements (such as a bus, bus shelter, or trail connection) that enhance the ability of the transit or trail system to serve the proposed development, or to provide an easement for a trail that has been identified in the Pitkin County Comprehensive Plan; and/or an easement for a trail that has generally been identified as a public access need.

The subject site is located on the Castle Creek/Aspen Highland bus route and is within easy walking or bicycle riding distance to the RFTA bus stops at the Aspen Highlands Ski Area, the Aspen Highlands Villas, the Aspen Recreation Center and the Aspen High School. The transit system well serves the existing twelve units in le Chamonix and will continue to be capable of accommodating the needs of Le Chamonix without the need for additional equipment or route shifts.
We have discussed the need for trail improvements in this neighborhood with Austin Weiss, the City of Aspen Parks and Open Space Director. Austin has stated that there are several parks and trails projects in the Maroon Creek Road corridor that could potentially benefit from a contribution from Le Chamonix as part of the GMQS process. The primary ones he identified are (1) Maroon Creek Road paved commuter trail planning and (2) additional upgrades to the Maroon Creek Recreational single-track that runs through the Maroon Creek gorge. The first of these projects will provide an alternative paved trail connection between the round-a-bout and the Aspen Recreation Center. The goal of this project is to identify an alignment that avoids the Aspen School District campus and provides a more seamless connection. This would enhance the Maroon Creek Corridor trail system and provide traffic relief as well.

The second project Austin identified is the Maroon Creek Trail corridor project which has been an ongoing effort in recent years. The City of Aspen goal has been to make significant improvements to this much loved community trail. Last year the City re-built the old US Forest Service bridge at the bottom of this trail. Next year the City is looking to make improvements to the trail on the east side of the gorge down to the bridge that crosses Maroon Creek.

The Applicant commits to donate $8,000 to the City of Aspen Parks and Open Space Department to help fund these efforts, either of which would provide substantial open space and trail benefits as well as transportation benefits to the Le Chamonix neighborhood and the Maroon Creek Corridor. The two projects specified are discussed in the letter from Austin Weiss to the Applicant’s representative which is found in Attachment 18. The letter states that as the City of Aspen Parks and Open Space Director, he is supportive of the Applicant’s offer to donate money to these identified projects. Austin states that the Applicant’s “contribution that is being considered for these projects would indeed assist our efforts to implement these improvements and would be a community benefit.”

The Applicant’s contribution will enhance the ability of the transit or trail system to serve Le Chamonix and will provide for the needs of the project, help solve a problem or resolve a constraint with existing facilities and will be of benefit to the surrounding neighborhood.

(b) Effect on the Environment

(1) Considering the environmental impacts of the proposed development and whether the applicant commits to actions that will have a positive effect on the natural environment in Pitkin County, thereby achieving an overall benefit for the community. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed development does not comply with the applicable adopted County environmental standards.

(b) One (1) means the proposed development complies with (but does not exceed) the applicable adopted County environmental standards.

(c) Two (2) means the proposed development exceeds the applicable adopted County environmental standards, or the proposed development complies with the applicable
adopted County environmental standards and helps to solve an existing environmental problem. To receive a score of 2 in any category, an applicant shall exceed an adopted standard or solve an existing problem as expressed in at least one of the standards in that category, but need not do so in all of the standards of that category.

(2) The categories in which points shall be awarded are as follows:

(a) Water Resources

Considering the overall impacts of the development on local and regional water resources, including:

(1) The extent to which the proposed development of the property will comply with or will exceed (by more than fifty (50) percent) the minimum stream setbacks and riparian and wetland buffers established in Table 5-1 and Sec. 7-20-80 of this Land Use Code.

(2) Whether an applicant commits to the dedication of water rights to an appropriate public agency or other actions that will contribute to the protection of minimum stream flows and address a documented need in Pitkin County.

(3) Whether an applicant commits to retain irrigation water rights with agricultural or open space lands that are part of the development.

(4) Whether an applicant commits to the implementation of techniques that will improve the efficiency of existing irrigation systems and commits to dedicate the remaining water to minimum instream flows, or increases the amount of agricultural land or protected open space that is able to be irrigated within the development.

(5) Whether an applicant proposes a water augmentation plan that will replace water that is to be used by the development with augmentation water that re-enters the stream either (i) upstream of the development, or (ii) at the same point of diversion employed by the development (that is, bringing "wet water" to the County), or (iii) downstream of the development, but still upstream of the in-stream depletion areas in Pitkin County.

This standard is more applicable to the rural area than properties such as the subject located within the Urban Growth Boundary (UGB). Maroon Creek is far below the property as the slope drops down dramatically down from the rear, west side of the building. The current setbacks have been established through a lengthy PUD process after careful consideration of subject building which was legally built in 1968. The setbacks established in the PUD approvals are met and the complex complies with stream setbacks. No change is being made to the distance from the Creek to the rear of the complex. Riparian setbacks and wetland buffers are not necessary due to the distance down slope from the project. There are no isolated wetlands or riparian areas on the property. The Applicant does not own any water rights.

Water service is provided by the City of Aspen. There is an existing water line located in Maroon Creek Road adjacent to Le Chamonix. The project has been serviced since it was
constructed in 1968. The City of Aspen Water Department is capable of continuing to provide service to the site as it has done for so many years. No new dwelling units are being created and no increased demand will occur. The UGB (Urban Growth Boundary) is designed to favor properties in the UGB, like Le Chamonix, that can be developed without impacts on public facilities. The proposed development complies with the applicable adopted County environmental standards.

(b) Wildlife Habitat Protection

Considering the extent to which the proposed development will contribute to the protection of wildlife habitat in Pitkin County by exceeding the standards of Sec. 7-20-70. The County has identified the following activity that qualifies as exceeding the adopted standards:

(1) An applicant could commit to a program that would enhance or would restore native wildlife habitat that has been degraded by human or animal activity (for example, by creating or restoring wetlands and/or riparian habitat). On-site enhancement is preferred, but where there are no significant opportunities for on-site enhancement or restoration, a commitment to enhance or restore other sites in Pitkin County may be considered.

(2) Applicants may also identify other innovative ways in which wildlife habitat can be protected in Pitkin County that would exceed the County’s adopted wildlife standards.

Applicants with no mapped or known wildlife habitat on their entire lot or parcel shall receive a score of two (2) in this category.

The Le Chamonix Condominium property does not contain any mapped or known County regulated wildlife habitat. The residential GMQS is designed to award develop allotments to parcels in the UGB which can be developed without impacting any wildlife regulated by the Code. The Le Chamonix complex is such a property.

(c) Achievement of Community Goals

(1) Open Space Preservation

(a) Considering the extent to which the proposed development will contribute to the preservation of open space in Pitkin County. Valued open space that an applicant could preserve includes:

(1) Undeveloped lands that have wildlife, scenic, and other desirable resource values;

(2) Agricultural lands, including those that have been historically irrigated, used for food, grains or other feed production, and those used for dry pasture and rangeland;

(3) Lands, or easements over lands, which provide access to public lands or public waters; and
(4) Other undeveloped lands whose preservation would be consistent with the adopted Pitkin County Comprehensive Plan.

(b) Points shall be awarded according to the following schedule:

(1) Zero (0) means the proposed development does not preserve any of the valued open space within the property.

(2) One (1) means the proposed development preserves some, but not all of the valued open space within the property.

(3) Two (2) means the proposed development preserves all of the valued open space within the property.

(4) If the entire lot or parcel does not contain any valued open space, the applicant shall receive a score of two (2). *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

The Le Chamonix property extends to the centerline of Maroon Creek. The Applicant granted a trail easement from the center line to five feet above the Creek high water mark in 2014 when the PUD plat was approved (Attachment 6, PB 108, Page 37, reception # 614362). The Applicant has discussed ways to make the Creek more appealing to the public with Paul Holsinger of Open Space and Trails. Based upon discussions with Paul, the Applicant will dedicate a fishing easement within the water course extending 10 feet beyond the Creek high water mark. Additionally, the Applicant will agree to extend the existing trail easement another five feet above the Creek high water mark. The amended trail easement will be the same size as the fishing easement. The proposed land use application contributes to the achievement of community open space preservation goals by dedicating an improved trail easement and a fishing easement in Maroon Creek. All of the valued open space within the property is preserved.

(2) Hazard Mitigation and Avoidance

Considering the extent to which the proposal mitigates the impacts of development or avoids locating development in floodplain hazard, geologic hazard, or wildfire hazard areas, as these areas are described in Chapter 7 of this Land Use Code. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed development does not comply with the County's adopted standards for floodplain, geologic, and wildfire hazard areas.

(b) One (1) means the proposed development complies with the County's adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas, but includes some development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards.
(c) Two (2) means the proposed development complies with the County’s adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas and includes no development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards. *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

In 2011 the Applicant completed a comprehensive expansive bank restoration project on the rear side of the condominium structure. The Le Chamonix bank restoration project included a geologic evaluation of the steep slopes on the Maroon Creek, stream side of the building. Drainage, soil erosion control and revegetation took place as part of the project (see Attachment 11). The Applicant monitors and maintains the streambank and hillside on an ongoing basis. It has been difficult for grass to grow under the shade of the conifer trees on the hillside. The Applicant commits to spread approved Pitkin County mountain grass mix on the hillside for four years after the approval of this land use application in order to improve the stability of the steep hillside.

Minor expansions of the 12 existing Chamonix units will not increase hazard impacts. No impacts will occur. The proposed development completely avoids steep slopes. The proposed development complies with the County’s adopted mitigation standards for activities on slopes in excess of 30 percent and is not subject to severe wildfire danger. There is no development in floodplain. The Applicant’s work on the hillside above the stream and ongoing maintenance of the hillside exceeds Code floodplain and geologic standards. Le Chamonix is a preferred development site given its location within the UGB and a major activity center. The project is in compliance with the Land Use Code standards and is deserving of the maximum score in this category.

(d) Creative Bonus *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

The Planning and Zoning Commission may award bonus points to any development application that meets the overall minimum scoring threshold to obtain an allocation, as specified in Tables 6-7 and 6-8. Bonus points may be awarded to an applicant who proposes creative approaches that are consistent with the purpose and intent of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), and go beyond the standards established in each of the respective categories. Bonus points may also be awarded for creative approaches that have not been addressed in any of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), but that are consistent with and help to implement the Pitkin County Comprehensive Plan. Up to five (5) bonus points may be awarded as follows:

(1) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with the purpose and intent of a scoring category set forth in Secs. 6-50-20 (a), (b), and (c), and goes beyond the standards established in that category.

(2) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with and helps to implement the Pitkin County Comprehensive Plan.
(3) One (1) bonus point may be awarded to any applicant who proposes to build affordable housing, rather than pay the Employee Housing Impact Fee required by Section 8-30 of this Land Use Code. To obtain the bonus point, the proposal to build the housing shall comply with the County’s adopted affordable housing policies and guidelines in terms of its location and the type of housing proposed.

No creative bonus is requested unless, when scored, the Applicant does not meet the minimum threshold. If that is the case, the Applicant would like to reserve the right to propose changes or a creative bonus in order to meet the minimum threshold.

IV.F
Activity Envelope and Site Plan
Section 7-10-50

(a) The intent of this Chapter 7 is to allow activities and development to take place where they comply with the provisions of this Land Use Code and with the Pitkin County Comprehensive Plan for the area. Compliance will generally involve avoidance of “Constrained Areas” through the identification of an “Activity Envelope,” as well as approval of a Site Plan. For purposes of Chapter 7, “Constrained Areas” include all areas included in each of the following categories, as defined and regulated by this Land Use Code: (i) Areas of Statewide Interest listed in C.R.S. 24-65.1-101 et. seq., (ii) steep and potentially unstable slopes, (iii) water courses, drainage channels, and areas subject to erosion, (iv) floodplain hazard areas, (v) geological hazard areas, (vi) severe or low to moderate wildfire hazard areas, (vii) wildlife habitat areas, (viii) river and stream corridors and wetlands (ix) irrigated lands for food or crop production, (x) historic preservation areas, and (xi) archeological resource areas.

(b) The Site Plan process incorporates an “Activity Envelope” approach in which the County staff works with the applicant to determine which portions of the site (if any) would permit the proposed activity or development to be conducted in compliance with this Land Use Code and in conformity with the Comprehensive Plan for the area. In general, this process will involve both a determination of (i) which portions of the site are not available for development because of the existence of Constrained Areas, and (ii) of the remaining portions of the site, which areas would accommodate the activity or development so as to minimize impacts on surrounding properties, maximize compliance with the requirements of the development standards in this Chapter 7, and maximize compliance with the Comprehensive Plan goals and objectives.

(c) In general, the defined Activity Envelope for development of primary uses shall be large enough to accommodate the proposed principal use of the property and traditional permitted accessory structures, infrastructure (roads and septic systems), and uses, but should not be significantly larger than the area needed for such structures. In the case of a site with few Constrained Areas, the defined Activity Envelope may include more than one potential building site for a new single family home. The defined Activity Envelope may include non-contiguous areas (including separate areas for septic fields, landscaping,
driveways to public roads, mitigation measures required in connection with any provision of this Chapter 7, and/or areas to be disturbed only during construction on the property – including staging areas and materials storage areas). Construction of trails will not require an Activity Envelope analysis except as required by Sec. 7-20-50.

(d) Clearing, grading, grubbing, earthmoving that exceeds fifty (50) cubic yards, or changes in the natural drainage of the site shall occur only after an Activity Envelope has been defined and all applicable local, state and federal permits have been obtained. In addition, Site Plan Approval is required if these activities will occur on a property within a Scenic View Protection Area.

(e) Activity Envelope and Site Plan Review for a Stream Restoration Project shall adhere to all development standards in 7-20-40 and 7-20-80 and shall be reviewed by the BOCC as set forth in Table 2-1.

(f) Once an Activity Envelope has been defined, the natural grade, topography, vegetation and drainage of areas outside the defined areas shall not be disturbed except as specifically permitted in this Land Use Code. Prior to any development activity on the parcel, the boundaries of the Activity Envelope shall be identified with construction fencing, and such fencing shall remain in place until development has been completed.

(g) While it is preferable to obtain approval of an Activity Envelope as part of the Site Plan approval process, applicants who are not prepared to submit a Site Plan for a specific structure may request approval of an Activity Envelope separately. Prior to the issuance of a Development Permit, the applicant shall be required to apply for and obtain approval of a Site Plan confirming that the proposed development is consistent with the defined Activity Envelope and with other standards in this Land Use Code not considered at the time the Activity Envelope was defined.

(h) The standards in this Chapter 7 shall be used (i) to identify the Activity Envelope on a property, (ii) to review and approve the Site Plan for proposed development, and (iii) to regulate development within the Activity Envelope pursuant to the Site Plan. Development Standards in this Chapter 7 which are to be reviewed as part of Activity Envelope and Site Plan review are set forth in Table 7.1.

Attachment 10 depicts the proposed 2019 Le Chamonix Activity Envelope and Site Plan. All requirements were considered when developing the Activity Envelope Site Plan. The elevations and perspectives for the scenic review are found in Attachment 11 and 12. Minor changes to the exterior are shown minor expansions of the second level on a few units when feasible and/or expanded dining rooms or entries to the Maroon Creek side of the building to the southeast. No constraints listed impact the proposed development given that there are only small foot print increases on patio areas already in existence. No slopes in excess of 30 percent are in the Activity Envelope. The areas where the footprint is pushed forward toward Maroon Creek Road are flat and no constraints exist. The rear, west side of the building is not visible to the public yet no increases in the footprint are proposed there. Prior to any development activity, the
boundaries of the Activity Envelope will be identified with construction fencing and the fencing will remain in place until development is complete.

IV.G
Standards for Scenic View Protection Areas
Section 7-20-120

The Le Chamonix Condominiums are located directly on Maroon Creek Road, a designated scenic corridor. The Applicant has carefully considered the exterior remodel and expansion potential of each unit in a conceptual overall plan for the building in order to best evaluate the visual impacts from Maroon Creek Road. The Condominiums have been in existence since 1968. The proposed exterior improvements will update and enhance the views from Maroon Creek Road with a renovated, more appealing exterior. The height will be limited to 28 feet as established by the zone and PUD. Only two stories will be allowed on the Maroon Creek Road side of the building, no third level will be allowed. The mass and volume of the building will not substantially change. The outcome of the collective unit expansions is best illustrated and evaluated by the elevations and perspectives in Attachment 11 and 12.

(1) The proposed development shall utilize existing topography and natural vegetation, such as ridges, hills, and existing trees, to screen buildings to the maximum extent practicable when viewed from those right-of-way listed in subsection (b) above.

(2) The proposed development shall avoid the location of structures within the Scenic View Protection Areas, and shall avoid the location of structures within any Viewplane identified in the State Highway 82 Corridor Master Plan and Down Valley Comprehensive Plan if possible. If location outside the Scenic View Protection Area and defined Viewplanes is not practicable, then the proposed development shall not be located on the highest ground or most visible portion of any site as viewed from those corridors listed in subsection (b) above.

(3) The proposed development's height and bulk shall be designed to avoid, to the maximum extent practicable, the visibility of buildings from those corridors listed in subsection (b) above. This may include, but shall not be limited to, breaking the mass of the building down into a series of smaller forms, articulation of the building façades to avoid a wall or row effect, and staggering rooflines to avoid a long unbroken plane.

(4) The proposed structure shall be placed so it does not project above a ridgeline such that a structure silhouettes against the sky when viewed from those corridors listed in subsection (b), unless there are no alternate building sites on the lot or parcel.

(5) The proposed development shall be designed to complement the natural topography of the land through the use of techniques such as earth-sheltered design, the use of natural materials and coloring, the use of low-reflectance materials, or clustering of structures on the least visible portions of the site. When a building is proposed near a ridgeline, then its form (particularly its roof form) shall replicate, parallel, or complement the natural form of the ridgeline so that it appears to be an element of the natural ridgeline.
The exterior remodel and unit expansions have been conceptually designed as much as possible to meet these standards. The design complements the natural surroundings and will utilize various techniques and materials to blend into the environment. The structure does not and will not break a ridgeline.

(6) The proposed development shall preserve natural vegetation and avoid development within irrigated meadows, to the maximum extent practicable.

No vegetation is proposed for removal at this time. The Applicant will meet these requirements for preserving natural vegetation to the maximum extent practical.

(7) The proposed development shall install utilities in locations and through procedures that minimize visual impacts to the maximum extent practicable.

The Applicant will comply with this standard. All major utilities serve the complex and have since 1968 when it was built. No new utility installations are necessary or proposed.

(8) All satellite dishes in the proposed development shall be located to minimize visibility from those rights-of-way listed in subsection (b), and shall use earth tone colors and/or screening to minimize their visual impact.

The Applicant will comply with this standard when applicable.

(9) The proposed development shall not use earth moving and berms as the primary means of compliance with these regulations, but earth moving may be utilized in conjunction with other techniques to comply with standards in this section. Where earth moving techniques are necessary, man-made forms should be undulating and natural in appearance.

This standard is not applicable.

(10) In the Rural Areas only, development shall be located so that activities and development occur in at least one of the locations specified in subsection (f) as they may apply to the particular property.

Le Chamonix is within the UGB and is not in the Rural Area. This standard is not applicable.

(11) Earth Tone Materials

The exterior of all development, except development located and designed in the form of a ranch compound, shall be built or painted with indigenous earth tone materials or colors. The exterior of a ranch compound should be built or painted with indigenous earth tone materials, or shall be painted or stained using local, traditional ranch colors, which shall include shades of red, brown, or white. Paints or stains that simulate weathered barn wood also shall be permitted.
This standard has been considered in the design of the exterior of Le Chamonix. Indigenous earth tones materials and colors are proposed. The proposal will be in compliance.

(12) Roofs

All roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflection, with the exception of materials associated with solar or photovoltaic equipment.

A new roof on the entire complex is not proposed. Small roof additions will occur when floor area is added on the upper level and these additions will comply with this standard.

(13) Revegetation of Disturbed Areas

Lands disturbed by earth moving or berms should be revegetated using native species that are already growing on or near the site. Topsoil shall be stockpiled and placed on disturbed areas. Irrigation shall be provided to the revegetated areas if it is necessary to ensure survival of planted native species.

This standard is not applicable.

(14) Driveways Avoid Dividing Meadows and Pastures

To the maximum extent practicable, roads and driveways shall be located to skirt the edge of and avoid dividing meadows and pastures and to avoid major road cuts. Roads and driveways should take advantage of the screening potential of natural topography and existing vegetation. Existing roads and driveways shall be used where practical. To enhance screening, a row of trees may be planted along the roads or driveways. To the maximum extent practicable, roads and driveways located around the edge of or in meadows shall be laid out with soft, curving edges and shall avoid straight line corridors that are incongruous with the natural setting.

This standard is not applicable.

IV.H
River and Stream Corridors and Wetlands
Section 7-20-80.

As is shown on the approved Le Chamonix PUD /Final Plat in Attachment 7, the mean identifiable Maroon Creek high water line is over 100 feet from the Le Chamonix structure. The creek corridor and wetlands are not an issue for the development which is proposed for within and adjacent to the existing structure.

IV.I.
Land Use Policies
Section 1-60

1-60-10: PITKIN COUNTY COMPREHENSIVE PLAN

It is the policy of the County to adopt comprehensive plans for the County and regularly update these plans. Throughout this Land Use Code, references to the Pitkin County Comprehensive Plan include the Overview Pitkin County Comprehensive Plan, which encompasses the concepts, policies, actions and common themes contained within all adopted Land Use Master Plans in the County. Where there is any conflict between the Overview and any other adopted Land Use Master Plan, the Overview shall govern.

The Applicant understands this policy regarding the Comprehensive Plan.

1-60-20: CONFORMANCE WITH THE PITKIN COUNTY COMPREHENSIVE PLAN

It is the policy of the County to ensure that the use and development of land within Pitkin County and any actions committing such land to development or a change in use should consider Pitkin County’s Comprehensive Plan.

The land use application is consistent with the Aspen Area Community Plan, the applicable Plan. The rezoning of the property to the appropriate multifamily RMF zone district in 2014 made this a conforming structure. The proposed expansion of existing units in this 1968 condominium structure is consistent with the Plan because it has all required services, is proximate to schools, trail, parks, schools and transit lines. Very few if any new impacts will be realized. Updating the exterior will be desirable and should enhance views from the Maroon Creek Road Corridor. The property is well served by public facilities as it is across from the Aspen Highlands Ski Area. Trails and buses are heavily used by residents due to these services. Hiking and walking are popular forms of recreation and transportation in this area.

1-60-30: COMMUNITY BALANCE

The dominant policy of Pitkin County is to conserve and protect from further degradation the present natural environment and its resources. Development that can be accommodated within these limits will be managed to maintain a balance between residential (free-market and affordable), commercial and tourist accommodations.

This is a residential GMQS application for a floor area allotment. The GMQS has been adopted by the City and County to insure community balance is maintained. If the application is approved it will be consistent with the Community Balance policy.

1-60-40: GROWTH MANAGEMENT

It is the policy of the County to manage the rate at which development applications are approved, as well as the type, location, quality and ultimate quantity of growth.
As noted in the preceding paragraph, this application seeks a residential GMQS allotment for floor area. The application will be approved if it is found to be consistent with the Growth Management policy. The standards in Article 6 of the Code, “Growth Management Quota System” have been adopted to be consistent with the Growth Management policy.

1-60-50: GROWTH RATE: PHASING OF PUBLIC SERVICES AND FACILITIES

It is the policy of the County to maintain and improve the quality of life of its residents. To this end, the County will manage the location and timing of development in the residential, commercial and tourist accommodation sectors. The provision and location of public services and facilities should support development that is consistent with the Pitkin County Comprehensive Plan. To ensure that growth is consistent with the Pitkin County Comprehensive Plan the County will maintain a Growth Management Quota System (GMQS).

The proposed development does not create any new units and does not require any new public services or facilities. The proposal is consistent with the intent of this policy.

1-60-60: LAND USE PATTERNS

It is the policy of the County that future urban development will be located within adopted Urban Growth Boundaries in order to eliminate residential sprawl and strip commercial development, to ensure the provision of adequate service levels, to preserve agriculture and open space land uses, and to maximize the utility of funds invested in public facilities and services. Lands outside the growth boundaries will be deemed most appropriate for the preservation of agriculture, natural habitat, environmental resources, open space and rural residential uses.

The proposed development is located within the UGB and is served by all utilities. It is across Maroon Creek Road from the Aspen Highlands Ski Area. In addition to the ski area and base area facilities, there are free market homes and condominiums and price restricted homes and condominiums in the vicinity. The multifamily character of the subject property is complimentary to the active environment in the neighborhood.

1-60-70: RURAL DEVELOPMENT

When proposing future development outside of Urban Growth Boundaries, the following elements should be considered:

(a) Pitkin County seeks to preserve its natural, rural scenery and natural landmarks for the benefit of its residents and the continued viability of its resort economy.

(b) Planned unit style development (PUD), designed to integrate siting in harmony with the environment and consistent with land use policies, is encouraged. Such development tends to minimize the cost of governmental and other services, maximize open space, preserve
agricultural lands, and minimize automobile congestion and hazardous conditions on public roads and highways.

(c) New development should be compatible with and not fundamentally change the character of any neighborhood or area.

(d) Pitkin County does not generally support extensions of public utilities such as municipal water and sewer lines outside of the Urban Growth Boundaries (UGBs).

(e) New commercial development should be located within established Urban Growth Boundaries unless it is of a scale and capacity deemed to be appropriate within identified boundaries.

(f) Transfer of development rights (TDRs) may be appropriate to preserve and protect rural character, open space, scenic features, and environmental resources, and to avoid development in environmentally constrained areas.

(g) To the extent possible, the County seeks to protect scenic corridors along highways, county roadways and mountain road systems.

(h) It is the policy of the County that development not impede the ability of citizens to view the night sky without the interference of artificial light.

This policy references rural properties and is not applicable as Le Chamonix is located in the UGB.

1-60-80: AGRICULTURAL PRESERVATION

(a) Productive agricultural land is a limited resource of environmental, cultural, open space, visual and economic value that should be conserved and preserved.

(b) All new development in areas surrounding or incorporated within existing agricultural properties should be designed to minimize impacts to agricultural operations.

(c) Preservation and utilization of water for agricultural lands within the county is encouraged.

(d) The fragmentation of large parcels of agricultural land is discouraged and the assemblage of smaller parcels into larger, more manageable and agriculturally productive tracts is encouraged.

(e) Pitkin County supports “right-to-farm” legislation.

(f) Pitkin County promotes the viability of agricultural lands and operations within Pitkin County and supports preservation of large tracts of land now committed to or capable of agricultural uses.
This policy is not applicable because Le Chamonix is located in the UGB and is not in agricultural production.

1-60-90: WILDERNESS

Pitkin County supports protection of designated Wilderness areas within and surrounding Pitkin County, as these areas provide residents and visitors with vistas and opportunities for experiencing the natural environment while renewing their “mind, body and spirit.” The County encourages management of adjacent and neighboring land to preserve the integrity of the wilderness areas.

This policy is not applicable.

1-60-100: RECREATION

The County recognizes the fundamental importance of recreation and tourism to the local economy and encourages the provision of services and facilities necessary for the continuation of existing activities, consistent with other goals and policies of the County. It is the policy of the County to support preservation of the physical environment; to improve county-wide recreational and trail opportunities; to support citizens’ rights of appropriate access to public lands on roads and trails historically open to the public; to secure new access points consistent with County and Federal land use plans; and to protect existing open space from urbanization and development in order to maintain quality of life and enjoyment of the environment.

The Applicant is committing to donate $8,000 to the City of Aspen for improvements to a community trail through the Maroon Creek Gorge or to a planning process to study a trail on the west side of Maroon Creek Road from the round-a-bout to the Aspen Recreation Center as part of the GMQS competition. Either would enhance recreation and trail amenities. A new trail on the west side of Maroon Creek Road would also help to address traffic challenges in addition to providing recreational opportunities. Please refer to the letter from Austin Weiss in Attachment 18.

1-60-110: SKI AREAS

Pitkin County favors the expansion of uses within existing permitted ski area boundaries, with a focus on expanding uses during non-peak periods, but does not support new alpine ski area proposals. Coordination with the Forest Service and ski area proponents regarding ski area development will consider both on and off-site impacts such as affordable housing, transportation, waterways, air quality and adjacent neighborhoods.

This policy is not applicable.

1-60-120: CAMPING
The County supports maintenance of existing campgrounds at their current capacities.

This policy is not applicable.

1-60-130: TRAILS

Non-motorized transportation alternatives, such as trails for bicycles, horses, pedestrians and cross-country skiers are encouraged. The County supports preservation and enhancement of access to trails; and development of bike and pedestrian ways that provide links between communities, residential and employment areas, commercial centers, recreational and open space areas, and educational facilities. Where motorized and non-motorized uses of trails are proposed or exist in common or in close proximity to one another, the County supports consideration of separate and distinct trails for each use.

See the trails discussion above in the Recreation section for Land Use Policy 1-60-100.

1-60-140: OPEN SPACE AND TRAILS BOARD

The County supports the Open Space and Trails Board in the acquisition and maintenance of open space parcels, conservation easements, trails and facilities such as trailheads, parks, river access points for boating or fishing purposes and access to public lands. Parks, open space and public recreation facilities are encouraged throughout the county.

The Applicant agrees with the County that the values stated above including open space, trails, easements, parks and recreation facilities are important. Please refer to Land Use Policy 1-60-100 above.

1-60-150: COMPATIBILITY WITH EXISTING ADJACENT NEIGHBORHOODS

It is the policy of the County to insure land use proposals are compatible with existing neighborhoods. To this end, the County will provide notification of pending land use applications to the affected adjoining property owners, homeowners associations and neighborhood caucus groups when appropriate.

The proposed expansion of units in an existing condominium complex is appropriate for the immediate vicinity and is compatible with the neighborhood. The project was rezoned and received PUD approval in 2014 after the complex was heavily studied and discussed by the County staff, Planning and Zoning Commission and the BOCC with public input. It is compatible with the existing adjacent neighborhood. The Le Chamonix building and views from Maroon Creek Road toward the building should be enhanced with the updated, exterior remodel proposed.

All twelve owners in the Le Chamonix complex agree to this application. This is no small feat!

1-60-160: COMPATIBILITY WITH PUBLIC LANDS
It is the policy of the County to support the preservation and protection of public lands from the impacts of incompatible development by promoting land uses within and nearby public lands that are compatible with public use of those lands and with the preservation of the natural environment.

The land use application is consistent with this policy.

1-60-170: PRIVATE LAND SURROUNDED BY PUBLIC LANDS (INHOLDINGS)

It is the policy of the County to promote and encourage the transfer of private inholdings to public ownership with the objective of promoting consistent management of the public lands to reduce conflicts between private owners and developers and the public at large.

This policy is not applicable.

1-60-180: ECOLOGICAL BILL OF RIGHTS (EBOR)

As the integrity of our ecosystem is increasingly challenged by human activity, and population growth and the accompanying sprawl are seriously damaging and threatening to destroy the ecological carrying capacity (environmental sustainability) of the region, it is the policy of the County to implement the following rights:

(a) The right to breathe clean air and enjoy clear vistas.

(b) The right to the preservation of natural riparian areas and wetlands.

(c) The right to permanently protected minimum stream flows in rivers and creeks.

(d) The right to the preservation and restoration of native wildlife and plant diversity by preservation of sufficient habitat.

(e) The right to protection of designated wilderness through management of adjoining land in a way that preserves the integrity of the wilderness areas.

(f) The right to a landscape kept free of noxious and invasive weeds.

(g) The right of appropriate access to public lands on roads and trails historically open to the public, consistent with the nature and designation of the public lands.

(h) The right to dedicated open space protected from urbanization and development.

(i) The right to the efficient and renewable use of energy.

(j) The right to be free from excessive noise.
(k) The right to see the night sky without the interference of unnecessary artificial light from growth, urbanization and highway development.

(l) The right to the absolute minimum involuntary exposure to toxic chemicals, radioactive substances and energy forms that are hazardous to health.

(m) The right to maintain and not exceed the carrying capacity (sustainability) of the land and water, including protecting water quality.

(n) The right to expect government legislation and active enforcement of land use and development regulations consistent with this Ecological Bill of Rights.

The land use application is consistent with this policy.

1-60-190: NATURAL AND MAN-MADE HAZARD AND RESOURCE AREAS

It is the policy of the County that development be sited in locations that avoid natural hazard areas, and where avoidance is not possible, in locations where mitigation is designed to minimize potential harm to life, safety, health, and property.

No hazards are found on the section of the property proposed for improvement. The only nearby hazards are steep slopes on the rear of the property and these will not be disturbed.

1-60-200: SOIL, SURFICIAL GEOLOGIC CHARACTERISTICS AND RADIATION

It is the policy of the County that development not be located in areas subject to radiation and geologic hazards.

This policy is not applicable.

1-60-210: DRAINAGE

It is the policy of the County that development not disturb the integrity of existing and natural drainage patterns, and to discourage land use and development activities that subject areas to increased potential for damage by flood, erosion or sedimentation, or increase the potential for water pollution.

The land use application is consistent with this policy and will meet the drainage standards of the Code.

1-60-220: EROSION

It is the policy of the County that development not contribute to the erosion of soil and rock and that natural vegetative cover be maintained and that areas disturbed by land use or development activities be revegetated.
The land use application is consistent with this policy and will meet the erosion standards of the Code.

1-60-230: SCENIC QUALITY

It is the policy of the County that its natural, rural scenery be preserved for the benefit of its residents and the continued viability of its resort economy. Undergrounding of utility lines is supported where and when appropriate to minimize visual impact.

The application is consistent with this policy and meets the standards for Scenic View Protection Areas of the Code. See the Scenic View Protection section addressed previously in this application, Section 7-20-120 of the Code. Views from the Maroon Creek Corridor have been carefully considered in the design and planning of each unit expansion and in the exterior remodel of the Le Chamonix building. See Attachments 11 and 12 which both help to illustrate the proposal and the resulting views from Maroon Creek Road.

1-60-240: CULTURAL/HISTORICAL RESOURCES

It is the policy of the County that historic and archaeological resources that meet national, state, or local criteria for historic designation are preserved, protected from neglect, destruction or harmful alteration, and maintained.

This policy is not applicable.

1-60-250: AIR QUALITY

It is the policy of the County that development not degrade air quality.

The application is consistent with this policy and will meet Pitkin County’s air quality standards.

1-60-260: ENERGY CONSERVATION

New development is encouraged to incorporate energy conserving and alternative energy systems and building systems that minimize consumption of energy.

The application is consistent with this policy and will meet the Pitkin County’s energy standards when applicable for the expansion of existing units.

1-60-270: NOISE

It is the policy of the County that development will not generate noise which would adversely impact community noise levels.

The application is consistent with this policy and will meet the Pitkin County’ noise standards.
1-60-280: WATER RESOURCES AND AQUATIC/RIPARIAN/WETLAND AREAS

(a) It is the policy of the County to preserve and protect its present water resources, recognizing the county's semi-arid character and that significant transmountain and transbasin diversions and the vested rights of senior appropriators have materially curtailed the availability of water resources. Furthermore, wetlands and riparian ecosystems, which are important to maintaining the overall balance of ecological systems; and are important plant communities, wildlife habitat and movement corridors, should be conserved, protected and restored. The County seeks to protect citizens' rights to permanently protected minimum stream flows in rivers and creeks, and to the preservation of remaining natural riparian areas and wetlands.

(b) Land uses within the region should be designed to preserve and protect present water resources, including surface and groundwater, and to avoid significant adverse effects on the quantity, quality, or dependability of water resources in the County. Land uses should protect against significant increased salinization of water, loss of minimum instream flows, and the need for future major public expenditures to reacquire or redistribute water resources.

(c) To protect water resources and/or riparian habitat, development in areas adjacent to water bodies, functional irrigation ditches and natural watercourse areas should maintain adequate setbacks where necessary.

The application is consistent with this policy and will meet the Pitkin County's water resource standards.

1-60-290: WILDLIFE

It is the policy of the County that proposed land uses (including structures) are compatible with the ecosystem of wildlife habitats and do not pose immediate, long term or potential detrimental impacts to such habitats. The County seeks to preserve, restore and perpetuate native wildlife and plant diversity by maintaining sufficient habitat.

The land use application is consistent with this policy. The Le Chamonix property does not contain wildlife areas regulated by the Code.

1-60-300: LOGICAL EXTENSION OF UTILITIES

It is the policy of the County to regulate public and private utility extensions. Areas served by such extensions must be found suitable for development in accordance with the Pitkin County Comprehensive Plan.

Le Chamonix is within the UGB and is served with all utilities. Utility extensions are not required.

1-60-310: ADEQUATE PROVISION FOR WATER NEEDS
It is the policy of the County that the availability of a water supply of adequate quantity, pressure and dependability for fire protection and support of a proposed land use be in place prior to approval of the use.

Le Chamonix has been served by water since it was built in 1968 and has been served with water by the City of Aspen since 1994.

1-60-320: SEWAGE TREATMENT

It is the policy of the County that adequate sewage treatment facilities are feasible and available to serve existing and new developments.

Le Chamonix is served by the Aspen Consolidated Sanitation District.

1-60-330: SOLID WASTE MANAGEMENT

Pitkin County is committed to all economically and environmentally appropriate processes that are directed toward reuse opportunities and the prolonging of landfill life. The County supports efforts to reduce waste generation and the amount of solid waste disposed of in landfills, and to implement effective resource recovery and recycling activities.

The site is already served by a solid waste collection company.

1-60-340: TRANSPORTATION/TRANSIT/ROADS

(a) The County encourages transportation programs consistent with the County Asset Management Plan; modes and land use patterns that minimize automobile congestion, promote safety and reduce sources of air pollution.

(b) The County supports preservation of rail corridors for potential development of rail or other improved transit/trail alternatives in the future. No development should be allowed to prevent the options of the Community to pursue rail, trail or other improved transit alternatives along such corridors.

(c) Where practical as a means of retaining rural character, the County seeks to retain existing unpaved roads and to preclude the extension of winter maintenance on rural roads.

(d) The County seeks cooperation with emergency service agencies in establishing emergency access road standards that adequately address safety needs in the context of rural character.

(e) Development that generates traffic volumes in excess of the capacity of the County road system or that causes significant service level reductions is discouraged.
(f) Appropriate buffer strips should be preserved along federal, state and local roadways to protect public views, minimize safety concerns and environmental impacts, and to preserve corridors for future transportation facilities.

(g) Roadway capacity improvements should integrate alternative modes of transportation, such as bicycles and transit, and pedestrian ways so as to add "people carrying" capacity to the roadway, not just vehicular capacity, whenever feasible.

(h) New and upgraded roadways should be designed, engineered and constructed to minimize environmental and aesthetic damage and future maintenance costs consistent with public safety needs.

The proposed development is consistent with this policy as demonstrated in the Residential GMQS section of the land use application.

1-60-350: PITKIN COUNTY AIRPORT (SARDY FIELD)

The County will partner with public, private and non-profit entities to support continued air safety, reliable and efficient air service at Sardy Field. Neighborhood impacts will be considered relative to expansions or improvements that would promote aviation operations.

This land use policy is not applicable to the proposed development.

1-60-360: TELECOMMUNICATIONS

The County encourages adequate, minimal impact regional and community telecommunications facilities to serve the needs of governments, emergency services, businesses, and citizens of Pitkin County.

(a) Where a telecommunications system utilizes a network of facilities, a comprehensive approach should be taken for evaluating potential sites in Pitkin County with a view to minimizing the number of sites required and any adverse impact.

(b) When feasible and not otherwise detrimental, multiple telecommunications facilities should be consolidated onto common towers, and/or located adjacent to, on or incorporated into existing or proposed buildings or other structures.

This land use policy is not applicable to the proposed development.

1-60-370: CITIZEN HOUSING

It is the policy of the County to encourage the existence of a supply of desirable and affordable housing for persons employed in Pitkin County, senior citizens, the handicapped, and other qualified persons of Pitkin County. Pitkin County seeks to preserve existing affordable housing to the extent possible; and to encourage the
development of affordable housing within established Urban Growth Boundaries, where employment, services and facilities are typically already established.

(a) It is the policy of Pitkin County to promote the availability of affordable housing for employees generated by proposed development.

(b) A diversity of housing types and densities is encouraged in order to ensure affordable housing for a range of individual and families. Deed restricted housing that ensures occupancy by full time residents is preferred for development, especially within Urban Growth Boundaries.

(c) Affordable housing of urban or suburban densities is not encouraged outside the Urban Growth Boundaries if it promotes sprawl or other development inconsistent with this or other policies or regulations of the County. Affordable housing outside Urban Growth Boundaries may be acceptable if it is: (i) Employee Dwelling Units (EDU) and Caretaker Dwelling Units (CDU); (ii) job related on-site housing; (iii) conversion of existing locally serving housing; (iv) on-site required mitigation housing; or (v) replacement of existing affordable housing.

(d) Quality residential areas, which function as integral neighborhood units, are encouraged.

(e) Rehabilitation of existing residential facilities should be promoted where feasible. The purchase and buy-down of existing units throughout the county is encouraged since it promotes affordable housing goals without increasing growth rates or impacts.

(f) Special attention should be directed to providing for dispersal of housing for low and moderate income families and low income senior citizens throughout the residential areas of the Urban Growth Boundaries with due consideration to other policies of the County and the availability of water and sewer service, fire protection, public transportation, employment, shopping, schools, social services, and recreational activities.

(g) The use of energy conservation and innovative home building techniques in order to reduce construction and/or operating costs without sacrificing safety or desirability of the housing shall be encouraged and supported. When appropriate, the revision or adoption of building codes will be encouraged to meet this objective. For deed restricted housing projects, a preference will be given to developers and contractors that utilize such techniques.

No new units are proposed and this policy is not applicable.

1-60-380: REQUIRE THAT DEVELOPMENT BEAR AN EQUITABLE SHARE OF RELATED BURDENS

It is the policy of the County that new development must pay an equitable share that would otherwise be borne by the general public, and/or make equitable contributions,
commensurate with its impacts, to ensure that no reduction in the quality of services, public facilities or programs occurs as a result of the development.

The proposed development is consistent with this policy as demonstrated in the residential GMQS section of the land use application. No new dwelling units are proposed.

1-60-390: GENERAL GOVERNMENT/ PUBLIC PARTICIPATION AND PLANNING PROCESSES

(a) Pitkin County acknowledges the benefit of regional planning. To that end, the County supports planning efforts between counties, towns, state and federal agencies. These cross-jurisdictional approaches are most notably important in the venues of transportation, housing, open space, water resources, agricultural lands, solid waste facilities, public safety, wildfire mitigation and human and social services. Intergovernmental agreements are encouraged to facilitate implementation of common land use goals.

(b) The County encourages general public participation when public and quasi-public bodies are making decisions, which significantly affect citizens and the formation of specific citizen advisory groups to participate in planning-related matters.

(c) Pitkin County promotes the preparation of community-based plans by Caucuses or other neighborhood groups that are consistent with the policies herein, and other policies adopted by the Board of County Commissioners. Recognizing the unique qualities and issues inherent in our County, creative approaches to land use are encouraged.

This policy is not applicable to the proposed development.

1-60-400: ECONOMIC SUSTAINABILITY AND CONDITION

A balanced, diversified economy should be promoted in order to maintain and enhance the quality of life in our community. The economy should offer desirable local employment opportunities without creating significant job growth. Desirable local businesses may include those that utilize environmentally sustaining operating practices, recycle monies back into the local economy, and do not adversely impact surrounding areas.

This policy is not applicable to the proposed development.

1-60-410: CONFORMANCE WITH OTHER LAWS

It is the policy of the County to consider whether approval of uses or development of lands within Pitkin County is consistent with applicable laws of the United State of America and the State of Colorado.

The Applicant will comply with all applicable laws.
ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, AMENDING TITLE 8 OF THE PITKIN COUNTY CODE, SPECIFICALLY THE 2006 LAND USE CODE FOR LAND USE CODE TEXT AMENDMENTS

Ordinance No. 039 - 2012

RECITALS

1. Land Use Code amendments have been proposed to create a new zone district for multi-family housing called the Residential Multi Family (RMF) Zone District.

Amendments will be made to the following Chapters and Sections:

EXHIBIT A – Chapter 3, Section 3-50: Urban/Suburban Zone Districts
EXHIBIT B – Chapter 4, Section 4-1: Table 4-20
EXHIBIT C – Chapter 5, Table 5-1(B) Dimensional Requirements
EXHIBIT D – Chapter 6, Section 6-30: Table 6-1
EXHIBIT E – Chapter 6, Section 6-30: Exemptions

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposed code amendments at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposed code amendments at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to code amendments request.

5. The BOCC finds that these code amendments are consistent with Pitkin County’s goals and policies and are necessary to promote public health, safety, and welfare.

6. The BOCC further finds that the amendments to the Land Use Code are consistent with County Comprehensive Plans and in compliance with Section 2-40-10.

NOW, THEREFORE, BE IT ORDAINED by the Pitkin County Board of County Commissioners that it hereby amends the above-referenced Sections of the 2006 Pitkin County Land Use Code, as set forth in Exhibits A-D as underlined.
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING AT A PUBLIC HEARING on the 24th day of October, 2012.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 29th day of November 2012.

THIS ORDINANCE SHALL NOT BECOME EFFECTIVE UNLESS AND UNTIL THE LE CHAMONIX DETAILED SUBDIVISION SUBMISSION/FINAL PLAT AND PUD IS APPROVED BY THE BOCC

ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Michael Owsley,
Chairman

Date: 12-4-2012

APPROVED AS TO FORM:

John-Ely,
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director
EXHIBIT A

The underlined section shall be added.

SECTION 3-50-90: RMF – RESIDENTIAL MULTI-FAMILY

(a) Intent
The RMF zone district may only be applied to existing multi-family dwelling units. This zone district may not be applied to lands that do not contain legal multi-family dwelling units.

(b) Location
The RMF zone district is only intended to be located within the Aspen Urban Growth Boundary, adjacent to established ski areas, and may only be located contiguous to major roads.

(c) Transferable Development Rights
TDR’s may not be severed and sold from lands located in the RMF zone district, unless the lot or parcel is determined to be constrained or visually constrained pursuant to Sec. 6-70-40 or if the property is designated on the Pitkin County Historic Register. TDR’s may be purchased and used in the RMF Zone District for the purposes of (a) increasing the floor area as established in Table 5-1 or (b) creating a new development right on a legal parcel located within the Aspen UGB pursuant to Secs. 6-70 and 2-40-30, and as set forth in Table 2-1.

(d) Lands in the RMF Zone District are subject to the GMQS (see chapter 6).
EXHIBIT B

The underlined shall be added to Section 4-20: Permitted Use Table:

<table>
<thead>
<tr>
<th>TABLE 4-1: Permitted Uses</th>
<th>Intended for Rural Areas</th>
<th>Intended for Urban Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Category/Use Type</td>
<td>Rural Districts</td>
<td>Residential Districts</td>
</tr>
<tr>
<td>Household Living</td>
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<tr>
<td>Duplex Dwelling Unit</td>
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<tr>
<td>Mobile Home</td>
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<td>Mobile Home Park</td>
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<td>Multi-family Dwelling Unit</td>
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<td>Single Family Dwelling Unit</td>
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<td>Group Living</td>
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<td>A A A A A A A A A M</td>
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<td>Dormitory Housing</td>
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<tr>
<td>Group Home</td>
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<tr>
<td>Nursing, Convalescent, Rest, or Retirement Home</td>
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<table>
<thead>
<tr>
<th>Agricultural &amp; Resource</th>
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<td>Unlisted Agricultural Use</td>
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<td>Blacksmithing</td>
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<td>Agricultural Building</td>
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<td>Farming</td>
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<td>Firewood Splitting, Commercial</td>
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<td>Horse Boarding, Primary</td>
<td>A A A</td>
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<tr>
<td>Kennel or Veterinary Clinic</td>
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<tr>
<td>Logging</td>
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<tr>
<td>Mineral and Gravel Extraction (formerly Mineral &amp; Gravel Exploration / Mining, Concrete, Batch Plants)</td>
<td>S S S S S S S S M</td>
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<tr>
<td>Oil and Gas Extraction</td>
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<td>Ranching (formerly Animal Production &amp; Husbandry Services, Other Farm and Agricultural uses (not including Commercial Feed lots))</td>
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<td>Silviculture</td>
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<td>Cemetery</td>
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<td>Hospital</td>
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<td>Institute</td>
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<td>Park, Playground or Playfield</td>
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<table>
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<tr>
<th>TABLE 4-1: Permitted Uses</th>
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<td>Contracting or Subcontracting</td>
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<td>§4-30-040(k)</td>
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<td>Personal Service Outlet</td>
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<td>§4-30-040(r)</td>
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<td>Retail Sale of Goods (formerly Places for Retailing of Goods)</td>
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<td>§4-30-040(v)</td>
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<td><strong>Vehicle and Equipment Uses</strong></td>
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<td>Automobile Parking Lot, Commercial</td>
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<td>§4-30-040(c)</td>
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<td>Automobile Service Station</td>
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<td>§4-30-040(e)</td>
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<td>Vehicle and Aircraft Sales and Service (formerly Vehicle and Aircraft Related Business)</td>
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<td>§4-30-040(g)</td>
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<td><strong>Other Principal Uses</strong></td>
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<td>Cellular Telephone Facility</td>
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<td>Junk Yard</td>
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<td>Radio or TV Transmitting Station</td>
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<td>Solar Farms</td>
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<td><strong>Use by Federal Permit (formerly Uses, Activities &amp; Facilities Permitted by Special Use Permit Issued by Federal Agency)</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td><strong>Accessory &amp; Temporary Uses</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accessory Structures with Bathing Facility</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Agricultural Stand</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Arts and Crafts Studio, Accessory</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Building-Mounted Cellular Telephone Antennae</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Bus Stop</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Camping Area</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Caretaker Dwelling Unit</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Club House or Recreational Building</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Day Care Home</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Employee Dwelling Unit</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Horse Boarding, Accessory</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Satellite Reception Device</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Solar Energy Collector</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Ground Mounted Solar Energy Collector Greater than 12’ in Height</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Temporary Commercial Use</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
</tbody>
</table>

**Ordinance No.** - 2012

*Page 6 of 11*
<table>
<thead>
<tr>
<th>Use Category/ Use Type</th>
<th>Rural Districts</th>
<th>Urban/Suburban Residential District</th>
<th>Use-Specific Regulations §</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RS L 0</td>
<td>RR 6</td>
<td>RS 35</td>
</tr>
<tr>
<td><strong>Water Crossing or Diversion</strong></td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td><strong>Wind Powered Electric Generator</strong></td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td><strong>Micro Hydro Electric Energy System</strong></td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td><strong>Snow Storage/Dumping Trucking</strong></td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
</tbody>
</table>
EXHIBIT C

Table 5-1(B) as it exists shall be deleted and replaced with the following:

<table>
<thead>
<tr>
<th>TABLE 5-1B: Dimensional Requirements</th>
<th>R-30</th>
<th>R-15</th>
<th>R-15A</th>
<th>R-15B</th>
<th>R-6</th>
<th>RMF</th>
<th>VR</th>
<th>MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT(S)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Area (sq. ft.)</td>
<td>30,000</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
<td>6,000</td>
<td>1 acre</td>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td></td>
<td></td>
<td></td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Minimum Lot Area Per Principal Use or Dwelling Unit (sq. ft.)</td>
<td>30,000</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
<td>6,000</td>
<td>.14</td>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td>NOTE 1</td>
<td></td>
<td></td>
<td></td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Minimum Usable Open Space per Dwelling Unit (sq. ft.)</td>
<td>6,600</td>
<td>3,000</td>
<td>3,000</td>
<td>3,000</td>
<td>1,500</td>
<td></td>
<td>500</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>NOTE 2</td>
<td>NOTE 2</td>
<td>NOTE 2</td>
<td>NOTE 2</td>
<td></td>
<td></td>
<td></td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Minimum Lot Width (sq. ft.)</td>
<td>100</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>60</td>
<td>75</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Maximum Dwelling Units Per Acre</td>
<td>10.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

MINIMUM SETBACKS

<table>
<thead>
<tr>
<th>From Arterial Highways</th>
<th>100 ft. setback for buildings / 100 ft. setback for outside uses NOTE 3 N/A N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>From Major Roads</td>
<td>NOTE 3 N/A N/A</td>
</tr>
<tr>
<td>From Collector Streets</td>
<td>50 ft. setback for buildings / 25 ft. setback for outside uses NOTE 3 N/A N/A</td>
</tr>
<tr>
<td>From Property Lines</td>
<td>NOTE 3 N/A N/A</td>
</tr>
</tbody>
</table>

Front Setback (ft.)

(1) Lot Size ≤ 3 ac = 30 ft.;
(2) Lot > 3 ac. and ≤ 10 acres = 50 ft.;
(3) Lot > 10 acres = 100 ft.

Side Setback (ft.)

(1) Lot < 7,500 sq. ft. = 5 ft.; (2) Lot ≥ 7,500 & < 30,000 sq. ft. = 10 ft.;
(3) Lot Size ≥ 30,000 & < 43,560 sq. ft. = 15 ft.; (4) Lot ≥ 43,560 & < 3 ac. = 20 ft.;
(5) Lot ≥ 3 ac. & < 20 ac. = 30 ft.; (6) Lot ≥ 20 ac. = 50 ft.

Rear Setback (ft.)

(1) Lot Size < 30,000 sq. ft. = 10 ft.;
(2) Lot > 30,000 sq. ft. & < 10 ac. = 50 ft.;
(3) Lot ≥ 10 ac. = 50 ft.

From Streams (ft.)

100

NOTE 4, 12 and 13

MAXIMUM HEIGHT

<table>
<thead>
<tr>
<th>Maximum Height of Principal Structure (ft.)</th>
<th>28</th>
<th>28</th>
<th>28</th>
<th>28</th>
<th>28</th>
<th>NOTE 5</th>
<th>NOTE 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height of Accessory Structure (ft.)</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>NOTE 6</td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Maximum Height of Exempt Agricultural Buildings</td>
<td>Refer to Sec. 5-20-70(i)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Ordinance No. ________ - 2012
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<table>
<thead>
<tr>
<th>Allowable floor area based on Floor Area Ratio (FAR)</th>
<th>R-30</th>
<th>R-15</th>
<th>R-15A</th>
<th>R-15B</th>
<th>R-6</th>
<th>RMF</th>
<th>VR</th>
<th>MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>.13</td>
<td>.16</td>
<td>NOTE 7</td>
<td>NOTE 10</td>
<td>.30</td>
<td>.50</td>
<td>NOTE 14</td>
<td>NOTE 8</td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Gross Floor Area Exempt from Growth Management (without GMQS Allocation or TDR) (Base Maximum) (sq ft)</td>
<td>5,750</td>
<td>5,750</td>
<td>5,750</td>
<td>5,750</td>
<td>5,750</td>
<td>NOTE 14</td>
<td>NOTE 8</td>
<td>N/A</td>
</tr>
<tr>
<td>Gross Floor Area After GMQS Allocation and/or TDR Purchase (Final Max. Floor Area)</td>
<td>15,000</td>
<td>15,000</td>
<td>10,250</td>
<td>5,750</td>
<td>15,000</td>
<td>NOTE 15</td>
<td>NOTE 8</td>
<td>N/A</td>
</tr>
</tbody>
</table>

NOTE 1: 5,000 square feet, which shall include any land areas within the Redstone A Lots (as defined in this Land Use Code)

NOTE 2: Dimensional requirements for the MHP zone district are found in Table 7-4. The dimensional requirements for the Aspen Village Subdivision, Lazy Glen Subdivision, and Woody Creek Subdivision, are described in the PUD Development guide approved by Pitkin County for each development.

NOTE 3: Off-street parking, signs, and lights shall meet the setback requirements for outside uses. Access roads, highway regulatory and directional signs, safety lighting, and safety features shall be allowed between the right-of-way and the setbacks listed. Off-street parking and lights don't need to meet the setback required on collector streets.

NOTE 4: An additional setback may be required or a lesser setback may be allowed pursuant to Sec. 7-20-80.

NOTE 5: Maximum height principal structures: twenty-four (24) feet to the top of ridge; fourteen (14) feet to the top of eave (dormers excluded). See also Sec. 5-20-60(i) for Building Height calculation methodology.

NOTE 6: Maximum height accessory structures: twenty-one (21) feet to the top of ridge; twelve (12) feet to the top of eave (dormers excluded). See also Sec. 5-20-60(i) for Building Height calculation methodology.

NOTE 7: The allowable floor area shall be based on the least restrictive of the following formulas: (a) 3,500 square feet (plus 30% for pre-existing duplexes); or (b) floor area ratio (FAR) = .20 (plus 30% of allowed floor area for pre-existing duplexes). Only duplex units that existed prior to 1974 are permitted in the R-15A zone district, and no dwelling unit in the R-15A zone district shall exceed 5,500 square feet of floor area.

NOTE 8: (1) Lot with 50-74 ft. frontage = 2,000 square feet; (2) Lot with 75-99 ft. frontage = 2,300 square feet; (3) Lot with 100 ft or larger frontage = 2,500 square feet. See also Sec. 5-20-70 for Floor Area calculation methodology.

NOTE 9: Lots in the Meadowood Subdivision are exempt from Growth Management up to the total of their allowable floor area based on Floor Area Ratio PLUS the additional floor area allocated to each lot pursuant to BOCC Resolution No. 99-124 (which total may exceed 5,750 square feet).

NOTE 10: The allowable floor area shall be based on the least restrictive of the following formulas: (a) 3,500 square feet; or (b) floor area ratio (FAR) = .20. Duplexes are prohibited in the R-15B zone district and no dwelling shall exceed 3,500 square feet in floor area, and 5,750 in gross floor area (max sq. ft.).

NOTE 11: For the R-15B zone district, the 15,000 square foot minimum relates to Lot Size, and not Lot Area as defined in Section 11, Definitions.

NOTE 12: Development of a micro hydroelectric energy system may be allowed in a setback pursuant to Section 7-20-80(c) and 4-30-50(k).

NOTE 13: Stream restoration projects may encroach into this setback pursuant to Sections 7-20-40 and 7-20-80.

NOTE 14: The individual floor area cap per unit in the RMF Zone District is 2,855 square feet.

NOTE 15: See Le Chamonix PUD guide for Growth Management Exemption and Maximum Floor Area.
EXHIBIT D

The underlined subsections shall be added to Section 6-30-30, Table 6-1: Summary of Exemptions:

<table>
<thead>
<tr>
<th>Exemption</th>
<th>Specific Categories, If Applicable</th>
<th>Section Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deed Restricted Dwelling Units</td>
<td>Deed Restricted Category Affordable Housing Sale Units</td>
<td>Sec. 6-30-40(a)</td>
</tr>
<tr>
<td></td>
<td>Deed Restricted Resident Occupied Housing Units</td>
<td>Sec. 6-30-40(b)</td>
</tr>
<tr>
<td></td>
<td>Caretaker Dwelling Units</td>
<td>Sec. 6-30-40(c)</td>
</tr>
<tr>
<td>Development Utilizing TDR’s</td>
<td>New Dwelling Units</td>
<td>Sec. 6-30-50(a)</td>
</tr>
<tr>
<td></td>
<td>Additional Floor Area</td>
<td>Sec. 6-30-50(b)</td>
</tr>
<tr>
<td>Preservation of Historic Structures</td>
<td></td>
<td>Sec. 6-30-60</td>
</tr>
<tr>
<td>Large Lots</td>
<td>500+ Acre Parcels</td>
<td>Sec. 6-30-70(a)</td>
</tr>
<tr>
<td>Parcels Created in the LIR Zone Pursuant to the Cluster Option</td>
<td></td>
<td>Sec. 6-30-80</td>
</tr>
<tr>
<td>Conservation Development PUD (CD-PUD)</td>
<td></td>
<td>Sec. 6-30-90</td>
</tr>
<tr>
<td>Development of Up to 5,750 sq. ft. of Residential Floor Area on Certain Types of Pre-Existing Lots</td>
<td>Any Lot or Parcel Which Was Legally Created Before June 12, 1978</td>
<td>Sec. 6-30-100(a)</td>
</tr>
<tr>
<td></td>
<td>Board Approved Subdivisions, Fully Developed Land Subdivision Exemptions, and 35 Acre Parcels Created Prior to January 10, 2000 and Located within the Crystal River or Frying Pan Areas</td>
<td>Sec. 6-30-100(b)</td>
</tr>
<tr>
<td>Remodels and Replacement</td>
<td>Remodeling</td>
<td>Sec. 6-30-110(b)</td>
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<tr>
<td></td>
<td>Replacement</td>
<td>Sec. 6-30-110(c) &amp; (d)</td>
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<tr>
<td>Civic and Institutional Uses</td>
<td></td>
<td>Sec. 6-30-120</td>
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<tr>
<td>New Lots Created within the VR and VC Zone Districts</td>
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<td>Sec. 6-30-130</td>
</tr>
<tr>
<td>Barns</td>
<td>160 Acres or Larger</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td></td>
<td>Greater than 20 Acres but less than 160 Acres</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td></td>
<td>Less than 20 Acres</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td>Commercial and Tourist Accommodation: Developments with Insubstantial Growth Impacts</td>
<td>Commercial Tourist Accommodations</td>
<td>Sec. 6-30-150</td>
</tr>
<tr>
<td>Change in Use</td>
<td>Residential</td>
<td>Sec. 6-30-160</td>
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<tr>
<td></td>
<td>Commercial</td>
<td>Sec. 6-30-160</td>
</tr>
<tr>
<td></td>
<td>Tourist Accommodation</td>
<td>Sec. 6-30-160</td>
</tr>
<tr>
<td>Minor Expansion of a Multi-Family Dwelling Unit in the RMF Zone District</td>
<td></td>
<td>Sec. 6-30-170</td>
</tr>
</tbody>
</table>
EXHIBIT F

The following section shall be added: Section 6-30-170:

MINOR EXPANSION OF A MULTI-FAMILY DWELLING UNIT IN THE RMF ZONE DISTRICT

A GMQS exemption is provided for minor expansions to a multi-family dwelling structure or individual dwelling unit in the RMF zone district. The GMQS exemption for a minor expansion to a multi-family dwelling unit is limited to construction of subgrade floor area.
ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REZONING THE LE CHAMONIX MULTI-FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12, FROM AR-10 TO RMF

Ordinance No. 030 - 2012

RECITALS

1. Le Chamonix Association, Inc has applied to rezone the Le Chamonix Multi-Family Housing Complex, Units 1 through 12, from AR-10 to Residential Multi Family (RMF).

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposed rezoning at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposed rezoning at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to rezoning request.

5. The BOCC finds that the proposed land is eligible for the RMF zone district designation as it meets the intent of this zone district.

6. The BOCC further finds that the rezoning is consistent with Sections 2-30-40(i) and 2-40-10(c)(2) of the Pitkin County Land Use Code

NOW, THEREFORE, BE IT ORDAINED by the Pitkin County Board of County Commissioners that it hereby rezones the Le Chamonix Multi-Family Housing Complex Units 1 through 12 from AR-10 to RMF

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING AT A PUBLIC MEETING on the 24th day of October, 2012.

THIS REZONING SHALL NOT BECOME EFFECTIVE UNLESS AND UNTIL THE LE CHAMONIX DETAILED SUBDIVISION SUBMISSION/FINAL PLAT AND PUD IS APPROVED BY THE BOCC
PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 22nd day of November 2012.

THIS ORDINANCE SHALL BECOME EFFECTIVE 30 DAYS AFTER PUBLICATION FOLLOWING FINAL ADOPTION BY THE BOARD OF COUNTY COMMISSIONERS.

ATTEST: 

Jeanette Jones  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO

Michael Owsley,  
Chairman

Date: 10-4-2012

APPROVED AS TO FORM:

John Ely,  
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,  
Community Development Director

PID#s: 273514202002 through 012  
Case#: P010-12
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING CONCEPTUAL SUBDIVISION AND PLANNED UNIT DEVELOPMENT APPROVAL FOR LE CHAMONIX ASSOCIATION INCORPORATED, AT THE LE CHAMONIX MULTI FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12

BOCC Resolution No. 07a2012

Recitals

1. Le Chamonix Association, Inc. collectively units 1 through 12, ("hereafter the Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for Conceptual Subdivision and Planned Unit Development (PUD) approval. The purpose of the application is to eliminate the legal non-conforming status of the multi-family housing complex and allow for creation of basement space. To accomplish the request, a new zone district has been proposed named the Residential Multi Family (RMF) zone district. The request proposes to rezone Le Chamonix to the RMF and create a PUD in effort to vary certain setbacks and parking in the new zone district. Because a PUD can only be created during the subdivision process, the Applicant has requested Conceptual Subdivision approval at this time, though no land is being subdivided. The Rezoning request and the Land Use Code Text Amendments are addressed in separate ordinances.

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposal at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposal at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to the request.

5. The BOCC finds that the proposal demonstrates compliance with Conceptual Subdivision and PUD sections of the Land Use Code.

6. The BOCC further finds that Applicant’s request to comprehensively address expansion potential and the non-conforming status at the Le Chamonix Multi-Family Housing Complex is the appropriate approach, in contrast to piecemeal applications by each unit owner.

NOW THEREFORE BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Multi-Family Housing Complex Conceptual Subdivision and PUD which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Le Chamonix is limited to 12 units of density.

RECEIPTION#: 594479, 12/04/2012 at 03:25:07 PM,
1 OF 4, R $0.00 Doc Code RESOLUTION
Janice K. Vos Caudill, Pitkin County, CO
3. Basement buildout space is exempt from Growth Management Competition or use of TDR’s. Deck enclosure and any other expansion potential is subject to Growth Management Competition or use of TDR’s.

4. At Detailed Subdivision/Final Plat Submission, the Applicant shall submit a refined PUD guide for the Le Chamonix property that outlines parking, allocated basement expansion and deck enclosure potential for each unit, and varied setbacks.

5. At Detailed Subdivision/Final Plat submission, the Applicant shall provide a draft easement or ownership title to the Pitkin County Open Space and Trails Department for the trail along Maroon Creek. This easement will be forward to OST for review. Prior to Detailed and Final Plat approval the easement shall be formally conveyed to the County.

6. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
Resolution No. 099 -2012
Page 3 of 3

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING on the 24th day of October, 2012.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 27th day of December 2012.

ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Michael Owsley,
Chairman
Date: 12-4-2012

APPROVED AS TO FORM:

John Ely,
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director

PID#'s: 273514202002 through 012
Case#: P010-12
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING DETAILED/FINAL PLAT SUBMISSION AND PLANNED UNIT DEVELOPMENT APPROVAL FOR LE CHAMONIX ASSOCIATION INCORPORATED, AT THE LE CHAMONIX MULTI-FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12

BOCC Resolution No. O/68/2014

Recitals

1. Le Chamonix Association, Inc. collectively units 1 through 12, ("hereafter the Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for Detailed/Final Plat Subdivision approval and Planned Unit Development (PUD) approval. The purpose of the application is to eliminate the legal non-conforming status of the multi-family housing complex and allow for creation of basement space. To accomplish the request, the Land Use Code was amended and a new zone district has been created named the Residential Multi Family (RMF) Zone District pursuant to Ordinance No. 29-2012. The subject property has been rezoned to the RMF pursuant to Ordinance No. 30-2012. Both the Land Use Code Amendment and Rezoning become effective under this Resolution.

2. With this proposal, a PUD is created an effort to vary certain dimensional requirements in the new RMF Zone District. Because a PUD can only be created during the subdivision process, the Applicant has requested Detailed/Final Subdivision approval at this time, though no land is being subdivided.

3. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

4. The Planning and Zoning Commission reviewed the proposal at a regularly scheduled meeting on November 12th, 2014. The Commission voted 5-0 to recommend approval to the BOCC.

5. The BOCC reviewed the proposal at 1st Reading, Detailed/Final Submission and a public hearing, on May 14th, 2014. 2nd Reading was heard at a public hearing on June 11th, 2014. Evidence and testimony were presented with respect to the request.

6. The BOCC finds that the proposal demonstrates compliance with Detailed/Final and PUD sections of the Land Use Code.

7. The BOCC further finds that Applicant’s request to comprehensively address expansion potential and the non-conforming status at the Le Chamonix Multi-Family Housing Complex is the appropriate approach, in contrast to piecemeal applications by each unit owner.

NOW THEREFORE BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Multi-Family Housing Complex Detailed/Final Submission and PUD which shall run with the land and be binding on all successors in interest:
1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Prior to submittal of any building permit applications, the Applicant shall record a Final Plat in accordance with Section 2.6 of the Land Use Application Manual and in a form acceptable to the Community Development Director and the County Attorney which shall be reviewed and recorded at the Clerk’s Office.

3. Deck enclosures, garage conversions to habitable floor area, and other expansions of floor area not under this approval are subject to the use of TDR’s or a GMQS allotment.

4. The Le Chamonix PUD Guide can be viewed as Attachment B.

5. Prior to recordation of the Detailed/Final Plat approval, a trail easement to the benefit of Pitkin County for the trail along Maroon Creek shall be recorded to the satisfaction of the Open Space and Trails Department.

6. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
INTRODUCED, FIRST READ, AND SET FOR PUBLIC HEARING ON THE 14TH DAY OF MAY 2014.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE 11TH DAY OF JUNE 2014.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE 19TH DAY OF JULY 2014.


ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Robert A. Ittner Jr.,
Chair
Date: 7/9/14

APPROVED AS TO FORM:

John Ely,
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director

PID#s: 273514202002 through 012
Case#: P067-13
LE CHAMONIX ASSOCIATION INCORPORATED
PLANNED UNIT DEVELOPMENT GUIDE

I. Purpose

On 6/11/14, the Pitkin County Board of County Commissioners (hereinafter the "Board") approved the Le Chamonix Association Incorporated Planned Unit Development (hereinafter "Chamonix PUD") Detailed Submission (Site Specific Development Plan) pursuant to the Pitkin County Land Use Code (hereinafter "Code"). Section 3-70-30 of the Code establishes the Planned Unit Development (hereinafter "PUD") standards which allow variance from the strict adherence to the area and bulk requirements of underlying zone districts within a PUD.

The purposes of the Chamonix Guide are to:

A. Clearly identify area and bulk requirements approved pursuant to Section 3-70-30 of the Code.

B. Clearly identify in one document representations and commitments made by Chamonix (hereinafter "Applicant") and the Board.

C. Clearly state and iterate in one document the standards, restrictions and regulations which govern land use development within the Chamonix PUD.

D. Facilitate the Pitkin County Zoning and Building Department reviews by establishing review standards.

E. Identify standards enforceable by Pitkin County in one document separate from the Chamonix Condominium Declarations and Protective Covenants which are not enforceable by Pitkin County.

II. Pitkin County Land Use Code

Chamonix PUD has been reviewed based upon the Pitkin County Land Use Code in effect on August 2, 2013.

The PUD Guide identifies variations from the Pitkin County Land Use Code approved by Pitkin County during the land use review process and restrictions which may be enforced by Pitkin County.
III. Allowed Uses

Allowed uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. The RMF zone is a residential zone intended for multi-family residential dwelling units. Residential uses are intended for use exclusively for dwelling purposes, but not including hotel or lodge rooms.

IV. Prohibited Uses

Prohibited uses are established in by the RMF zone district regulations in Section 3-50-90 of the Code. Tourist accommodation uses are prohibited in the RMF zone. Tourist Accommodation unit means any unit intended to be occupied principally by visitors to Pitkin County, located in a facility that offers customary on-site management and operation services for visitors. This use shall include units found in a lodge, hotel, motel, tourist dormitory, resort cabin, guest ranch, or similar facility, but shall exclude any high country hut, tourist camping or similar facility that does not provide on-site management and operation services or that does not meet the definition of dwelling unit in this Chapter 11 of the Code. Also excluded shall be dwelling units that are principally residences as defined in this Chapter 11 of the Code, and are subject to residential growth management quota system allotments even though they may from time to time be used by visitors.

V. Dimensional Requirements

This section establishes dimensional requirements for the PUD. The dimensional requirements of the Code apply to the Le Chamonix unless varied in this section. There are two dwelling units within Le Chamonix unit 1 as defined by the Pitkin County Land Use Code. Unit 1 may continue to be used as it is currently being used and is considered to be in conformance with zoning pursuant to this PUD Guide. The unit may be remodeled and in the event of the damage or destruction due to a disaster it may be reconstructed. However, if all the units in Le Chamonix are demolished and reconstructed there may be only one unit reconstructed within unit 1.

A. Lots

<table>
<thead>
<tr>
<th>Minimum Lot Area (acres)</th>
<th>1 acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area per Dwelling Unit</td>
<td>.14 acre</td>
</tr>
</tbody>
</table>

B. Maximum Number of Dwelling Units on the Property | 12 |

C. Maximum Dwelling Units Per Acre | 10.5 |

D. Minimum Useable Open Space per Dwelling Unit (square feet) | 500 |

E. Minimum Lot Width | 75' |
F. Minimum Setbacks from Property Lines

Front 5'
Side 5'
Rear 20'

G. Maximum Height

Increases in the height of the Le Chamonix Condominiums will only be considered by Pitkin County based upon a plan for the entire Condominium structure and will be subject to a major PUD amendment, Site Plan and Scenic View Protection Reviews. Height increases on a unit by unit basis are prohibited.

The Height limit for the PUD is 28 feet for the primary structure and 20 feet for the accessory structure except for those units listed below.

Unit 8 33' 3"
Unit 9 31' 2"
Unit 10 29'
Unit 11 28' 11"
Unit 12 28' 3"

Refer to Figure 1, Existing Building Heights and Height Calculations, to view methodology for determining height.

H. Existing Decks

The existing decks located on the north side of the structure are permitted. The decks located on the north side of the structure may be removed, removed, renovated and/or reconstructed subject to obtaining required Pitkin County building and demolition permits. The sizes of the decks (square feet) located on the north side of the structure are documented in Figure 2 and listed below.

Unit 1 784
Unit 2 540
Unit 3 609
Unit 4 666
Unit 5 526
Unit 6 493
Unit 7 646
Unit 8 339
Unit 9 673
Unit 10 487
Unit 11 232
Unit 12 430
I. Existing Floor Area

Table 1 documents the approved existing floor area and crawl space for each unit in Le Chamonix. The calculations for determining these floor area numbers pursuant to the Pitkin County Code are depicted in Figure 2 of this PUD Guide. Units 1 and 12 each include floor area being used as garages as noted in Table 1 and depicted in Figure 2.

Table 1

Le Chamonix Existing Floor Area*

<table>
<thead>
<tr>
<th>Unit</th>
<th>Existing Floor Area**</th>
<th>Unfinished Crawl Space Over 5’6” Per Code Counted in Allowable Floor Area</th>
<th>Unfinished Crawl Space Under 5’6” Per Code is not Counted in Allowable Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3174 +379 G=3553</td>
<td>105</td>
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<td>2</td>
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<td>11</td>
<td>2390</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>12</td>
<td>2264 + 461 G=2725</td>
<td>220</td>
<td>995</td>
</tr>
<tr>
<td>Common</td>
<td>211</td>
<td>0</td>
<td>198</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>28,515+ 840 Garage</td>
<td>1,616</td>
<td>4,075</td>
</tr>
<tr>
<td>W/ GARAGE:</td>
<td>29,355</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* See Figure 2 for calculations of floor area.
** Existing Floor Area includes unfinished crawl space over 5’6” identified in the 3rd column from the left.

Source: Davis Horn Incorporated and Scot Broughton Architects LLC, January 2014

J. Maximum Floor Area

Gross Floor Area for PUD based on Floor Area Ratio (FAR) .5
Floor Area for all Dwelling Units except Unit 1: 2,855
Floor area for Dwelling Unit 1: 3,174+379 Garage= 3,553
Floor area for Dwelling Unit 12: 2,264 + 461 Garage= 2,725
K. Setback from Maroon Creek Road a Major Road

This section establishes the major road setback from Maroon Creek Road to individual dwelling units in Chamonix. Attachment A depicts the measured shortest distance from each unit to the Maroon Creek Road right of way (major road). This shortest distance is the setback for each unit.

Unit 1: 9.3'
Unit 2: 10.4'
Unit 3: 18.2'
Unit 4: 18.4'
Unit 5: 55.1
Unit 6: 67.4'
Unit 7: 63.9'
Unit 8: 56.1'
Unit 9: 34.8'
Unit 10: 13.3'
Unit 11: 11.1'
Unit 12: 11.3'
Storage shed 0.0'

L. Expansion of Dwelling Units

The existing crawl spaces (areas which are less than 5' 6") under the dwelling units listed in this section may be expanded provided that the new floor area does not exceed the limitations in this section and the maximum floor area permitted per unit. The expansion of all other dwelling units in the PUD is prohibited unless the PUD is amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint or height is prohibited unless the PUD is amended pursuant to Section 2-40-50 of the Code.

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

M. Enclosure of Decks

The enclosures of decks located on the north side of the structure are not approved as part of this PUD approval. The portions of the decks which exceed 15 percent of the floor area of each unit are included in floor area based upon the existing Pitkin County Land Use Code floor area definition. Refer to Attachment 10 for the calculation of deck floor area.

The future enclosure of decks may be possible subject to Site Plan review approval by
Pitkin County and compliance with the floor area limitations established in this PUD Guide.

6. Increases in Floor Area, Finishing Unfinished Crawl Spaces Over 5’ 6” and Converting Floor Area Located in Garages to Living Space

Any deck enclosure requires a residential Growth Management Quota System (GMQS) allotment or a Transferable Development Right (TDR). Expanding the floor area of any dwelling unit other than the conversion of the unit crawl spaces (subgrade space) identified in Section V. L. (Units 2, 3, 6, 7, and 12) requires either a residential GMQS allotment or a TDR.

The existing crawl spaces (subgrade space) which are over 5’6” in height are identified in Table 1 (Units 1, 5, 6, 7 and 12). These unfinished subgrade spaces may be converted to finished space subject to compliance with the building codes.

The existing floor area located in the garages in Units 1 and 12 (see Section V.1.) may be converted to habitable floor area provided there is no change to the building footprint and there is no expansion in floor area. Conversion of floor area in garages to habitable floor area requires a residential GMQS allotment or exemption. No new garages which require additional floor area may be built without a residential GMQS allotment or exemption.

Any alteration of the building footprint is not permitted without additional Pitkin County land use review.

VI. Parking

Twenty (20) off-street parking spaces are required. Seven (7) of the twenty (20) parking spaces may be stacked provided that no more than one stacked space per unit is permitted. The parking spaces are not required to have 24 feet of back-up area.
RESOLUTION OF THE PITKIN COUNTY, COLORADO
BOARD OF ADJUSTMENT
GRANTING MAJOR ROAD AND SIDE YARD SETBACK VARIANCES FOR THE
RECONSTRUCTION OF RETAINING WALLS AT
LE CHAMONIX CONDOMINIUMS
Resolution No. 04-2011

WHEREAS, Le Chamonix Association Inc, owner of 1501 Maroon Creek Road, is requesting
approval of a Major Road and Side Yard setback variances where 100 feet and 20 feet respectively
are required for the re-construction of a failing retaining wall; and

WHEREAS, the lot contains approximately 2 acres. is located in the AR-10 zone district, and is
more fully described in Exhibit A; and

WHEREAS, the Board of Adjustment is vested with the power to grant or deny such variances by
virtue of Title II, Section 7-10.30, Pitkin County Code (Land Use Code) and Colorado Revised
Statutes, 30-28-118(2) (C); and,

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following
findings:

1. Proper notice procedures, including the notification of all adjoining property owners, has been
   shown by the applicant.
2. The required hardship or practical difficulty has been established.
3. Granting such relief will not cause substantial detriment to the public welfare and will not
   substantially impair the intent and purpose of the Zoning Resolutions and the zoning maps.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment that Major Road and Side
Yard setback variances be granted for the re-construction of the retaining wall shown on Exhibit B,
due to topographic hardships.

WARNING: Any violation of the terms of this resolution may result in rehearing and possible
revocation.

The Resolution was adopted by vote of the Board of Adjustment of the County of Pitkin, State of
Colorado.

DATED: May 3, 2011

ATTEST:

Joanna S. Schaffner. Date
/ Pitkin County Zoning Officer

Janice K. Vos Caudill, Pitkin County, CO

RECEPTION#: 579879, 05/13/2011 at
11:10:35 AM,
1 OF 3, R $0.00 Doc Code RESOLUTION
Co-Chair, Board of Adjustment

Parcel ID# 273514202001-012
Illustration of Variance Requested

Note - Due to the angle of the property line, the new retaining wall will not encroach into the setback between the 2 pts. of encroachment.
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING ACTIVITY ENVELOPE AND SITE PLAN APPROVAL FOR THE LE CHAMONIX HOMEOWNERS ASSOCIATION BANK RESTORATION PROJECT AND EXPANSION/RESTORATION OF A LEGAL NON-CONFORMING STRUCTURE WITH SIGNIFICANT CHANGES

BOCC Resolution No. 043-2011

Recitals

1. Le Chamonix Homeowners Association ("Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for a one step Activity Envelope and Site Plan Review for a bank restoration project to repair a failing timber retaining wall on the north side of the building. The Applicant also requests approval for Expansion/Restoration of a Legal Non-conforming Structure With Significant Changes due to the fact that the Le Chamonix complex resides within the 100' road setback of Maroon Creek Road, the 100' stream setback of Maroon Creek, and the side yard setback for the Lot.

2. The Le Chamonix complex is located at 1501 Maroon Creek and is within the AR-10 zone district and is legally described as the Le Chamonix Subdivision Units 1-12.

3. The Le Chamonix complex attained a variance from the Board of Adjustment for encroachments into the 100' Maroon Creek Road Setback and the side yard setback pursuant to BOA Resolution No. 04-2011 (Reception No. 579879).

4. The BOCC heard this application at a duly noticed public hearing on May 11, 2011 at which time evidence and testimony were presented with respect to this application. No written public comment was received during the comment period.

5. The BOCC finds that the proposal demonstrates the need for restoration of the failing retaining wall located on the bank of Maroon Creek. This proposal, if implemented as demonstrated, will improve the bank of the Creek and improve the safety of the Le Chamonix complex as a whole.

6. The BOCC further finds that the under Section 7-20-80(c)(2) the application has been presented as a bank restoration project and has been designed for the purpose of restoring, and preventing further degradation of the bank.

7. The BOCC further finds that the Le Chamonix complex is a legal non-conforming structure, and under section 9-50-30, the proposal will not create adverse impacts. Restoration of the timber retaining wall will improve the function and safety of the wall.

NOW, THEREFORE, BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Bank Restoration Project and Expansion/Restoration of a Non-Conforming Structure With Significant Changes subject to the following conditions, which shall run with the land and be binding on all successors in interest:
1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Prior to submission of any future permit applications, the Applicant shall be required to submit for approval by the County Attorney and Community Development a Site Plan with an Activity Envelope in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12. The above referenced approvals shall be a condition precedent to finalization and recordation.

3. The Applicant shall submit an earthmoving permit that identifies all areas disturbed by construction. The permit shall include a detailed revegetation plan that shows native riparian plantings and/or vegetation in the area. All revegetation shall occur within one growing season of the project's completion as represented in the application. Financial security for successful revegetation is required. A tree mitigation plan shall be submitted for the removal of any trees larger than six (6) inch DBH.

4. The Applicant shall provide a detailed construction management plan which delineates access to the site, and all disturbances, material storage, and parking areas. All disturbances shall be contained in the approved development envelope.

5. The Applicant shall submit a drainage and erosion control plan which addresses how sediments will be contained on site and prevented from polluting Maroon Creek.

6. Lane closures of Maroon Creek Road shall not disrupt special events that are scheduled to use the Road.

7. The Applicant shall clear Maroon Creek Road of debris associated with construction, on a daily basis, or more frequently if required.

8. The Applicant shall obtain a right of way permit for Maroon Creek Road closures during construction prior to issuance of the building permit.

9. No development shall occur outside the approved activity envelope.

10. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on May 11, 2014.

11. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 10th day of April 2011.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS IN THE ASPEN TIMES WEEKLY ON 6-26-2011.

APPROVED AND ADOPTED at the public hearing on the 11th day of May, 2011.

ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Rachel E. Richards, Chairwoman

Date: 6/08/2011

APPROVED AS TO FORM:

John Fly
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director

Case # 019-11

PIDs: 273514202001 thru 012

Resolution No. 043-2011
Page 3 of 3
AMENDED
LE CHAMONIX ASSOCIATION INCORPORATED
PLANNED UNIT DEVELOPMENT GUIDE
2019

I. Purpose

On __________, the Pitkin County Board of County Commissioners (hereinafter the "Board") approved the Le Chamonix Association Incorporated Amended Planned Unit Development (hereinafter "Le Chamonix Amended PUD") pursuant to the Pitkin County Land Use Code (hereinafter "Code"). Section 3-70-30 of the Code establishes the Planned Unit Development (hereinafter "PUD") standards which allow variance from the strict adherence to the area and bulk requirements of underlying zone districts within a PUD. This Amended PUD Guide retains all the applicable standards from the 2014 PUD approvals and makes amendments based upon the 2019 approvals for a Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS floor area allotment.

The purposes of the Chamonix Guide are to:

A. Clearly identify area and bulk requirements approved pursuant to Section 3-70-30 of the Code.

B. Clearly identify in one document representations and commitments made by Chamonix (hereinafter "Applicant") and the Board.

C. Clearly state and iterate in one document the standards, restrictions and regulations which govern land use development within the Chamonix PUD.

D. Facilitate the Pitkin County Zoning and Building Department reviews by establishing review standards.

E. Identify standards enforceable by Pitkin County in one document separate from the Chamonix Condominium Declarations and Protective Covenants which are not enforceable by Pitkin County.

II. Pitkin County Land Use Code

The Amended Le Chamonix PUD has been reviewed based upon the Pitkin County Land Use Code in effect on ________________.

The PUD Guide identifies variations from the Pitkin County Land Use Code approved by Pitkin County during the land use review process and restrictions which may be enforced by Pitkin County.

III. Allowed Uses
Allowed uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. The RMF zone is a residential zone intended for multi-family residential dwelling units. Residential uses are intended for use exclusively for dwelling purposes, but not including hotel or lodge rooms.

IV. Prohibited Uses

Prohibited uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. Tourist accommodation uses are prohibited in the RMF zone. Tourist Accommodation unit means any unit intended to be occupied principally by visitors to Pitkin County, located in a facility that offers customary on-site management and operation services for visitors. This use shall include units found in a lodge, hotel, motel, tourist dormitory, resort cabin, guest ranch, or similar facility, but shall exclude any high country hut, tourist camping or similar facility that does not provide on-site management and operation services or that does not meet the definition of dwelling unit in Chapter 11 of the Pitkin County Land Use Code. Also excluded shall be dwelling units that are principally residences as defined in this Chapter 11 of the Code, and are subject to residential growth management quota system allotments even though they may from time to time be used by visitors.

V. Dimensional Requirements

This section establishes dimensional requirements for the PUD. The dimensional requirements of the Code apply to the Le Chamonix unless varied in this section. There are two dwelling units within Le Chamonix Unit 1 as defined by the Pitkin County Land Use Code. Unit 1 may continue to be used as it is currently being used and is considered to be in conformance with zoning pursuant to this PUD Guide. The unit may be remodeled and in the event of the damage or destruction due to a disaster it may be reconstructed. However, if all the units in Le Chamonix are demolished and reconstructed there may be only one unit reconstructed within unit 1.

A. Lots

<table>
<thead>
<tr>
<th>Minimum Lot Area (acres)</th>
<th>1 acre</th>
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<tr>
<td>Minimum Lot Area per Dwelling Unit</td>
<td>.14 acre</td>
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</table>

B. Maximum Number of Dwelling Units on the Property | 12 |

C. Maximum Dwelling Units Per Acre | 10.5 |

D. Minimum Useable Open Space per Dwelling Unit (square feet) | 500 |

E. Minimum Lot Width | 75' |

F. Minimum Setbacks from Property Lines
Front 5'
Side 5'
Rear 20'

G. Maximum Height: 28 feet for the primary structure as shown in Figure 1 and 20 feet for the accessory structure; only two stories are allowed on the front, Maroon Creek Road side of the structure.

Increases in the height of the Le Chamonix Condominium units up to the maximum allowed 28 foot height limit in the RMF zone district have been considered by Pitkin County based upon a plan for the entire Condominium structure which was the subject of a Major PUD Amendment, Site Plan and Scenic View Protection Reviews and a GMQS allotment. Height increases on a unit by unit basis are allowed when in conformance with Board of County Commissioners Resolution No. ___ and in this Amended PUD Guide. The Height limit for the Amended PUD is 28 feet for the units in the primary structure except for Units 8, 9, 10, 11 and 12 and their height limits are:

Unit 8 33' 3”
Unit 9 31’ 2”
Unit 10 29’
Unit 11 28’ 11”
Unit 12 28’ 3”

All units in the primary structure will retain two stories on the front, Maroon Creek Road side of the structure. This makes each unit's height as viewed from Maroon Creek Road lower than 28 feet as illustrated in Figure 1. The height limit is 20 feet for the accessory structure. Refer to Figure 1 to this PUD Guide, Existing Building Heights and Height Calculations, to view methodology for determining height as approved in the 2019 Amended PUD.

H. Existing Decks

The existing decks located on the north side of the structure are permitted. The decks located on the north side of the structure may be renovated and/or reconstructed subject to obtaining required Pitkin County building permits. The sizes of the decks (square feet) are documented in Figure 2 and are as follows:

Unit 1: 784  Unit 7: 646
Unit 2: 540  Unit 8: 339
Unit 3: 609  Unit 9: 673
Unit 4: 666  Unit 10: 487
Unit 5: 526  Unit 11: 232
Unit 6: 493  Unit 12: 430

All Le Chamonix units and decks are oriented toward Maroon Creek (the water body) to
the north and northwest. Visual impacts are insignificant toward this side of the building and no scenic corridor is impacted.

I. Existing Floor Area.

Table 1 documents the approved existing floor area and crawl space for each unit in Le Chamonix. After the 2014 PUD approvals, the owner of Unit 12 obtained a GMQS allotment for 220 square feet of floor area in the 2015 GMQS competition in order to take one bay (220 square feet) of an existing two car garage (461 square feet) and convert the space to finished floor area, leaving only a one car garage of 241 square feet. This is the only change since the existing floor area was documented in 2014.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Existing Floor Area*</th>
<th>Unfinished Crawl Space Over 5'6&quot; Per Code Counted in Allowable Floor Area</th>
<th>Unfinished Crawl Space Under 5'6&quot; Per Code is not Counted in Allowable Floor Area</th>
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TOTAL: 28,735+ 620 Garage = 1,616
W/ GARAGES: 29,335

- See Figure 2 for calculations of floor area.
- Existing Floor Area includes unfinished crawl space over 5'6" in the middle column
- Units 1 and 12 each include floor area being used as a garage as noted in Table 1 above and depicted in Figure 2 attached to this PUD Guide.

Source: Davis Horn Incorporated and Scot Broughton Architects LLC, January 2019
J. **Maximum Floor Area**

Floor Area Per Dwelling for Units #2 through 12: 2,855
Floor Area for Unit 1: 3,174
Floor Area Plus Garage for Dwelling Unit 1: 3,174+379 Garage = 3,553

The floor area additions and total floor area allowed for each unit after the 2019 PUD Amendment will be:

<table>
<thead>
<tr>
<th>Unit</th>
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<tr>
<td>#1</td>
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<td>2,855</td>
<td>2,725</td>
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<td>2,855 includes 241 Garage</td>
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1-12 Unit Expansions: 5,814
Laundry Expansion: 100
Five Percent Buffer: 285
Total Expansion Approved: 6,200 (rounded)

Source: Davis Horn Incorporated and Scot Broughton Architects, LLC, January 2019.

K. **Setback from Maroon Creek Road a Major Road**

This section establishes the major road setback from Maroon Creek Road to individual dwelling units in Chamonix. Attachment A depicts the measured shortest distance from each unit to the Maroon Creek Road right of way (major road). This shortest distance is the setback for each unit.

Unit 1: 9.3’
Unit 2: 10.4’
Unit 3: 18.2’
Unit 4: 18.4’
Unit 5: 55.1’
Unit 6: 67.4'
Unit 7: 63.9'
Unit 8: 56.1'
Unit 9: 34.8'
Unit 10: 13.3'
Unit 11: 11.1'
Unit 12: 11.3'
Storage shed 0.0'

L. Expansion of Dwelling Units

The expansion of all dwelling units in the Le Chamonix PUD up to the allowed maximum floor area of 2,855 square feet (3,553 for Unit 1) is now allowed pursuant to the Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS approvals granted under BOCC Resolution No. _____ and this Amended PUD Guide. The PUD is amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint and/or height is allowed pursuant to BOCC Resolution No. _____ and this Amended PUD Guide.

The existing crawl spaces (areas which are less than 5' 6") under the following dwelling units may be expanded provided that the new floor area does not exceed the limitations in this section and the maximum floor area permitted for each unit. The following units contain such crawl spaces (areas which are less than 5'6").

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

M. Enclosure of Decks

The portions of the decks which exceed 15 percent of the floor area in any given unit which are already included in floor area based upon the existing Pitkin County Land Use Code floor area definition can be converted to finished floor area in the unit as long as the space is consistent with the Land Use Code, the Amended PUD approvals and the Amended PUD Guide. Refer to Figure 2 for the calculation of deck floor area. The enclosure of deck areas is possible as long as the enclosure is consistent with the PUD and is in compliance with the floor area limitations established in this Amended PUD Guide.

O. Increases in Floor Area including Deck Area Enclosures, Floor Area Expansions, Finishing Unfinished Crawl Spaces Over 5' 6" and Converting Floor Area Located in Garages to Living Space.
**Deck Area Enclosure.** As deck areas are on the rear side of the structure with minimal visual impacts, deck enclosures can occur if the space is in conformance with all approvals including the maximum allowed floor area of 2,855 square feet for Units 2 through 12 and 3,553 square feet for Unit 1. A Growth Management Quota System (GMQS) allotment or a Transferable Development Right (TDR) is not required for deck enclosures as long as the floor area in the unit complies with the maximum allowed floor area of 2,855 square feet of floor area (3,553 for Unit 1).

**Floor Area Expansion.** Floor area expansions up to the maximum allowed 2,855 square feet per unit are allowed as long as the expansions are found to be in conformance with the elevations and perspectives approved through this PUD Amendment, GMQS, Activity Envelope and Site Plan, and Scenic Review approvals and the adopted Amended PUD Guide.

**Existing Crawl Space .5’6” Moved to Above Grade.** The existing crawl spaces (subgrade space) which are over 5’6” in height are identified in Table 1 (Units 1, 5, 6, 7 and 12). These unfinished subgrade spaces may be converted to finished space subject to compliance with the building codes. This floor area can be moved above grade as long as the space is consistent with the Land Use Code, the Amended PUD Guide and meets the maximum allowed floor area requirements.

**Garages.** The existing floor area located in the garages in Units 1 and 12 may be converted to habitable floor area provided there is no change to the building footprint and there is no expansion in floor area. Conversion of floor area in garages to habitable floor area will no longer require a residential GMQS allotment or exemption as these expansions must be in conformance with these 2019 approvals including the elevations and perspectives approved as part of the Scenic Review approval and the Amended PUD Guide.

**Alteration of the Building Footprint.** Alteration of the building footprint is permitted if the building footprint alteration is consistent with the Amended PUD land use approvals particularly the perspectives and elevations approved as part of Scenic Review approvals and BOCC Resolution No _____, the Amended PUD Guide including the figures attached.

**VI. Parking**

Twenty (20) off-street parking spaces are required. Seven (7) of the twenty (20) parking spaces may be stacked provided that no more than one stacked space per unit is permitted. The parking spaces are not required to have 24 feet of back-up area.
PITKIN COUNTY PRE-APPLICATION CONFERENCE SUMMARY

LOCATION: 1501 Maroon Creek Road
PID#: 27351420001-012, 273514202800
ZONING: RMF
OWNER: Le Chamonix HOA and individual unit owners (12 units)
APPLICANT: Le Chamonix HOA
REPRESENTATIVE: Glenn Horn
PHONE and EMAIL: 925-6587; ghorn@rot.net
DATE: November 26, 2018
PLANNER: Leslie Lamont, 920.5482
leslie.lamont@pitkincounty.com
SIZE: 7.18 acres

Type of Application: Residential GMQS Allotment for Additional Floor Area, Major PUD Amendment and Site Plan and Scenic Review

Background: Le Chamonix is a multi-family housing complex that consists of 12 units. In 2012, the property was rezoned to Residential Multi-Family pursuant to Ordinance No. 30-2012. In 2014, the BOCC approved Detailed/Final Plat and Planned Unit Development pursuant Resolution No. 068-2014. A PUD Guide was also approved as part of this process and all proposed expansions must comply with the PUD Guide.

Description of Project/Development: The Applicants requests approval for an overall plan for the entire Le Chamonix Condominium structure to allow for an expansion of floor area, to upgrade the front elevation façade, and to increase height to attain the 28 foot height limit. All proposed expansions will comply with the established Le Chamonix PUD Guide approved pursuant to Resolution No 68-2014 including the established 28 foot height limit, a maximum floor area of 2,855 square feet per unit and all setbacks including the front yard setback which was established on a unit by unit basis in the PUD Guide. There are a few situations where minor height and floor area limits above the 28 foot height and 2,855 square feet limits were approved due to existing conditions. No expansion or increase will occur in these areas.

A Major PUD Amendment, Site Plan Review and Scenic Review are required to obtain approval for an overall plan for the entire Le Chamonix Condominium structure so that:

1) the 28 foot height limit allowed in the PUD Guide can be attained;

2) the maximum 2,855 square feet of floor area allowed per unit can be accommodated in an acceptable Site Plan and elevation from Maroon Creek Road; as no expansion beyond subgrade space is allowed without further approval;

3) the Le Chamonix HOA meets the Le Chamonix PUD Guide requirement that plans for individual unit height increases be made as part of a plan for the entire structure as height increases are now prohibited on a unit by unit basis; and

4) minor alterations to the building footprint can occur as no alteration of the building footprint is permitted pursuant to the PUD Guide without additional Pitkin County land use review.

A residential GMQS allotment for 5,750 square feet of additional floor area is requested to allow expansion of the twelve units in Le Chamonix up to the 2,855 square feet maximum allowed floor area per unit. The only expansion now allowed without a GMQS allotment or TDR is the
finishing of subgrade space when the resulting total floor area after the expansion is below the 2,855 square feet maximum allowed per unit. The allotment for floor area can then be allocated throughout the twelve units depending upon the existing floor area, the constraints on development and circumstances involved in each unique unit.

Clarification is also requested on the amendments to the PUD Guide which will be necessary to reflect the approval of the Site Plan, Scenic Review and the GMQS allotment if approval is granted. In particular, Sections G - Maximum Height, Section L - Expansion of Dwelling Units and Section O - Increases in Floor area, Finishing Unfinished Crawl Spaces Over 5'6" and Converting Floor Area Located in Garages to Living Space will need amendment.

Pitkin County Land Use Code:
- Sec. 1-60: Land Use Policies
- Sec. 2-20-150(e)(2), Major Amendment to Development Permit
- Sec. 2-40-40: Growth Management Quota System Scoring/Allotments
- Sec. 2-40-50: Subdivision and PUD Review Procedures
- Sec. 3-70-30(j): PUD – Architectural Review
- Sec. 6-50-20: Standards for Scoring Applications for Residential Allotments – deadline for additional floor area competition is January 15 or July 1.
- Sec. 7-10-50: Site Plan and Activity Envelope
- Sec. 7-20-80: River and Stream Corridors and Wetlands
- Sec. 7-20-120: Scenic View Protection

Review By: P&Z and BOCC (2 readings – formal resolution)

Public Hearing? YES, at P&Z (for GMQS scoring) and BOCC. The Applicant shall post a public notice sign on the property at least 15 days prior to the date specified for the Public Hearings pursuant to Sec. 2-20-100(a)(3) of the Land Use Code. In addition, the Applicant shall mail notice at least 30 days prior to the Public Hearings (by first class mail) to all owners within 300’ of the property with the return address of the Community Development Department (form of notice to be obtained from the Community Development Department). The names and addresses shall be those on the current tax records of Pitkin County, as they appear no more than 60 days prior to the date of the Public Hearings.

Staff Will Refer Application to: Maroon Creek Caucus, Aspen Fire Protection District, City of Aspen Planning (Jen Phelan)

FEES: $10,604 (make check payable to “Pitkin County Treasurer”)
- $9,800 Planning Office flat fee: (non-refundable; based on 25 hours of staff time; if staff review time exceeds 30 hours, the Applicant will be charged for additional time above 25 hours at a rate of $325/hour)
- $725 Clerk
- $54 Publication Fee

To apply, submit 1 unbound and one-sided copy of the following information. Also provide all documents in PDF format as one combined file on a flash drive or email to planningapps@pitkincounty.com.
1. Letter of request, addressing (in detail) each of the provisions of the Pitkin County Land Use Code identified above and sufficient to demonstrate that all substantive review criteria have been met;
2. 24" by 36" and 11" by 17" Site Plan as designated in Section 2.1.12 of the Pitkin County Land Use Application Manual;
3. Scenic View Protection Exhibits as designated in Section 2.1.12 of the Application Manual;
4. Consent from the owners of the property for a representative to process the application and represent the owners;
5. Disclosure and proof of ownership of the property, consisting of a current certificate from a title insurance company or attorney licensed to practice law in the State of Colorado, listing the names of all owners of the property and all mortgagees, judgments, liens, easements, contracts and agreements affecting use and development of the parcel and proof of the owner’s right to use the land for the purposes identified in the development application.
6. Executed Pitkin County Community Development Agreement for Payment of Land Use Application Fees form (attached);
7. List of property owners within 300’ owners; and
8. This Pre-Application Conference Summary Sheet.

NOTES:

► PLEASE INCLUDE THE PARCEL ID NUMBER ON ALL DOCUMENTS IN YOUR APPLICATION.
► ALL MAPS SHALL BE FOLDED.
► The Land Use Code is available on-line at http://pitkincounty.com/468/County-Code.
► The Land Use Application manual is available on-line at http://pitkincounty.com/196/Land-Use
► Applicant will be responsible for mailed and posted notice. Public Notice requirements are described in Section 2-20-100 of the Pitkin County Land Use Code. A signed, notarized copy of the affidavit confirming notice must be received from Applicant prior to approval.
December 11, 2018

Alice Davis AICP
Davis Horn Inc.
215 South Monarch Street Suite 104
Aspen, CO. 81611

Dear Alice:

Thank you for contacting the Fire Protection District about possible fire protection projects that could benefit from a financial contribution through the Residential GMQS application for the Le Chamonix Condominiums.

There are several projects that I think could benefit the Maroon Creek Road corridor, the Le Chamonix neighborhood as well as all of Pitkin County. That neighborhood is a wildfire interface area and as you know, wildfires are of major concern. The District is in need of a training vehicle for our fire protection workers as currently there is no location for the necessary training. Also, the replacement of a brush truck, a smaller vehicle critical for wildfire protection and firefighting is also a need. Either of these two needs of the Fire Protection District would be an excellent use of the $15,000 donation that you have offered.

The Aspen Fire Protection District would happily be the beneficiary of a $15,000 donation offered by the Le Chamonix HOA. It would indeed be a valuable contribution toward the purchasing of either of these important assets which would enhance fire protection in the Le Chamonix neighborhood.

Thank you,

Parker Lathrop
Deputy Chief / Fire Marshal

Aspen Fire Protection District
420 E Hopkins Ave
Aspen, Colo 81611

(970) 925-5532
November 19, 2018

Alice Davis AICP
Glenn Horn AICP
Davis Horn Inc.
215 S. Monarch Street Suite #104
Aspen, CO.  81611

Dear Ms. Davis and Mr. Horn:

It has come to the Aspen School District’s attention that the Davis Horn Incorporated is working on a Residential Growth Management Application for the Le Chamonix Condominiums across from the Aspen Highlands Ski Area at 1501 Maroon Creek Road. The Le Chamonix Home Owners Association (HOA) will be asking for between 5,000 and 6,000 square feet of floor area to be spread among the twelve existing units for minor expansions.

As part of the Le Chamonix GMQS land use application, Davis Horn Incorporated would like to again commit funds to the Aspen School District to address transportation needs in the Maroon Creek Valley. The Aspen School District can put this money to good use for transportation planning, bus and/or traffic studies or future projects or efforts to improve road capacity or road safety along Maroon Creek Road in the neighborhood. As a result the Le Chamonix HOA would like to contribute $5,000 to the Aspen School District to help resolve or reduce the ongoing transportation challenges in our neighborhood.

The Aspen School District would welcome the donation as we continue our work from the Community Forum Task Force on transportation and mobility and adopt many progressive transportation options in and around the schools, along Maroon Creek Road and in the neighborhood. Please accept this letter as a letter of encouragement, cooperation, and support of the Davis Horn Incorporated and the Le Chamonix Condominiums GMQS land application. Also, the Aspen School District expresses its gratitude for thinking about how we can put these dollars to good use for transportation related concerns along the Maroon Creek corridor.

Respectfully,

Dr. John Maloy
Superintendent of Schools
Aspen School District
0235 High School Road
Aspen, CO 81611
November 21, 2018

Alice Davis AICP
Davis Horn Inc.
215 S. Monarch Street Suite #104
Aspen, CO. 81611
970 925-6587

Dear Alice,

Thank you for contacting us about possible trail projects that could benefit from a financial contribution through the Residential GMQS application for the Le Chamonix Condominiums.

There are several parks and trails projects in the Maroon Creek Road corridor that could potentially benefit from this contribution. The primary ones that seem to be the best fit are the Maroon Creek Road paved commuter trail planning and additional upgrades to the Maroon Creek recreational single-track trail that runs through the Maroon Creek gorge. The first of these projects will provide an alternative paved trail connection between the round-a-bout and the Aspen Recreation Center. The goal of this project is to identify an alignment that avoids the Aspen school district campus and provides a more seamless connection.

The Maroon Creek Trail corridor project has been an ongoing effort to make significant improvements to this much loved community trail. Last year we re-built the old US Forest Service bridge at the bottom of this trail. Next year we are looking at making improvements to the trail on the east side of the gorge down to the bridge that crosses Maroon Creek.

This financial contribution that is being considered for these projects would indeed assist our efforts to implement these improvements and would be of community benefit. We appreciate your thinking of Parks, Open Space and Trails projects as being the beneficiary of this contribution.

Sincerely,

Austin Weiss,
City of Aspen Parks & Open Space Director
January 7, 2019

Leslie Lamont
Pitkin County Community Development Department
130 South Galena Street
Aspen, CO 81611

RE: Authorization to Submit a Land Use Application for the Le Chamonix Homeowners Association and the 12 Owners of Units 1 through 12; 1501 Maroon Creek Road (Parcel ID 2735-142-02-001 through 2735-142-02-012)

Dear Leslie:

This letter authorizes Davis Horn Incorporated to submit a land use application for the Le Chamonix Condominium Association and the twelve owners at Le Chamonix. Davis Horn Incorporated is also authorized to represent them in the land use review process. Glenn Horn or Alice Davis of Davis Horn Incorporated can be reached at 970 925-6587 and are located at 215 South Monarch Street Suite 104 in Aspen Colorado, 81611.

The parcel identification numbers (PIDs) for the property are 2735-142-02-001 through 2735-142-02-012. Please contact Glenn or Alice if you have any questions or concerns.

Sincerely,

Martin Erck
President of the Board of Directors
Le Chamonix Condominium Association Incorporated
PITKIN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
AGREEMENT FOR PAYMENT OF LAND USE APPLICATION FEES

PITKIN COUNTY (hereinafter COUNTY) and Le Chamonix Condominium Association Inc. (hereinafter APPLICANT) AGREE AS FOLLOWS:

1. APPLICANT has submitted to COUNTY an application for Major PUD Amendment, Activity Envelope and Site Plan, Scenic Review and GMOS Allotment for Additional Floor Area (hereinafter, THE PROJECT).

2. APPLICANT understands and agrees that Pitkin County Ordinance No. 012-2016 establishes a fee structure for land use applications and the payment of all processing fees is a condition precedent to a determination of application completeness. The fee structure is based on the County’s policy that development shall pay, in full, the cost of development review in Pitkin County. Fees have been set to be consistent and fair to the public and to reflect the expense incurred in providing such services to the public.

3. APPLICANT and COUNTY agree that because of the size, nature or scope of the proposed project, it may not be possible at the time of application to ascertain the full extent of the costs involved in processing the application.

4. APPLICANT and COUNTY agree that fees charged for the processing of land use applications shall accumulate if an application includes more than one type of land use review.

5. COUNTY and APPLICANT further agree that it is impracticable for COUNTY staff to complete processing or present sufficient information to the Planning Commission and/or Board of County Commissioners to enable the Planning Commission and/or Board of County Commissioners to make legally required findings for project approval, unless current billings are paid in full prior to decision.

6. Therefore, APPLICANT agrees that in consideration of the COUNTY’s waiver of its right to collect full fees prior to a determination of application completeness, APPLICANT shall pay a base fee in the amount of $10,604.00 which is based on 25 hours of staff time, and if actual time spent by staff to process the application exceeds the average number of hours by more than 20%, then the COUNTY will bill the APPLICANT quarterly for the additional time spent. Such periodic payments shall be made within 30 days of the billing date. APPLICANT further agrees that failure to pay such accrued costs shall be grounds for suspension of processing.

PITKIN COUNTY

Cindy Houben
Community Development Director

APPLICANT

Le Chamonix Condominium Association Inc.
Martin Erick President Board of Directors

Print Name

Signature

Mailing Address:
1501 Maroon Creek Road Unit 2
Aspen, CO. 81611
Pitkin County Mailing List of 300 Feet Radius
From Parcel: Le Chamonix on 01/04/2019

Instructions:
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http://www.pitkinmapsandmore.com
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<td>Pi Castle Rock LLC</td>
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<td>Denver, CO 80206</td>
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<td>16 Rock Ridge Ave</td>
<td>Greenwich, CT 06831</td>
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<td>1200 S Bartow Rd #40</td>
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<td>Aspen, CO 81611</td>
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<td>Fort Worth, TX 76103</td>
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<tr>
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<td>PI CASTLE ROCK LLC</td>
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<td>LE CHAMONIX CONDO ASSOC</td>
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<td>PITKIN COUNTY</td>
<td>530 E MAIN ST #301</td>
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</table>
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338645                      Date: January 3, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 1, Aspen, CO 81611

Legal Description:
Condominium Unit 1,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception
No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments
recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Cynthia Courtney Siegel

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as
disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the
effective date of December 14, 2018:

A Deed of Trust executed by Cynthia Courtney Siegel, to the Public Trustee, to secure an indebtedness
of $800,000.00 in favor of Wells Fargo Bank NA recorded September 23, 2013, as Reception No.
603942.

Warranty Deed recorded September 23, 2013, as Reception No. 603941.

PLAT recorded January 23, 2018 as Reception No. 644668.

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relating to the information appearing in this report is strictly limited to the amount paid for this report. The
aforementioned liability is limited to the customer who ordered this report. There are no expressed or
implied warranties assuring or representing that this report is reliable for title information, and therefore,
should be verified by a Commitment for Title Insurance.

No representation is made as to the completeness, validity, or legal sufficiency of the documents
referenced herein, nor have any of such documents been examined to determine whether or not there are
any exceptions, reservations, encumbrances or other matters which might be detrimental to Title.

No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral
interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom
Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338657

Customer Reference: 1501 Maroon Creek Road, Unit 2, Aspen, CO 81611

Legal Description:
Condominium Unit 2,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: Daniel C. Erck Revocable Trust, Daniel C. Erck Trustee as to an undivided one-half (1/2) interest
and
Stanley C. Erck as to an undivided one-half (1/2) interest

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded December 21, 2015, as Reception No. 625779.
Warranty Deed recorded August 13, 2004, as Reception No. 500771.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338670

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 3, Aspen, CO 81611

Legal Description:
Condominium Unit 3, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668. County of Pitkin, State of Colorado

Apparent Owner of Record: Rufus Cami Cami, LLC, a Colorado limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 12, 2008, as Reception No. 547325.
Warranty Deed recorded February 26, 2008, as Reception No. 546728.

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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338676

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 4, Aspen, CO 81611

Legal Description:
Condominium Unit 4,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.County of Pitkin, State of Colorado

Apparent Owner of Record: 1501-4 Maroon Creek, L. L. C., a Delaware Limited Liability Company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 14, 2011, as Reception No. 578359.

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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338734

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 5, Aspen, CO 81611

Legal Description:
Condominium Unit 5,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception
No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments
recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.
County of Pitkin, State of Colorado

Apparent Owner of Record: Richard McCulloch Jones, Jr.

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as
disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the
effective date of December 14, 2018:

None

Warranty Deed recorded October 18, 1988, in Book 576 at Page 66.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or
relating to the information appearing in this report is strictly limited to the amount paid for this report. The
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interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338683

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 6, Aspen, CO 81611

Legal Description:
Condominium Unit 6,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.
County of Pitkin, State of Colorado

Apparent Owner of Record: Chamonix Unit 6, LLC, a Colorado limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded October 12, 2012, as Reception No. 593038.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

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Stewart Title Company

Kurt Beereboom

Authorized Representative

File No.: 338683
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338692

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 7, Aspen, CO 81611

Legal Description:
Condominium Unit 7,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644568,
County of Pitkin, State of Colorado

Apparent Owner of Record: Daniel K. Miller and Nancy L. Miller

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded October 29, 2004, as Reception No. 503688.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

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Stewart Title Company
Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338697

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 8, Aspen, CO 81611

Legal Description:
Condominium Unit 8,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: Melvin Eagle and Leatrice Eagle

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

A Deed of Trust executed by Melvin Eagle, Leatrice Eagle, Melvin B. Eagle and Leatrice S. Eagle, to the Public Trustee, to secure an indebtedness of $863,000.00 in favor of Wells Fargo Bank NA recorded April 22, 2013, as Reception No. 598861.

Warranty Deed recorded September 1, 2005, as Reception No. 514227.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338710

Customer Reference: 1501 Maroon Creek Road, Unit 9, Aspen, CO 81611

Date: January 4, 2019

Legal Description:
Condominium Unit 9,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Jie Dong and John Schille, Jr.

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 8, 2008, as Reception No. 521598.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338715

Date: January 7, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 10, Aspen, CO 81611

Legal Description:
Condominium Unit 10, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Iris Rookasin

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 20, 2018:

None

Warranty Deed recorded March 25, 2003, as Reception No. 480524.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
stewart title
Real partners. Real possibilities.

WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338722

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 11, Aspen, CO 81611

Legal Description: Condominium Unit 11, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: R & S Hansen, L.L.C., a Texas limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

A Deed of Trust executed by R S Hansen LLC, to the Public Trustee, to secure an indebtedness of $360,000.00 in favor of M Schwartz LLC No 1 recorded July 2, 2018, as Reception No. 648524.

Warranty Deed recorded July 2, 2018, as Reception No. 648523
Warranty Deed recorded December 23, 2014, as Reception No. 616237.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

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Stewart Title Company

Kurt Beereboom

Authorized Representative

File No.: 338722
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338726  Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 12, Aspen, CO 81611

Legal Description:
Condominium Unit 12,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: Kaleigh Wesson Irrevocable Asset Trust

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded January 31, 2018, as Reception No. 644849.

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Stewart Title Company
Kurt Beereboom
Authorized Representative
I. Purpose

On ________, the Pitkin County Board of County Commissioners (hereinafter the "Board") approved the Le Chamonix Association Incorporated Amended Planned Unit Development (hereinafter "Le Chamonix Amended PUD") Detailed Submission (Site Specific Development Plan) pursuant to the Pitkin County Land Use Code (hereinafter "Code"). Section 3-70-30 of the Code establishes the Planned Unit Development (hereinafter "PUD") standards which allow variance from the strict adherence to the area and bulk requirements of underlying zone districts within a PUD. __This Amended PUD Guide retains all the pertinent information from the 2014 PUD approvals and makes amendments based upon adds the pertinent new informations from the 2019 approvals for a Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS floor area allotment.__

The purposes of the Chamonix Guide are to:

A. Clearly identify area and bulk requirements approved pursuant to Section 3-70-30 of the Code.

B. Clearly identify in one document representations and commitments made by Chamonix (hereinafter "Applicant") and the Board.

C. Clearly state and iterate in one document the standards, restrictions and regulations which govern land use development within the Chamonix PUD.

D. Facilitate the Pitkin County Zoning and Building Department reviews by establishing review standards.

E. Identify standards enforceable by Pitkin County in one document separate from the Chamonix Condominium Declarations and Protective Covenants which are not enforceable by Pitkin County.

II. Pitkin County Land Use Code

The Amended Le Chamonix PUD has been reviewed based upon the Pitkin County Land Use Code in effect on August 2, 2013

The PUD Guide identifies variations from the Pitkin County Land Use Code approved by Pitkin County during the land use review process and restrictions which may be enforced by Pitkin
III. Allowed Uses

Allowed uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. The RMF zone is a residential zone intended for multi-family residential dwelling units. Residential uses are intended for use exclusively for dwelling purposes, but not including hotel or lodge rooms.

IV. Prohibited Uses

Prohibited uses are established in by the RMF zone district regulations in Section 3-50-90 of the Code. Tourist accommodation uses are prohibited in the RMF zone. Tourist Accommodation unit means any unit intended to be occupied principally by visitors to Pitkin County, located in a facility that offers customary on-site management and operation services for visitors. This use shall include units found in a lodge, hotel, motel, tourist dormitory, resort cabin, guest ranch, or similar facility, but shall exclude any high country hut, tourist camping or similar facility that does not provide on-site management and operation services or that does not meet the definition of dwelling unit in this Chapter 11 of the Code. Also excluded shall be dwelling units that are principally residences as defined in this Chapter 11 of the Code and are subject to residential growth management quota system allotments even though they may from time to time be used by visitors.

V. Dimensional Requirements

This section establishes dimensional requirements for the PUD. The dimensional requirements of the Code apply to the Le Chamonix unless varied in this section. There are two dwelling units within Le Chamonix unit 1 as defined by the Pitkin County Land Use Code. Unit 1 may continue to be used as it is currently being used and is considered to be in conformance with zoning pursuant to this PUD Guide. The unit may be remodeled and in the event of the damage or destruction due to a disaster it may be reconstructed. However, if all the units in Le Chamonix are demolished and reconstructed there may be only one unit reconstructed within unit 1.

A. Lots

Minimum Lot Area (acres) 1 acre
Minimum Lot Area per Dwelling Unit .14 acre

B. Maximum Number of Dwelling Units on the Property 12

C. Maximum Dwelling Units Per Acre 10.5

D. Minimum Useable Open Space per Dwelling Unit (square feet) 500

E. Minimum Lot Width 75’
F. Minimum Setbacks from Property Lines

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<tr>
<td>Front</td>
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<td>Side</td>
<td>5’</td>
</tr>
<tr>
<td>Rear</td>
<td>20’</td>
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G. Maximum Height: 28 feet for the primary structure as shown in Figure 1 and 20 feet for the accessory structure; only two stories are allowed on the front, Maroon Creek Road side of the structure.

Increases in the height of the Le Chamonix Condominiums units up to the maximum allowed 28 foot height limit in the RMF zone district have been considered by Pitkin County based upon a plan for the entire Condominium structure and a major PUD amendment, Site Plan and Scenic View Protection Reviews and a GMQS allotment. Height increases on a unit by unit basis are now allowed when pursuant to and in conformance with these approvals documented in Board of County Commissioners Resolution Nos. ___.

The Height limit for the Amended PUD is 28 feet for the primary structure except for Units 8, 9, 10, 11 and 12 and their height limits are: and 20 feet for the accessory structure except for those units listed below.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>33’ 3”</td>
</tr>
<tr>
<td>9</td>
<td>31’ 2”</td>
</tr>
<tr>
<td>10</td>
<td>29’</td>
</tr>
<tr>
<td>11</td>
<td>28’ 11”</td>
</tr>
<tr>
<td>12</td>
<td>28’ 3”</td>
</tr>
</tbody>
</table>

All units in the primary structure will retain two stories on the Maroon Creek Road side of the structure. This makes each unit’s height building and will not exceed 24 feet in height on this side of the building which can be as viewed from Maroon Creek Road lower than 28 feet as illustrated in Figure 1. The height limit is 20 feet for the accessory structure. The 28 foot height limit and the above listed units with heights greater than 28 feet as approved in the 2014 PUD, must be maintained on the rear side of the building away from Maroon Creek Road as visibility to the public is limited on the rear side of the Le Chamonix structure.

Refer to Figure 1, Existing Building Heights and Height Calculations, to view methodology for determining height as approved in the 2019 Amended PUD.

H. Existing Decks

The existing decks located on the north side of the structure are permitted. The decks
located on the north side of the structure may be renovated and/or reconstructed subject to obtaining required Pitkin County building permits. The sizes of the decks (square feet) located on the north side of the structure are documented in Figure 2 and are as follows and listed below. All Le Chamonix units and decks are oriented to Maroon Creek (the water body) to the north and northwest. Visual impacts are minor on this side of the building and no scenic corridor is impacted.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Existing Floor Area**</th>
<th>Unfinished Crawl Space Over 5’6” Per Code Counted in Allowable Floor Area</th>
<th>Unfinished Crawl Space Under 5’6” Per Code is not Counted in Allowable Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3174 +379 G=3553</td>
<td>105</td>
<td>470</td>
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<tr>
<td>2</td>
<td>1772</td>
<td>0</td>
<td>657</td>
</tr>
<tr>
<td>3</td>
<td>1922</td>
<td>0</td>
<td>653</td>
</tr>
</tbody>
</table>

I. Existing Floor Area

Table 1 documents the approved existing floor area and crawl space for each unit in Le Chamonix. The calculations for determining these floor area numbers pursuant to the Pitkin County Code are depicted in Figure 2 of this PUD Guide. Units 1 and 12 each include floor area being used as garages as noted in Table 1 and depicted in Figure 2.
<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
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<tbody>
<tr>
<td>4</td>
<td>2836</td>
<td>0</td>
<td>367</td>
</tr>
<tr>
<td>5</td>
<td>2492</td>
<td>682</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>1896</td>
<td>138</td>
<td>538</td>
</tr>
<tr>
<td>7</td>
<td>2511</td>
<td>471</td>
<td>197</td>
</tr>
<tr>
<td>8</td>
<td>2345</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>2544</td>
<td>0</td>
<td>0</td>
</tr>
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<td>10</td>
<td>2358</td>
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<td>0</td>
</tr>
<tr>
<td>11</td>
<td>2390</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>12</td>
<td>242864 + 2461G= 2725</td>
<td>220</td>
<td>995</td>
</tr>
<tr>
<td>Common</td>
<td>211</td>
<td>0</td>
<td>198</td>
</tr>
</tbody>
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**TOTAL:** 28,515+ 840 Garage 1,616 4,075

W/ GARAGE: 29,355

- See Figure 2 for calculations of floor area.

**Existing Floor Area includes unfinished crawl space over 5’6” identified in the middle column

Source: Davis Horn Incorporated and Scot Broughton Architects LLC, January 2014

**J. Maximum Floor Area**

Gross Floor Area for PUD based on Floor Area Ratio (FAR) \[ \frac{5}{2855} \]

- Floor Area for all Dwelling Units # 2 through 12 except Unit 1: \[ 2,855 \]
- Floor area for Dwelling Unit 1: \[ 3,174 + 379 Garage = 3,553 \]
- Floor area Plus Garage for Dwelling Unit 1: \[ 3,174 + 379 Garage = 3,553 \]
- Floor area for Dwelling Unit 12: \[ 2,264 + 461 Garage = 2,725^* \]
- Floor area Plus Garage for Dwelling Unit 12: \[ 2,480 + 241 Garage = 2,725 \]

*The Owner of Unit 12 obtained a GMQS allotment for 220 square feet of floor area in the 2015 GMQS competition in order to take one bay (220 square feet) of the two car garage (461 square feet) and convert the space to finished floor area, leaving only a one car garage of 241 square feet.

The floor area additions and total floor area allowed for each unit after the 2019 PUD Amendment will be:

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
<th>Maximum</th>
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<tbody>
<tr>
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<td>Available to</td>
<td>Allowed After</td>
</tr>
<tr>
<td>Unit</td>
<td>Allowed</td>
<td>Existing</td>
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<tr>
<td>#1</td>
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<td>3,553</td>
</tr>
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<td>#2</td>
<td>2,855</td>
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<td>#6</td>
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<td>959</td>
<td>2,855</td>
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<tr>
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<td>2,511</td>
<td>344</td>
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<td>510</td>
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<td>#9</td>
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<td>311</td>
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<td>497</td>
<td>2,855</td>
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<tr>
<td>#11</td>
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<td>2,390</td>
<td>265</td>
<td>2,855</td>
</tr>
<tr>
<td>#12</td>
<td>2,855</td>
<td>2,725</td>
<td>130</td>
<td>2,855</td>
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<table>
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<tr>
<th></th>
<th>1-12 Expansions</th>
<th>Laundry Expansion</th>
<th>Five Percent Buffer</th>
<th>Total Expansion Approved</th>
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<tr>
<td></td>
<td>5,814</td>
<td>100</td>
<td>285</td>
<td>6,200 (rounded)</td>
</tr>
</tbody>
</table>

Source: Davis Horn Incorporated and Scot Broughton Architects, LLC January 2019

---

### K. Setback from Maroon Creek Road a Major Road

This section establishes the major road setback from Maroon Creek Road to individual dwelling units in Chamonix. Attachment A depicts the measured shortest distance from each unit to the Maroon Creek Road right of way (major road). This shortest distance is the setback for each unit.

- Unit 1: 9.3’
- Unit 2: 10.4’
- Unit 3: 18.2’
- Unit 4: 18.4’
- Unit 5: 55.1
- Unit 6: 67.4’
- Unit 7: 63.9’
- Unit 8: 56.1’
- Unit 9: 34.8’
- Unit 10: 13.3’
- Unit 11: 11.1’
- Unit 12: 11.3’
- Storage shed 0.0’

---

### L. Expansion of Dwelling Units

The expansion of all dwelling units in the Le Chamonix PUD up to the allowed maximum floor area of 2,855 square feet (3,553 for Unit 1) is now allowed pursuant to the Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS approvals granted under BOCC Resolution No. and this
Amended PUD Guide. The PUD is amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint and/or height is allowed pursuant to BOCC Resolution No. _______ and this Amended PUD Guide.

The existing crawl spaces (areas which are less than 5’ 6”) under the following dwelling units may be expanded listed in this section may be expanded provided that the new floor area does not exceed the limitations in this section and the maximum floor area permitted per unit. The following units contain such crawl spaces (areas which are less than 5’6”).

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

The expansion of all other dwelling units in the PUD is allowed pursuant to the Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS approvals granted under BOCC Resolutions Nos. _______ prohibited unless the PUD is therefore amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint or height is also allowed pursuant to BOCC Resolutions Nos. _______, prohibited unless the PUD is amended pursuant to Section 2-40-50 of the Code.

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

M. Enclosure of Decks

The enclosures of decks located on the north side of the structure were are not approved as part of the 2014 PUD approval. The portions of the decks which exceed 15 percent of the floor area in any given unit which are already included in floor area based upon the existing Pitkin County Land Use Code floor area definition can be converted to finished floor area in the unit as long as the space is consistent with the Land Use Code, the Amended PUD approvals and the Amended PUD Guide. Refer to Figure 2 Attachment 10 for the calculation of deck floor area.

The future enclosure of other decks areas may be possible as long as the enclosure is consistent with the PUD and is in compliance with the floor area limitations all Le Chamonix approvals. If determined to be outside the administrative review outlined in Section X to this PUD Guide, deck enclosures may be subject to Site Plan-
review approval by Pitkin County. All expansions must be in compliance with the floor area limitations established in this Amended PUD Guide.

O. Increases in Floor Area, Finishing Unfinished Crawl Spaces Over 5’ 6’’ and Converting Floor Area Located in Garages to Living Space

**Deck Area Enclosure.** As deck areas are on the rear side of the structure with minimal visual impacts, any deck enclosures can occur if the space is in conformance with all approvals including the maximum allowed floor area of 2,855 square feet for units 2 through 12 and 3,553 square feet for Unit 1. No requires a residential Growth Management Quota System (GMQS) allotment or a Transferable Development Right (TDR) is required for deck enclosures as long as the unit complies with the maximum allowed floor area of 2,855 square feet of floor area (3,553 for Unit 1).

**Floor Area Expansion.** Pursuant to these 2019 approvals, floor area expansions up to the maximum allowed 2,855 square feet are allowed as long as the expansions are found to be in conformance with the elevations and perspectives approved through this PUD Amendment, GMQS, Activity Envelope and Site Plan, and Scenic Review approvals and the adopted Amended PUD Guide. Expanding the floor area of any dwelling unit other than the conversion of the unit crawl spaces (subgrade space) identified in Section V. L. (Units 2, 3, 6, 7, and 12) requires either a residential GMQS allotment or a TDR.

**Existing Crawl Space 5’6’’ Moved to Above Grade.** The existing crawl spaces (subgrade space) which are over 5’6’’ in height are identified in Table 1 (Units 1, 5, 6, 7 and 12). These unfinished subgrade spaces may be converted to finished space subject to compliance with the building codes. This floor area can be moved above grade as long as the space is consistent with the Land Use Code, the Amended PUD Guide and meets the maximum allowed floor area requirements all Le Chamonix land use approvals and and the total unit floor area is equal to or less than 2,855 square feet of floor area for units 2 through 12 and 3,552 square feet for unit 1.

**Garages.** The existing floor area located in the garages in Units 1 and 12 (see Section V.I.) may be converted to habitable floor area provided there is no change to the building footprint and there is no expansion in floor area. Conversion of floor area in garages to habitable floor area will no longer requires a residential GMQS allotment or exemption as these expansions must be in conformance with these 2019 approvals including the elevations and perspectives approved as part of the Scenic Review approval and Amended PUD Guide. No new garages which require additional floor area may be built without a residential GMQS allotment or exemption.

Any Alteration of the building footprint is not permitted if the building footprint alteration alternative is consistent with the Amended PUD all land use approvals for Le Chamonix, particularly the perspectives and elevations approved as part of Scenic Review approvals and BOCC Resolution Nos. , the Amended PUD Guide including the figures attached without additional Pitkin County land use review.
VI. Parking

Twenty (20) off-street parking spaces are required. Seven (7) of the twenty (20) parking spaces may be stacked provided that no more than one stacked space per unit is permitted. The parking spaces are not required to have 24 feet of back-up area.
Le Chamonix Association Incorporated

Planned Unit Development
Major Amendment
Activity Envelope and Site Plan
Residential Growth Management
Quota System
Scenic Review

Land Use Application

Prepared by:

Davis Horn Incorporated
215 South Monarch Street
Aspen, CO 81611

&

Scot Broughton Architects
23280 Two Rivers Road
Basalt, CO 81621

January 15, 2019
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List of Attachments

Attachment #1: Vicinity Map;
Attachment #2: BOCC Resolution No. 29-2012 Creating the RMF Zone District;
Attachment #3: Resolution No. 30-2012 Rezoning Le Chamonix to RMF;
Attachment #4: Resolution No. 95-2012 Conceptual Subdivision and PUD;
Attachment #5: Resolution No. 68-2014 Final PUD Plat;
Attachment #6: Le Chamonix Planned Unit Development Final Plat (2014);
Attachment #7: Board of Adjustment Resolution No. 04-2011;
Attachment #8: BOCC Resolution No. 43-2011;
Attachment #9: Le Chamonix Activity Envelope and Site Plan (2011);
Attachment #10: Proposed Amended Le Chamonix Inc. Activity Envelope and Site Plan;
Attachment #11: Proposed Elevations;
Attachment #12: Proposed Perspectives;
Attachment #13: Proposed Amended Le Chamonix PUD Final Plat;
Attachment #14: Proposed Amended PUD Guide;
Attachment #15: Pre application conference summary;
Attachment #16: Aspen Fire Protection District Fire Marshall Parker Lathrop’s Letter on fire protection and Applicant’s proposed donation;
Attachment #17: Aspen School District Superintendent John Maloy’s letter on transportation issues and the Applicant’s proposed donation;
Attachment #18: Letter from City of Aspen Parks and Open Space Director Austin Weiss’ letter on trails/open space needs and the Applicant’s proposed donation;
Attachment #19: Letter from the Applicant authorizing Davis Horn Incorporated to submit this application and to represent them in the land use review process;
Attachment #20: Signed Fee Agreement;
Attachment #21: Property owners within 300 feet of the subject property; and
Attachment #22: Proof of ownership.
INTRODUCTION

Le Chamonix Association Incorporated ("Applicant") is represented by Davis Horn Incorporated and Scot Broughton Architects in this land use request. The Applicant is seeking a Major PUD Amendment, Site Plan Review, Scenic Review and a Residential Growth Management Quota System (GMQS) allotment for a floor area addition to the Le Chamonix Condominiums, a 12 unit condominium complex located at 1501 Maroon Creek Road, across from the Aspen Highlands Ski Area. Attachment 1, a Site Vicinity Map, depicts the location of the Le Chamonix Condominiums in Pitkin County.

The Applicant obtained land use approvals in 2014 for a rezoning of the Le Chamonix property from a single family zone district to a more appropriate multifamily residential zone district to eliminate the nonconformity of the multifamily use and structure which was legally built in 1968. The property was rezoned to Pitkin County’s newly created RMF (Residential Multi Family) zone district with a Planned Unit Development (PUD) overlay designation pursuant to Board of County Commissioners (BOCC) Resolutions Numbers 030-2012 and 068-2014. Resolution 068-2014 includes a comprehensive PUD Guide which establishes setbacks, a height limit, floor area allowed per unit and site specific PUD requirements necessitated by the unique and complex circumstances involved in this legally built multifamily condominium building.

The current application requests the land use approvals necessary to accomplish the development anticipated and envisioned in the rezoning and PUD process. The Site Plan and Scenic Reviews will allow the impacts of the proposed exterior renovation and the individual unit expansions to be properly evaluated pursuant to a consistent, approved architectural elevation from Maroon Creek Road and consistent with the adopted PUD Guide. Previous owner requests and approvals were made in a piecemeal, unit by unit fashion without a consistent overall plan for the complex. The anticipated expansion potential for each individual unit shown within a comprehensive plan for the entire structure is required by the PUD approvals. These approvals will allow the twelve owners in the complex to expand and/or remodel their units in compliance within the intent and requirements of the rezoning and PUD approvals and an approved overall plan for the building.

This application addresses the Applicant’s request under the following headings:

I. Background;
II. Existing Conditions;
III. Project Description,
IV. Land Use Requests; and
V. Land Use Reviews.

I. BACKGROUND

On October 24, 2012 the Board of County Commissioners ("Board or “the Board”) approved Ordinance 029-2012 (Attachment 2) which amended the Land Use Code to create the RMF zone district and to add the residential Growth Management Quota System Exemptions for minor expansion of multi-family dwelling units for sub-grade floor area. At the same meeting, the Board approved the rezoning of Le Chamonix Condominiums to the RMF Zone District pursuant
to Ordinance 030-2012 (see Attachment 3). Finally, the Board approved Resolution 095-2012
Granting Conceptual Subdivision and Planned Unit Development Approval for Le Chamonix
Association Incorporated, at the Le Chamonix Multi Family Housing Complex, Units 1 through
12 (see Attachment 4).

On July 9, 2014 the BOCC approved Resolution No. 068-2014 granting Detailed/Final Plat
Submission and Planned Unit Development Approval for Le Chamonix Association
Incorporated, at the Le Chamonix Multi Family Housing Complex, Units 1 through 12.
(Attachment 5) This included Attachment B to the Resolution, the Le Chamonix Association
Incorporated Planned Unit Development Guide (Le Chamonix PUD Guide or PUD Guide). The
PUD Guide established important dimensional requirements for the complex. The Le Chamonix
Condominiums Planned Unit Development Final Plat approved on September 8, 2014 and
recorded at Plat Book 108, Pages 37-39 is found in Attachment 6.

Prior to the approval of the PUD, Pitkin County granted several other land use approvals for La
Chamonix. A Board of Adjustment variance and an Activity Envelope Site Plan were approved
in May of 2011. Board of Adjustment Resolution No. 04-2011 granted major road and side yard
setback variances for the reconstruction of retaining walls. BOCC Resolution No. 043-2011
granted Activity Envelope and Site Plan approval for the Le Chamonix Homeowners Association
(HOA) Bank Restoration Project and Expansion/Restoration of a Legal Nonconforming
Structure with Significant Changes was approved. These two resolutions and the 2011 Le
Chamonix Activity Envelope and Plan are found in Attachments 7, 8 and 9. The 2011 approvals
were patchwork approvals which made it clear to the Applicant, staff and Board that an overall
plan for the property was needed.

II. EXISTING CONDITIONS

The 12 unit Le Chamonix Condominiums are located on 1.953 acres, or 85,073 square feet of
land area. The land slopes down steeply to Maroon Creek behind the structure. The front of the
building is mostly paved with parking in front of each unit. The parking and front yard setbacks
were established by the BOCC through the PUD approvals. The building is laid out in a shallow
U shaped arc with units 1 and 12 on each end being closest to Maroon Creek Road and the units
in between gradually set back further from Maroon Creek Road. The staggering of units creates
a desirable design interest and relief.

The Le Chamonix parcel contains 11,726 +/- square feet of land area under water and 39,352+/-
square feet of land with slopes over 45% in grade. The Pitkin County Land Use Code lot area
definition does not include land under water. Therefore, the total lot area of the site is 73,347 +/-
square feet (85,073 total square feet of land less 11,726 square feet of land under water). Section
5-10-20 of the Code requires slope density reduction when more than 30 percent of land area is
encumbered by slope of 45 percent and greater. The applicant applied the slope density
reduction formula in the Code to the 73,347 square foot lot area instead of the total 85,073
square feet of land area in order to be conservative. Approximately 54 percent of the site is
encumbered by slopes of 45 percent and greater (39,352 square feet divided by 73,347 square
feet = 54 percent). According to the formula, this means that the permitted density of development on the site was required to be reduced by 24 percent (54% - 30% = 24%).

Based upon many factors including this adjusted lot size, the maximum floor areas allowed for each of the twelve units in the complex were documented and approved by the BOCC as part of the PUD Guide approved in BOCC Resolution No. 068-2014. (Attachment 5) The existing unit sizes and deck sizes were also documented. The decks on the north side of the structure were legally created and approved by Pitkin County and their sizes are also documented in the PUD Guide.

The land use approvals in 2014 resolved many issues which were in a state of flux over the years due to the Le Chamonix being a legally built use and structure which had been rezoned to a single family zone. In particular, requirements like parking, setbacks and floor area were established in the PUD Guide based upon a reasonable evaluation of existing units, the specific circumstances of the land under the condominiums and the new RMF Zone District.

III.
PROJECT DESCRIPTION

The Applicant requests approval to expand the existing units in Le Chamonix in conformance with an approved overall exterior plan for the project. All proposed development was anticipated with the 2012 to 2014 Pitkin County approvals. The proposed unit expansions will be consistent with the intent and conditions of those approvals including maximum height, floor area and setbacks. The maximum height is 28 feet, the maximum floor area is 2,855 square feet per unit and the front yard setbacks have been established on a unit by unit basis based upon proximity to Maroon Creek Road. There are a few cases where minor height and floor area limits above the 28 feet height limit and the 2,855 maximum floor area were varied by the BOCC pursuant to the PUD Guide to accommodate existing conditions. No expansion or increases are proposed in these cases.

The Applicant is also proposing an exterior remodel. The proposed project is illustrated by the proposed Le Chamonix Condominiums Incorporated Activity Envelope and Site Plan (2019) in Attachment 10 and the proposed East Facing Elevations and perspectives shown in Attachments 11 and 12. Elevations from other perspectives are also given, though the impacts will be minimal from other locations. The proposed Amended Le Chamonix PUD Final Plat is found in Attachment 13. Page 1 of the PUD Final Plat does not change, only the specific footprints of some of the units as shown on page 2 need amendment. Also, the old AR-10 zoning was erroneously shown on the Final Plat and that will be amended to indicate the new RMF zoning approved in 2014.

The Le Chamonix PUD Guide from Exhibit B of Resolution 068-2014 will be amended to reflect new approvals. A draft amended PUD Guide is presented in Attachment 14.

Resolution 068-201 requires either a Transferable Development Right (TDR) or a Residential Growth Management Quota System (GMQS) allotment for floor area expansions up to the allowed 2,855 square feet of floor area per unit. Finishing subgrade space which is taller than
5’6” in height is an exception to the requirement for a TDR or GMQS allotment. A Residential GMQS allotment of up to 6,200 square feet of gross floor area is requested to allow the expansion of the twelve units up to the 2,855 square feet of floor area allowed. If awarded, the 6,200 square foot gross floor area allotment will be allocated throughout the twelve units depending upon the specific circumstances of each unit.

Approximately 5,814 square feet of floor area as defined by the Pitkin County Land Use Code is proposed for individual unit expansions, 100 square feet for a laundry room addition, and a five percent buffer. The floor area proposed for Le Chamonix is best described in Table 1 which depicts maximum allowed floor area (2,855 square feet for all but one unit), existing floor area, proposed floor area or the floor area available to achieve the maximum allowed 2,855 square feet of floor area and the subgrade floor area above 5’6” in height which is already counted in floor area calculations.

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<th>Unit</th>
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| Laundry:      | 100 |
| Five Percent Buffer: | 285 |
| Total Requested: | 6,200 (rounded) |

- Subgrade floor area >5’6” is already counted in floor area so no GMQS allotment is needed for this space. If this existing floor area >5’6” is relocated above grade the vacated space will be converted to crawl space (<5’6”) by pouring slabs.

Source: Davis Horn Incorporated and Scot Broughton Architects, LLC, January 2019.
Le Chamonix owners have been working diligently for over four years with the Le Chamonix Homeowners Association (HOA) and architect Scot Broughton to create a development plan with elevations that are in conformance with the PUD approvals and that provide consistent, desirable east facing elevations from Maroon Creek Road. Scot has carefully evaluated each unit's specific conditions, the impacts on development and the current owner's wishes for redevelopment and/or expansion. Table 1 illustrates the floor area requested by unit, allowing each unit to achieve their build out potential of 2,855 square feet. The elevations and perspectives reflect unit additions and the exterior renovation; these will be a guide for unit additions now and in the future. This is to avoid the haphazard approach of the past where unit owners sought land use approvals one by one without an overall project plan.

As explained previously in this application, the maximum floor area allowed in each unit of 2,855 was a carefully thought out number approved by the Board, based upon the property's total land area and the lot size after subtractions for land area under water.

As shown in Table 1, the remaining expansion potential (floor area that can be built up to 2,855 square feet) varies greatly from unit to unit. The owners of Unit 4 have already completed a full renovation, only have 19 square feet of floor area remains and nothing is proposed or likely to be proposed in the near future. The owners of Units 5, 7, 8, 9, 10, 11 and 12 have completed some expansions and remodeling prior to or in conformance with the approved rezoning and PUD and have less floor area expansion potential. Units 2, 3 and 6 have the most expansion potential as they are still close to their original size when built in 1968. Unit #1 is over the maximum allowed floor area per unit; the existing 3,553 square feet of floor area was approved by Pitkin County in 2014 pursuant to the PUD. Unit #12 is also over the maximum allowed floor area of 2,855 square feet, but the existing floor area includes unfinished subgrade space already counted in floor area, over 5'6" in ceiling height, which can be finished. The new owner of Unit 12 applied for and won a growth management residential floor area allotment for 221 square feet in the 2015 competition in order to convert half of the garage space to legal, finished living area. That remodel has been completed.

The five owners of Units 1, 5, 6, 7 and 12 would like to have the ability to move their approved subgrade space which is over 5'6" (and already counted in floor area) to above grade space as long as the above grade floor area conforms with the PUD. Since the floor area over 5"6" is already counted as floor area, no GMQS allotment would be required. The visual impacts of moving this space above grade have been considered. The total floor area for each of these units will still be less than or equal to the 2,855 maximum square feet allowed and the impacts of this space will be insignificant. As shown in Table 1, the owners of these five units have a total of 1,616 square feet of subgrade space >5'6". If existing floor area in subgrade space >5'6" is relocated, the vacated space will be converted to crawl space (<5'6") by pouring concrete slabs in the floor. This relocated subgrade space is reflected in the drawings, the exterior elevations and perspectives, after completion of the exterior remodel and unit expansions.

Some owners do not have the desire and/or the resources to complete their expansions at this time but want to preserve the ability to complete an expansion in the future, knowing that any future expansion will have to be in conformance with all approvals.
After careful calculations by architect Scot Broughton, a review of the existing floor area measured pursuant to the Code definitions documented in the 2014 PUD Guide and a review of the BOCC Resolution 68-2014 conditions of approval, the conceptual exterior remodel and unit by unit expansions are detailed in the elevations and perspectives in Attachments 11 and 12. Since Scot has not fully planned a remodel of the interior of each unit, the drawings are conceptual based upon discussions with owners, the PUD Guide and minimizing visual impacts, particularly from Maroon Creek Road. The Applicant agrees to a maintaining only two levels on the Maroon Creek Road side of the building.

IV. 
Land Use Request

The Applicant requests the following approvals to complete the proposed Le Chamonix exterior remodel and individual unit expansions anticipated by the rezoning and PUD approvals in 2011 through 2014.

1) Le Chamonix Activity Envelope and Site Plan – An Overall Site Development Plan (Site Plan) for the Le Chamonix Condominiums is found in Attachment 10.

2) Scenic Review – East facing elevations and perspectives which document acceptable visual impacts from the Maroon Creek Road Corridor are in Attachments 11 and 12. Other elevations are included as well.

3) A GMQS Residential floor area allotment for 6,200 square feet of floor area to be distributed among the twelve units and the common area laundry room.

4) Amendments to the Le Chamonix Condominiums Incorporated PUD. The proposed amended Le Chamonix PUD Final Plat and the proposed amended Le Chamonix PUD Guide are found in Attachments 13 and 14.

5) PUD Guide amendments will address:

a) **Height increases to achieve the 28 foot height limit while maintaining only two stories on the southeast, Maroon Creek Road side of the structure.** The height increases are required for all units except Unit #4 which has already been completely renovated. Ceiling height can be increased and volume can be added. The rear side of the building has minimal visual impacts and is not visible from a scenic corridor. The southeast side of the structure will maintain only two stories. Height increases cannot occur until County approval is obtained for an overall plan for the complex conceptually showing how the height increases will impact views from the Maroon Creek Road Scenic Corridor. Heights are depicted on Pages 2 and 3 of in the Amended Le Chamonix PUD Final Plat (2019) in Attachment 13 and in the elevations and perspectives in Attachments 11 and 12.
b) **Amendments to reflect these 2018/2019 approvals.** The primary areas needing amendment in the PUD Guide are in Section V Dimensional Requirements. These include Section V.G Maximum Height, Section V.I Existing Floor Area, Section V.J Maximum Floor Area, Section V.L Expansion of Dwelling Units, Section V.M Enclosure of Decks and Section V.O Increases in Floor Area, Finishing Unfinished Crawl Space Over 5'6' and Converting Floor Area Located in Garages to Living Spaces. The proposed Amended Le Chamonix PUD Guide is found in Attachment 14.

c) **A statement that any future unit expansion will be consistent with the Site Plan and Visual simulations/elevations as approved; and**

d) **The approval to convert existing subgrade or garage space that counts in floor area calculations, to above grade space.** As any other residential property owner in Pitkin County can do, this clarification will allow the floor area allowed in a unit to be used anywhere in the structure as long as it is in conformance with the Code, an approved Site Plan, Scenic Review and any other land use conditions placed on the property.

No amendment to increase the approved 28 foot height limit, the 2,855 square foot maximum floor area allowed per unit or to setbacks is requested. The height on the front of the building will be limited to only two stories. The proposed Site Plan and the proposed elevations comply with all dimensional requirements.

V. **LAND USE REVIEW**

This section of the application identifies the requested land use approvals and demonstrates compliance with the applicable Pitkin County Land Use Code standards. The Applicant is requesting a Major Amendment to a PUD, Activity Envelope and Site Plan Review, Scenic Review and a Residential GMQS allotment for 6,200 square feet of floor area. The Applicant has addressed the Land Use Code standards identified by the Pitkin County Community Development Department in the Pre-Applications Conference Summary Sheet (see Attachment 15) in the following order.

A. Section 2-40-40 - GMQS Scoring Allotments  
B. Section 2-40-50 - Subdivision and PUD Review Procedures  
C. Section 2-20-150(e)(2) - Major Amendment to a Development Permit  
D. Section 3-30-70(j) PUD - Architectural Review  
E. Section 6-50-20 - Standards for Scoring Residential GMQS Allotments  
F. Section 7-10-50 - Activity Envelope and Site Plan  
G. Section 7-20-120 - Scenic View Protection  
H. Section 7-20-80 - Rivers Stream Corridors and Wetlands  
I. Section 1-60 - Land Use Policies
IV.A
GMQS Scoring Allotments
Section 2-40-40

This section of the Land Use Code establishes the procedures for the GMQS Residential floor
area competition including scoring, awarding allotments and appealing decisions. The Applicant
will abide by these procedures as required.

Although not listed in the pre-application conference summary, the Applicant also understands
the rules and guidelines in Section 6-40-20 giving the general standards for allotments and
competition which require compliance with Code requirements, when an allotment or exemption
is required, consideration of the comprehensive plan, the covenant required to address all
commitments and the concept of proportionality. The concept of proportionality suggests an
applicant seeking an allotment for a large amount of floor area would be expected to make a
proportionally greater commitment to obtain the same score as an applicant seeking a lesser
amount of floor area. The Applicant in this submission is requesting a relatively small amount of
floor area to be used among the twelve units in the Le Chamonix Condominiums.

IV. B
Subdivision and PUD Review Procedures
Section 2-40-50

These are the procedures for a subdivision or a rezoning to PUD. The Community Development
Department is allowing the Major PUD Amendment to proceed in two stages, once to the
Planning and Zoning Commission and once to the BOCC. Although the application meets most
of the criteria for a Minor Amendment to a PUD, the addition of approximately 6,200 square feet
to the entire building, (or additions of 0 to up 1,083 square feet per unit) is above the 5% criteria
for a minor PUD amendment. The size of a unit’s addition will vary from unit to unit. Additions
for the twelve units will be 0, 19, 130, 311, 344, 363, 465, 497, 510, 933, 959 and 1,083 square
feet.

IV.C
Major Amendments to Development Permits
Section 2-20-150(e)(2)

(e) (2) Major Amendments

(a) Major amendments to a development approval or permit approved through the
Administrative Review process shall require a new application of the same type
required for the original approval, and shall be reviewed and approved by the same
decision-making body (Community Development Department staff or the Hearing
Officer) that made the original approval, as shown in Table 2-1.

(b) Major amendments to a development approval or permit not approved through
the Administrative Review process shall require a new application of the same type
required for the original approval, and shall be reviewed through a One-Step
process to the same decision-making body (Board of Adjustment, Planning and Zoning Commission, or Board) that made the original approval, as shown in Table 2-1.

(c) If the original approval required a notice and hearing, the notice and hearing requirements shall be repeated for the proposed amendment.

(d) In the event approval required a recommendation from any other board or commission, the proposed amendment shall be referred to the same board or commission for recommendation.

(e) If the proposed amendment is to a condition imposed as a result of comment from a referral agency, the proposed amendment shall be referred to that agency for comment.

The Applicant will comply with these procedures when appropriate. The Community Development Department is allowing this to proceed in two steps, one to the Planning and Zoning Commission and one to the BOCC.

IV.D
PUD Architectural Review
Section 3-30-70(j) PUD

(j) Architectural Review

The County may require an applicant for a PUD to submit architectural plans or models at the time of Conceptual or Detailed Subdivision review (if a subdivision of land is being requested) or at the time of Site Plan review (if no subdivision is being approved).

(1) Intent
The intent of architectural review is to promote the preservation and enhancement of the visual character of the County by preventing the development of inappropriate or out of character structures that:

(a) Require the indiscriminate clearing of property, excessive grading and the destruction of trees and shrubbery; and/or

(b) Are out of scale with adjacent land uses; and/or

(c) Significantly reduce solar access to public open spaces or adjacent properties.

Elevations and Perspectives of the Le Chamonix proposal by Scot Broughton of Broughton and Associates Architects are found in Attachments 11 and 12. The elevations show the view from Maroon Creek Road and a perspective of what the building will look like after the exterior remodel and when all unit expansions are completed. All additions will comply with these
conceptual drawings. The intent is to have an overall plan for the Le Chamonix building that enhances the visual character of the building and enhances views of the building from the Maroon Creek Road Scenic Corridor. The structure was built in 1968 and if the units have not yet been upgraded, they have very small rooms, low ceilings and outdated floor plans. Very little vegetation will be disturbed, the exterior remodel and unit expansions are not out of scale with adjacent land uses and will not reduce solar access to public open spaces or adjacent properties. These upgrades, including the exterior remodel, will add to the character of the building, the neighborhood and views from Maroon Creek Road.

Land uses surrounding the 1.953 acre Le Chamonix property include Maroon Creek Road and Aspen Highlands to the southeast, Pitkin County open space and Maroon Creek (the water body) to the northwest, the Heatherbed affordable housing and the Aspen Highlands Metro District open space to the west and Pitkin County open space to the north and east as well. Most of the open space was dedicated to Pitkin County as part of the Aspen Highlands Ski Area and base area approvals. All Le Chamonix units are oriented northeast toward the Creek.

(2) Standards

The County may require changes to architectural plans to:

(a) Minimize disturbances to the natural terrain; and/or

(b) Reduce the adverse visual impacts of buildings that because of size, scale, color, or location are out of harmony with the neighborhood in which they are to be constructed; and/or

(c) Promote advantageous solar orientation and energy conserving design; and/or

(d) Promote consistency with scenic and rural character guidelines.

Minimal disturbance to the natural terrain will occur. The existing structure will be updated and improved and the size and scale of the building does not significantly change. The building will meet the height limit of 28 feet established in the PUD approval and the Applicant has agreed to maintain only two stories on the front, Maroon Creek Road side of the structure to minimize visual impacts from the scenic corridor. The expansions require an overall plan for the building before any unit expansion can be approved. As mentioned before, this is to prevent the piecemeal approach to unit expansions which have occurred in the past. The earth tone materials and colors used will be in harmony with the neighborhood. The minimal impact of the overall exterior plan which reflects unit expansions will meet these standards.

The footprint will not be increased in the rear of the building, but some of the unit additions will be to the rear where they are not visible from the Maroon Creek Road Scenic Corridor. Only one or two homes can see the building from the rear and their distance to Le Chamonix will make visual impacts from this side of the building insignificant. Very few land uses are impacted by the complex from the northwest side of the building. The Rural Character Guidelines mentioned
in these standards are not applicable as the Le Chamonix is located within the Urban Growth Boundary. The land use application complies with these standards.

IV.E
Standards for Scoring Applications for Residential Additions Allotments
Section 6-50-20
(Urban Growth Boundary)

(a) Impacts on Public and Private Facilities

(1) Considering whether an applicant has provided a commitment to install those public and private facilities that are necessary to serve the development and also to install facilities that may be of benefit to the surrounding neighborhood. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed facilities do not comply with the County's adopted standards or do not meet the needs of the project.

(b) One (1) means the proposed facilities comply with the County's adopted standards and provide for the needs of the project, but do not improve services to the surrounding neighborhood.

(c) Two (2) means the proposed facilities comply with the County's adopted standards, provide for the needs of the project, and help to solve a problem or resolve a constraint with existing facilities, or otherwise are of benefit to the surrounding neighborhood. Any such improvements proposed must also be consistent with adopted County plans addressing such facilities and must be determined to be necessary and appropriate by the referral agency charged with utilizing the facility or providing the related service.

(2) The categories in which points shall be awarded are as follows:

(a) Fire Protection

(1) Capability of the appropriate fire protection district to provide fire protection according to its established response standards, including whether appropriate access has been provided to the development site, with necessary vehicle turnout and turn-around pads;

(2) Adequacy of available water pressure and capacity for providing fire-fighting flows; and

(3) Commitment of an applicant to provide or pay for fire protection facilities that may be necessitated by the project or that may improve fire protection capabilities in the neighborhood, including but not limited to fire hydrants, water storage tanks or ponds, and fire fighting vehicles or equipment.
We have discussed the proposal with Parker Lathrup, the Fire Marshall of the Aspen Fire Protection District. The District is capable of serving the project with the existing facilities which are in place in the site vicinity. A new hydrant is not needed in the area. The Fire Department can easily access a fire at the complex from Maroon Creek Road in the event of a fire and a fire vehicle turn around area is not required because there is easy access in both directions on Maroon Creek Road. After discussion with Fire Marshall Parker Lathrop, several fire protection needs were indicated. Parker has indicated fire protection in the neighborhood could be improved if the District owned either a training vehicle for training new firefighters or a brush truck, a small fire fighting vehicle. Due to the interface with wildfires in the neighborhood, the small truck is much more successful in maneuvering in tight locations and would be a valuable asset to the District and the neighborhood. The Applicant will contribute $15,000.00 to the Aspen Fire Protection District to help the District acquire either of these valuable assets to serve the neighborhood.

This commitment by the Applicant to contribute $15,000.00 toward the purchase of a training vehicle or a small firefighting brush truck helps to solve a problem or resolve a constraint with existing facilities, or otherwise benefit the surrounding neighborhood as confirmed by discussions with the Fire Marshall. Fire Marshall Lathrop addresses the Applicant’s contribution in his letter in Attachment 16. The acquisition of a training vehicle or a small brush truck will benefit the entire neighborhood and represents a disproportionate contribution by the Applicant to the Fire Department in relationship to the development of minor expansions in up to 12 condominium units.

(b) Road System

(1) Capability of the public road network to provide for the needs of the proposed development within acceptable levels of safety, as defined in the Pitkin County Asset Management Plan; and

(2) Applicant’s commitment to provide or pay for necessary road system improvements attributable to the proposed development or to improve road capacity or safety in the neighborhood.

There will be no increased traffic with the proposed unit expansions. The condominium units were originally built in 1968 and several still have the original 7.5 foot ceiling heights and other obsolete layouts and design features. Improving the units to create a more modern layout and design will not increase traffic impacts or traffic issues on Maroon Creek Road. No new residential units are proposed. The Maroon Creek Road corridor is capable of accommodating the existing impacts from Le Chamonix Condominiums.

Le Chamonix sits on and is directly accessed by Maroon Creek Road. It is approximately 1.5 miles up Maroon Creek Road from the Highway 82 round-about and is within one mile of the Aspen School District public schools. Traffic congestion at peak times in the Maroon Creek Road corridor continues to be a local issue of concern. The Applicant has discussed the Maroon Creek Corridor traffic issues with John Maloy, Superintendent of the Aspen School District. The
Applicant will donate $5,000 to the School District for transportation planning assistance. The monies may be used for various transportation planning and transportation projects to improve traffic in the neighborhood. As the District’s school bus system and the teacher van service are viable alternatives to traveling to school in private automobiles, the success and increased use of the bus system and the van service can be of great benefit to the transportation challenges in the neighborhood. Peak time automobile trips to the School contribute to the traffic in the Maroon Creek Road corridor. John Maloy has said the School District will accept the Applicant’s $5,000 donation and it will be a welcomed gift to help resolve School related traffic issues. Attachment 17, is a letter from John Maloy to the Applicant’s representative, Davis Horn Incorporated, stating that:

“The Aspen School District can put this money to good use for transportation planning or future projects or efforts to improve road capacity or road safety along Maroon Creek Road. The ASD continues to work with the Community Forum Task Force on transportation options in and around the schools, along Maroon Creek Road and in the neighborhood.”

Despite the proposed project’s limited impact on peak hour traffic in the Maroon Creek Road Corridor, the Applicant is committing to a contribution to the School District for transportation planning “to improve road capacity or safety in the neighborhood.” The contribution to the Aspen School District for transportation helps to “solve a problem or resolve a constraint with existing facilities or otherwise are of benefit to the surrounding neighborhood.”

(c) Transit and Trail Systems

(1) Whether the proposed development site is located in proximity to existing transit routes and trail systems and whether appropriate on-site connections are made to these routes and trails;

(2) Capability of the transit system to accommodate the proposed development without the need for additional equipment or route shifts;

(3) Commitment of the applicant to finance or provide capital improvements (such as a bus, bus shelter, or trail connection) that enhance the ability of the transit or trail system to serve the proposed development, or to provide an easement for a trail that has been identified in the Pitkin County Comprehensive Plan; and/or an easement for a trail that has generally been identified as a public access need.

The subject site is located on the Castle Creek/Aspen Highland bus route and is within easy walking or bicycle riding distance to the RFTA bus stops at the Aspen Highlands Ski Area, the Aspen Highlands Villas, the Aspen Recreation Center and the Aspen High School. The transit system well serves the existing twelve units in le Chamonix and will continue to be capable of accommodating the needs of Le Chamonix without the need for additional equipment or route shifts.
We have discussed the need for trail improvements in this neighborhood with Austin Weiss, the City of Aspen Parks and Open Space Director. Austin has stated that there are several parks and trails projects in the Maroon Creek Road corridor that could potentially benefit from a contribution from Le Chamonix as part of the GMQS process. The primary ones he identified are (1) Maroon Creek Road paved commuter trail planning and (2) additional upgrades to the Maroon Creek Recreational single-track that runs through the Maroon Creek gorge. The first of these projects will provide an alternative paved trail connection between the round-a-bout and the Aspen Recreation Center. The goal of this project is to identify an alignment that avoids the Aspen School District campus and provides a more seamless connection. This would enhance the Maroon Creek Corridor trail system and provide traffic relief as well.

The second project Austin identified is the Maroon Creek Trail corridor project which has been an ongoing effort in recent years. The City of Aspen goal has been to make significant improvements to this much loved community trail. Last year the City re-built the old US Forest Service bridge at the bottom of this trail. Next year the City is looking to make improvements to the trail on the east side of the gorge down to the bridge that crosses Maroon Creek.

The Applicant commits to donate $8,000 to the City of Aspen Parks and Open Space Department to help fund these efforts, either of which would provide substantial open space and trail benefits as well as transportation benefits to the Le Chamonix neighborhood and the Maroon Creek Corridor. The two projects specified are discussed in the letter from Austin Weiss to the Applicant’s representative which is found in Attachment 18. The letter states that as the City of Aspen Parks and Open Space Director, he is supportive of the Applicant’s offer to donate money to these identified projects. Austin states that the Applicant’s “contribution that is being considered for these projects would indeed assist our efforts to implement these improvements and would be a community benefit.”

The Applicant’s contribution will enhance the ability of the transit or trail system to serve Le Chamonix and will provide for the needs of the project, help solve a problem or resolve a constraint with existing facilities and will be of benefit to the surrounding neighborhood.

(b) Effect on the Environment

(1) Considering the environmental impacts of the proposed development and whether the applicant commits to actions that will have a positive effect on the natural environment in Pitkin County, thereby achieving an overall benefit for the community. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed development does not comply with the applicable adopted County environmental standards.

(b) One (1) means the proposed development complies with (but does not exceed) the applicable adopted County environmental standards.

(c) Two (2) means the proposed development exceeds the applicable adopted County environmental standards, or the proposed development complies with the applicable
adopted County environmental standards and helps to solve an existing environmental problem. To receive a score of 2 in any category, an applicant shall exceed an adopted standard or solve an existing problem as expressed in at least one of the standards in that category, but need not do so in all of the standards of that category.

(2) The categories in which points shall be awarded are as follows:

(a) Water Resources

Considering the overall impacts of the development on local and regional water resources, including:

(1) The extent to which the proposed development of the property will comply with or will exceed (by more than fifty (50) percent) the minimum stream setbacks and riparian and wetland buffers established in Table 5-1 and Sec. 7-20-80 of this Land Use Code.

(2) Whether an applicant commits to the dedication of water rights to an appropriate public agency or other actions that will contribute to the protection of minimum stream flows and address a documented need in Pitkin County.

(3) Whether an applicant commits to retain irrigation water rights with agricultural or open space lands that are part of the development.

(4) Whether an applicant commits to the implementation of techniques that will improve the efficiency of existing irrigation systems and commits to dedicate the remaining water to minimum instream flows, or increases the amount of agricultural land or protected open space that is able to be irrigated within the development.

(5) Whether an applicant proposes a water augmentation plan that will replace water that is to be used by the development with augmentation water that re-enters the stream either (i) upstream of the development, or (ii) at the same point of diversion employed by the development (that is, bringing 'wet water' to the County), or (iii) downstream of the development, but still upstream of the in-stream depletion areas in Pitkin County.

This standard is more applicable to the rural area than properties such as the subject located within the Urban Growth Boundary (UGB). Maroon Creek is far below the property as the slope drops down dramatically down from the rear, west side of the building. The current setbacks have been established through a lengthy PUD process after careful consideration of subject building which was legally built in 1968. The setbacks established in the PUD approvals are met and the complex complies with stream setbacks. No change is being made to the distance from the Creek to the rear of the complex. Riparian setbacks and wetland buffers are not necessary due to the distance down slope from the project. There are no isolated wetlands or riparian areas on the property. The Applicant does not own any water rights.

Water service is provided by the City of Aspen. There is an existing water line located in Maroon Creek Road adjacent to Le Chamonix. The project has been serviced since it was
constructed in 1968. The City of Aspen Water Department is capable of continuing to provide service to the site as it has done for so many years. No new dwelling units are being created and no increased demand will occur. The UGB (Urban Growth Boundary) is designed to favor properties in the UGB, like Le Chamonix, that can be developed without impacts on public facilities. The proposed development complies with the applicable adopted County environmental standards.

(b) Wildlife Habitat Protection

Considering the extent to which the proposed development will contribute to the protection of wildlife habitat in Pitkin County by exceeding the standards of Sec. 7-20-70. The County has identified the following activity that qualifies as exceeding the adopted standards:

(1) An applicant could commit to a program that would enhance or would restore native wildlife habitat that has been degraded by human or animal activity (for example, by creating or restoring wetlands and/or riparian habitat). On-site enhancement is preferred, but where there are no significant opportunities for on-site enhancement or restoration, a commitment to enhance or restore other sites in Pitkin County may be considered.

(2) Applicants may also identify other innovative ways in which wildlife habitat can be protected in Pitkin County that would exceed the County's adopted wildlife standards.

Applicants with no mapped or known wildlife habitat on their entire lot or parcel shall receive a score of two (2) in this category.

The Le Chamonix Condominium property does not contain any mapped or known County regulated wildlife habitat. The residential GMQS is designed to award develop allotments to parcels in the UGB which can be developed without impacting any wildlife regulated by the Code. The Le Chamonix complex is such a property.

(e) Achievement of Community Goals

(1) Open Space Preservation

(a) Considering the extent to which the proposed development will contribute to the preservation of open space in Pitkin County. Valued open space that an applicant could preserve includes:

(1) Undeveloped lands that have wildlife, scenic, and other desirable resource values;

(2) Agricultural lands, including those that have been historically irrigated, used for food, grains or other feed production, and those used for dry pasture and rangeland;

(3) Lands, or easements over lands, which provide access to public lands or public waters; and
(4) Other undeveloped lands whose preservation would be consistent with the adopted Pitkin County Comprehensive Plan.

(b) Points shall be awarded according to the following schedule:

(1) Zero (0) means the proposed development does not preserve any of the valued open space within the property.

(2) One (1) means the proposed development preserves some, but not all of the valued open space within the property.

(3) Two (2) means the proposed development preserves all of the valued open space within the property.

(4) If the entire lot or parcel does not contain any valued open space, the applicant shall receive a score of two (2). *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

The Le Chamonix property extends to the centerline of Maroon Creek. The Applicant granted a trail easement from the center line to five feet above the Creek high water mark in 2014 when the PUD plat was approved (Attachment 6, PB 108, Page 37, reception # 614362). The Applicant has discussed ways to make the Creek more appealing to the public with Paul Holsinger of Open Space and Trails. Based upon discussions with Paul, the Applicant will dedicate a fishing easement within the water course extending 10 feet beyond the Creek high water mark. Additionally, the Applicant will agree to extend the existing trail easement another five feet above the Creek high water mark. The amended trail easement will be the same size as the fishing easement. The proposed land use application contributes to the achievement of community open space preservation goals by dedicating an improved trail easement and a fishing easement in Maroon Creek. All of the valued open space within the property is preserved.

(2) Hazard Mitigation and Avoidance

Considering the extent to which the proposal mitigates the impacts of development or avoids locating development in floodplain hazard, geologic hazard, or wildfire hazard areas, as these areas are described in Chapter 7 of this Land Use Code. Points shall be awarded according to the following schedule:

(a) Zero (0) means the proposed development does not comply with the County's adopted standards for floodplain, geologic, and wildfire hazard areas.

(b) One (1) means the proposed development complies with the County's adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas, but includes some development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards.
(c) Two (2) means the proposed development complies with the County's adopted mitigation standards for development in floodplain, geologic, and wildfire hazard areas and includes no development activities on slopes in excess of thirty (30) percent or in areas subject to severe wildfire hazards. *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

In 2011 the Applicant completed a comprehensive expansive bank restoration project on the rear side of the condominium structure. The Le Chamonix bank restoration project included a geologic evaluation of the steep slopes on the Maroon Creek, stream side of the building. Drainage, soil erosion control and revegetation took place as part of the project (see Attachment 11). The Applicant monitors and maintains the streambank and hillside on an ongoing basis. It has been difficult for grass to grow under the shade of the conifer trees on the hillside. The Applicant commits to spread approved Pitkin County mountain grass mix on the hillside for four years after the approval of this land use application in order to improve the stability of the steep hillside.

Minor expansions of the 12 existing Chamonix units will not increase hazard impacts. No impacts will occur. The proposed development completely avoids steep slopes. The proposed development complies with the County's adopted mitigation standards for activities on slopes in excess of 30 percent and is not subject to severe wildfire danger. There is no development in floodplain. The Applicant’s work on the hillside above the stream and ongoing maintenance of the hillside exceeds Code floodplain and geologic standards. Le Chamonix is a preferred development site given its location within the UGB and a major activity center. The project is in compliance with the Land Use Code standards and is deserving of the maximum score in this category.

(d) Creative Bonus *Note: An Applicant can receive a score of zero (0) in this category and not be in violation of the Land Use Code.

The Planning and Zoning Commission may award bonus points to any development application that meets the overall minimum scoring threshold to obtain an allocation, as specified in Tables 6-7 and 6-8. Bonus points may be awarded to an applicant who proposes creative approaches that are consistent with the purpose and intent of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), and go beyond the standards established in each of the respective categories. Bonus points may also be awarded for creative approaches that have not been addressed in any of the scoring categories set forth in Secs. 6-50-20 (a), (b), and (c), but that are consistent with and help to implement the Pitkin County Comprehensive Plan. Up to five (5) bonus points may be awarded as follows:

(1) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with the purpose and intent of a scoring category set forth in Secs. 6-50-20 (a), (b), and (c), and goes beyond the standards established in that category.

(2) One (1) bonus point may be awarded for each creative approach an applicant proposes that is consistent with and helps to implement the Pitkin County Comprehensive Plan.
(3) One (1) bonus point may be awarded to any applicant who proposes to build affordable housing, rather than pay the Employee Housing Impact Fee required by Section 8-30 of this Land Use Code. To obtain the bonus point, the proposal to build the housing shall comply with the County’s adopted affordable housing policies and guidelines in terms of its location and the type of housing proposed.

No creative bonus is requested unless, when scored, the Applicant does not meet the minimum threshold. If that is the case, the Applicant would like to reserve the right to propose changes or a creative bonus in order to meet the minimum threshold.

IV.F
Activity Envelope and Site Plan
Section 7-10-50

(a) The intent of this Chapter 7 is to allow activities and development to take place where they comply with the provisions of this Land Use Code and with the Pitkin County Comprehensive Plan for the area. Compliance will generally involve avoidance of “Constrained Areas” through the identification of an “Activity Envelope,” as well as approval of a Site Plan. For purposes of Chapter 7, “Constrained Areas” include all areas included in each of the following categories, as defined and regulated by this Land Use Code: (i) Areas of Statewide Interest listed in C.R.S. 24-65.1-101 et. seq.), (ii) steep and potentially unstable slopes, (iii) water courses, drainage channels, and areas subject to erosion, (iv) floodplain hazard areas, (v) geological hazard areas, (vi) severe or low to moderate wildfire hazard areas, (vii) wildlife habitat areas, (viii) river and stream corridors and wetlands (ix) irrigated lands for food or crop production, (x) historic preservation areas, and (xi) archeological resource areas.

(b) The Site Plan process incorporates an “Activity Envelope” approach in which the County staff works with the applicant to determine which portions of the site (if any) would permit the proposed activity or development to be conducted in compliance with this Land Use Code and in conformity with the Comprehensive Plan for the area. In general, this process will involve both a determination of (i) which portions of the site are not available for development because of the existence of Constrained Areas, and (ii) of the remaining portions of the site, which areas would accommodate the activity or development so as to minimize impacts on surrounding properties, maximize compliance with the requirements of the development standards in this Chapter 7, and maximize compliance with the Comprehensive Plan goals and objectives.

(c) In general, the defined Activity Envelope for development of primary uses shall be large enough to accommodate the proposed principal use of the property and traditional permitted accessory structures, infrastructure (roads and septic systems), and uses, but should not be significantly larger than the area needed for such structures. In the case of a site with few Constrained Areas, the defined Activity Envelope may include more than one potential building site for a new single family home. The defined Activity Envelope may include non-contiguous areas (including separate areas for septic fields, landscaping,
driveways to public roads, mitigation measures required in connection with any provision of this Chapter 7, and/or areas to be disturbed only during construction on the property — including staging areas and materials storage areas). Construction of trails will not require an Activity Envelope analysis except as required by Sec. 7-20-50.

(d) Clearing, grading, grubbing, earthmoving that exceeds fifty (50) cubic yards, or changes in the natural drainage of the site shall occur only after an Activity Envelope has been defined and all applicable local, state and federal permits have been obtained. In addition, Site Plan Approval is required if these activities will occur on a property within a Scenic View Protection Area.

(e) Activity Envelope and Site Plan Review for a Stream Restoration Project shall adhere to all development standards in 7-20-40 and 7-20-80 and shall be reviewed by the BOCC as set forth in Table 2-1.

(f) Once an Activity Envelope has been defined, the natural grade, topography, vegetation and drainage of areas outside the defined areas shall not be disturbed except as specifically permitted in this Land Use Code. Prior to any development activity on the parcel, the boundaries of the Activity Envelope shall be identified with construction fencing, and such fencing shall remain in place until development has been completed.

(g) While it is preferable to obtain approval of an Activity Envelope as part of the Site Plan approval process, applicants who are not prepared to submit a Site Plan for a specific structure may request approval of an Activity Envelope separately. Prior to the issuance of a Development Permit, the applicant shall be required to apply for and obtain approval of a Site Plan confirming that the proposed development is consistent with the defined Activity Envelope and with other standards in this Land Use Code not considered at the time the Activity Envelope was defined.

(h) The standards in this Chapter 7 shall be used (i) to identify the Activity Envelope on a property, (ii) to review and approve the Site Plan for proposed development, and (iii) to regulate development within the Activity Envelope pursuant to the Site Plan. Development Standards in this Chapter 7 which are to be reviewed as part of Activity Envelope and Site Plan review are set forth in Table 7.1.

Attachment 10 depicts the proposed 2019 Le Chamonix Activity Envelope and Site Plan. All requirements were considered when developing the Activity Envelope Site Plan. The elevations and perspectives for the scenic review are found in Attachment 11 and 12. Minor changes to the exterior are shown minor expansions of the second level on a few units when feasible and/or expanded dining rooms or entries to the Maroon Creek side of the building to the southeast. No constraints listed impact the proposed development given that there are only small foot print increases on patio areas already in existence. No slopes in excess of 30 percent are in the Activity Envelope. The areas where the footprint is pushed forward toward Maroon Creek Road are flat and no constraints exist. The rear, west side of the building is not visible to the public yet no increases in the footprint are proposed there. Prior to any development activity, the
boundaries of the Activity Envelope will be identified with construction fencing and the fencing will remain in place until development is complete.

IV.G
Standards for Scenic View Protection Areas
Section 7-20-120

The Le Chamonix Condominiums are located directly on Maroon Creek Road, a designated scenic corridor. The Applicant has carefully considered the exterior remodel and expansion potential of each unit in a conceptual overall plan for the building in order to best evaluate the visual impacts from Maroon Creek Road. The Condominiums have been in existence since 1968. The proposed exterior improvements will update and enhance the views from Maroon Creek Road with a renovated, more appealing exterior. The height will be limited to 28 feet as established by the zone and PUD. Only two stories will be allowed on the Maroon Creek Road side of the building, no third level will be allowed. The mass and volume of the building will not substantially change. The outcome of the collective unit expansions is best illustrated and evaluated by the elevations and perspectives in Attachment 11 and 12.

(1) The proposed development shall utilize existing topography and natural vegetation, such as ridges, hills, and existing trees, to screen buildings to the maximum extent practicable when viewed from those right-of-way listed in subsection (b) above.

(2) The proposed development shall avoid the location of structures within the Scenic View Protection Areas, and shall avoid the location of structures within any Viewplane identified in the State Highway 82 Corridor Master Plan and Down Valley Comprehensive Plan if possible. If location outside the Scenic View Protection Area and defined Viewplanes is not practicable, then the proposed development shall not be located on the highest ground or most visible portion of any site as viewed from those corridors listed in subsection (b) above.

(3) The proposed development's height and bulk shall be designed to avoid, to the maximum extent practicable, the visibility of buildings from those corridors listed in subsection (b) above. This may include, but shall not be limited to, breaking the mass of the building down into a series of smaller forms, articulation of the building façades to avoid a wall or row effect, and staggering rooflines to avoid a long unbroken plane.

(4) The proposed structure shall be placed so it does not project above a ridgeline such that a structure silhouettes against the sky when viewed from those corridors listed in subsection (b), unless there are no alternate building sites on the lot or parcel.

(5) The proposed development shall be designed to complement the natural topography of the land through the use of techniques such as earth-sheltered design, the use of natural materials and coloring, the use of low-reflectance materials, or clustering of structures on the least visible portions of the site. When a building is proposed near a ridgeline, then its form (particularly its roof form) shall replicate, parallel, or complement the natural form of the ridgeline so that it appears to be an element of the natural ridgeline.

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The exterior remodel and unit expansions have been conceptually designed as much as possible to meet these standards. The design complements the natural surroundings and will utilize various techniques and materials to blend into the environment. The structure does not and will not break a ridgeline.

(6) The proposed development shall preserve natural vegetation and avoid development within irrigated meadows, to the maximum extent practicable.

No vegetation is proposed for removal at this time. The Applicant will meet these requirements for preserving natural vegetation to the maximum extent practical.

(7) The proposed development shall install utilities in locations and through procedures that minimize visual impacts to the maximum extent practicable.

The Applicant will comply with this standard. All major utilities serve the complex and have since 1968 when it was built. No new utility installations are necessary or proposed.

(8) All satellite dishes in the proposed development shall be located to minimize visibility from those rights-of-way listed in subsection (b), and shall use earth tone colors and/or screening to minimize their visual impact.

The Applicant will comply with this standard when applicable.

(9) The proposed development shall not use earth moving and berms as the primary means of compliance with these regulations, but earth moving may be utilized in conjunction with other techniques to comply with standards in this section. Where earth moving techniques are necessary, man-made forms should be undulating and natural in appearance.

This standard is not applicable.

(10) In the Rural Areas only, development shall be located so that activities and development occur in at least one of the locations specified in subsection (f) as they may apply to the particular property.

Le Chamonix is within the UGB and is not in the Rural Area. This standard is not applicable.

(11) Earth Tone Materials

The exterior of all development, except development located and designed in the form of a ranch compound, shall be built or painted with indigenous earth tone materials or colors. The exterior of a ranch compound should be built or painted with indigenous earth tone materials, or shall be painted or stained using local, traditional ranch colors, which shall include shades of red, brown, or white. Paints or stains that simulate weathered barn wood also shall be permitted.
This standard has been considered in the design of the exterior of Le Chamonix. Indigenous earth tones materials and colors are proposed. The proposal will be in compliance.

(12) Roofs

All roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflection, with the exception of materials associated with solar or photovoltaic equipment.

A new roof on the entire complex is not proposed. Small roof additions will occur when floor area is added on the upper level and these additions will comply with this standard.

(13) Revegetation of Disturbed Areas

Lands disturbed by earth moving or berms should be revegetated using native species that are already growing on or near the site. Topsoil shall be stockpiled and placed on disturbed areas. Irrigation shall be provided to the revegetated areas if it is necessary to ensure survival of planted native species.

This standard is not applicable.

(14) Driveways Avoid Dividing Meadows and Pastures

To the maximum extent practicable, roads and driveways shall be located to skirt the edge of and avoid dividing meadows and pastures and to avoid major road cuts. Roads and driveways should take advantage of the screening potential of natural topography and existing vegetation. Existing roads and driveways shall be used where practical. To enhance screening, a row of trees may be planted along the roads or driveways. To the maximum extent practicable, roads and driveways located around the edge of or in meadows shall be laid out with soft, curving edges and shall avoid straight line corridors that are incongruous with the natural setting.

This standard is not applicable.

IV.H
River and Stream Corridors and Wetlands
Section 7-20-80.

As is shown on the approved Le Chamonix PUD /Final Plat in Attachment 7, the mean identifiable Maroon Creek high water line is over 100 feet from the Le Chamonix structure. The creek corridor and wetlands are not an issue for the development which is proposed for within and adjacent to the existing structure.

IV.I.

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Land Use Policies
Section 1-60

1-60-10: PITKIN COUNTY COMPREHENSIVE PLAN

It is the policy of the County to adopt comprehensive plans for the County and regularly update these plans. Throughout this Land Use Code, references to the Pitkin County Comprehensive Plan include the Overview Pitkin County Comprehensive Plan, which encompasses the concepts, policies, actions and common themes contained within all adopted Land Use Master Plans in the County. Where there is any conflict between the Overview and any other adopted Land Use Master Plan, the Overview shall govern.

The Applicant understands this policy regarding the Comprehensive Plan.

1-60-20: CONFORMANCE WITH THE PITKIN COUNTY COMPREHENSIVE PLAN

It is the policy of the County to ensure that the use and development of land within Pitkin County and any actions committing such land to development or a change in use should consider Pitkin County's Comprehensive Plan.

The land use application is consistent with the Aspen Area Community Plan, the applicable Plan. The rezoning of the property to the appropriate multifamily RMF zone district in 2014 made this a conforming structure. The proposed expansion of existing units in this 1968 condominium structure is consistent with the Plan because it has all required services, is proximate to schools, trail, parks, schools and transit lines. Very few if any new impacts will be realized. Updating the exterior will be desirable and should enhance views from the Maroon Creek Road Corridor. The property is well served by public facilities as it is across from the Aspen Highlands Ski Area. Trails and buses are heavily used by residents due to these services. Hiking and walking are popular forms of recreation and transportation in this area.

1-60-30: COMMUNITY BALANCE

The dominant policy of Pitkin County is to conserve and protect from further degradation the present natural environment and its resources. Development that can be accommodated within these limits will be managed to maintain a balance between residential (free-market and affordable), commercial and tourist accommodations.

This is a residential GMQS application for a floor area allotment. The GMQS has been adopted by the City and County to insure community balance is maintained. If the application is approved it will be consistent with the Community Balance policy.

1-60-40: GROWTH MANAGEMENT

It is the policy of the County to manage the rate at which development applications are approved, as well as the type, location, quality and ultimate quantity of growth.
As noted in the preceding paragraph, this application seeks a residential GMQS allotment for floor area. The application will be approved if it is found to be consistent with the Growth Management policy. The standards in Article 6 of the Code, “Growth Management Quota System” have been adopted to be consistent with the Growth Management policy.

1-60-50: GROWTH RATE: PHASING OF PUBLIC SERVICES AND FACILITIES

It is the policy of the County to maintain and improve the quality of life of its residents. To this end, the County will manage the location and timing of development in the residential, commercial and tourist accommodation sectors. The provision and location of public services and facilities should support development that is consistent with the Pitkin County Comprehensive Plan. To ensure that growth is consistent with the Pitkin County Comprehensive Plan the County will maintain a Growth Management Quota System (GMQS).

The proposed development does not create any new units and does not require any new public services or facilities. The proposal is consistent with the intent of this policy.

1-60-60: LAND USE PATTERNS

It is the policy of the County that future urban development will be located within adopted Urban Growth Boundaries in order to eliminate residential sprawl and strip commercial development, to ensure the provision of adequate service levels, to preserve agriculture and open space land uses, and to maximize the utility of funds invested in public facilities and services. Lands outside the growth boundaries will be deemed most appropriate for the preservation of agriculture, natural habitat, environmental resources, open space and rural residential uses.

The proposed development is located within the UGB and is served by all utilities. It is across Maroon Creek Road from the Aspen Highlands Ski Area. In addition to the ski area and base area facilities, there are free market homes and condominiums and price restricted homes and condominiums in the vicinity. The multifamily character of the subject property is complimentary to the active environment in the neighborhood.

1-60-70: RURAL DEVELOPMENT

When proposing future development outside of Urban Growth Boundaries, the following elements should be considered:

(a) Pitkin County seeks to preserve its natural, rural scenery and natural landmarks for the benefit of its residents and the continued viability of its resort economy.

(b) Planned unit style development (PUD), designed to integrate siting in harmony with the environment and consistent with land use policies, is encouraged. Such development tends to minimize the cost of governmental and other services, maximize open space, preserve
agricultural lands, and minimize automobile congestion and hazardous conditions on public roads and highways.

(c) New development should be compatible with and not fundamentally change the character of any neighborhood or area.

(d) Pitkin County does not generally support extensions of public utilities such as municipal water and sewer lines outside of the Urban Growth Boundaries (UGBs).

(e) New commercial development should be located within established Urban Growth Boundaries unless it is of a scale and capacity deemed to be appropriate within identified boundaries.

(f) Transfer of development rights (TDRs) may be appropriate to preserve and protect rural character, open space, scenic features, and environmental resources, and to avoid development in environmentally constrained areas.

(g) To the extent possible, the County seeks to protect scenic corridors along highways, county roadways and mountain road systems.

(h) It is the policy of the County that development not impede the ability of citizens to view the night sky without the interference of artificial light.

This policy references rural properties and is not applicable as Le Chamonix is located in the UGB.

1-60-80: AGRICULTURAL PRESERVATION

(a) Productive agricultural land is a limited resource of environmental, cultural, open space, visual and economic value that should be conserved and preserved.

(b) All new development in areas surrounding or incorporated within existing agricultural properties should be designed to minimize impacts to agricultural operations.

(c) Preservation and utilization of water for agricultural lands within the county is encouraged.

(d) The fragmentation of large parcels of agricultural land is discouraged and the assemblage of smaller parcels into larger, more manageable and agriculturally productive tracts is encouraged.

(e) Pitkin County supports “right-to-farm” legislation.

(f) Pitkin County promotes the viability of agricultural lands and operations within Pitkin County and supports preservation of large tracts of land now committed to or capable of agricultural uses.
This policy is not applicable because Le Chamonix is located in the UGB and is not in agricultural production.

1-60-90: WILDERNESS

Pitkin County supports protection of designated Wilderness areas within and surrounding Pitkin County, as these areas provide residents and visitors with vistas and opportunities for experiencing the natural environment while renewing their “mind, body and spirit.” The County encourages management of adjacent and neighboring land to preserve the integrity of the wilderness areas.

This policy is not applicable.

1-60-100: RECREATION

The County recognizes the fundamental importance of recreation and tourism to the local economy and encourages the provision of services and facilities necessary for the continuation of existing activities, consistent with other goals and policies of the County. It is the policy of the County to support preservation of the physical environment; to improve county-wide recreational and trail opportunities; to support citizens’ rights of appropriate access to public lands on roads and trails historically open to the public; to secure new access points consistent with County and Federal land use plans; and to protect existing open space from urbanization and development in order to maintain quality of life and enjoyment of the environment.

The Applicant is committing to donate $8,000 to the City of Aspen for improvements to a community trail through the Maroon Creek Gorge or to a planning process to study a trail on the west side of Maroon Creek Road from the round-a-bout to the Aspen Recreation Center as part of the GMQS competition. Either would enhance recreation and trail amenities. A new trail on the west side of Maroon Creek Road would also help to address traffic challenges in addition to providing recreational opportunities. Please refer to the letter from Austin Weiss in Attachment 18.

1-60-110: SKI AREAS

Pitkin County favors the expansion of uses within existing permitted ski area boundaries, with a focus on expanding uses during non-peak periods, but does not support new alpine ski area proposals. Coordination with the Forest Service and ski area proponents regarding ski area development will consider both on and off-site impacts such as affordable housing, transportation, waterways, air quality and adjacent neighborhoods.

This policy is not applicable.

1-60-120: CAMPING
The County supports maintenance of existing campgrounds at their current capacities.

This policy is not applicable.

1-60-130: TRAILS

Non-motorized transportation alternatives, such as trails for bicycles, horses, pedestrians and cross-country skiers are encouraged. The County supports preservation and enhancement of access to trails; and development of bike and pedestrian ways that provide links between communities, residential and employment areas, commercial centers, recreational and open space areas, and educational facilities. Where motorized and non-motorized uses of trails are proposed or exist in common or in close proximity to one another, the County supports consideration of separate and distinct trails for each use.

See the trails discussion above in the Recreation section for Land Use Policy 1-60-100.

1-60-140: OPEN SPACE AND TRAILS BOARD

The County supports the Open Space and Trails Board in the acquisition and maintenance of open space parcels, conservation easements, trails and facilities such as trailheads, parks, river access points for boating or fishing purposes and access to public lands. Parks, open space and public recreation facilities are encouraged throughout the county.

The Applicant agrees with the County that the values stated above including open space, trails, easements, parks and recreation facilities are important. Please refer to Land Use Policy 1-60-100 above.

1-60-150: COMPATIBILITY WITH EXISTING ADJACENT NEIGHBORHOODS

It is the policy of the County to insure land use proposals are compatible with existing neighborhoods. To this end, the County will provide notification of pending land use applications to the affected adjoining property owners, homeowners associations and neighborhood caucus groups when appropriate.

The proposed expansion of units in an existing condominium complex is appropriate for the immediate vicinity and is compatible with the neighborhood. The project was rezoned and received PUD approval in 2014 after the complex was heavily studied and discussed by the County staff, Planning and Zoning Commission and the BOCC with public input. It is compatible with the existing adjacent neighborhood. The Le Chamonix building and views from Maroon Creek Road toward the building should be enhanced with the updated, exterior remodel proposed.

All twelve owners in the Le Chamonix complex agree to this application. This is no small feat!

1-60-160: COMPATIBILITY WITH PUBLIC LANDS
It is the policy of the County to support the preservation and protection of public lands from the impacts of incompatible development by promoting land uses within and nearby public lands that are compatible with public use of those lands and with the preservation of the natural environment.

The land use application is consistent with this policy.

1-60-170: PRIVATE LAND SURROUNDED BY PUBLIC LANDS (INHOLDINGS)

It is the policy of the County to promote and encourage the transfer of private inholdings to public ownership with the objective of promoting consistent management of the public lands to reduce conflicts between private owners and developers and the public at large.

This policy is not applicable.

1-60-180: ECOLOGICAL BILL OF RIGHTS (EBOR)

As the integrity of our ecosystem is increasingly challenged by human activity, and population growth and the accompanying sprawl are seriously damaging and threatening to destroy the ecological carrying capacity (environmental sustainability) of the region, it is the policy of the County to implement the following rights:

(a) The right to breathe clean air and enjoy clear vistas.

(b) The right to the preservation of natural riparian areas and wetlands.

(c) The right to permanently protected minimum stream flows in rivers and creeks.

(d) The right to the preservation and restoration of native wildlife and plant diversity by preservation of sufficient habitat.

(e) The right to protection of designated wilderness through management of adjoining land in a way that preserves the integrity of the wilderness areas.

(f) The right to a landscape kept free of noxious and invasive weeds.

(g) The right of appropriate access to public lands on roads and trails historically open to the public, consistent with the nature and designation of the public lands.

(h) The right to dedicated open space protected from urbanization and development.

(i) The right to the efficient and renewable use of energy.

(j) The right to be free from excessive noise.
(k) The right to see the night sky without the interference of unnecessary artificial light from growth, urbanization and highway development.

(l) The right to the absolute minimum involuntary exposure to toxic chemicals, radioactive substances and energy forms that are hazardous to health.

(m) The right to maintain and not exceed the carrying capacity (sustainability) of the land and water, including protecting water quality.

(n) The right to expect government legislation and active enforcement of land use and development regulations consistent with this Ecological Bill of Rights.

The land use application is consistent with this policy.

1-60-190: NATURAL AND MAN-MADE HAZARD AND RESOURCE AREAS

It is the policy of the County that development be sited in locations that avoid natural hazard areas, and where avoidance is not possible, in locations where mitigation is designed to minimize potential harm to life, safety, health, and property.

No hazards are found on the section of the property proposed for improvement. The only nearby hazards are steep slopes on the rear of the property and these will not be disturbed.

1-60-200: SOIL, SURFICIAL GEOLOGIC CHARACTERISTICS AND RADIATION

It is the policy of the County that development not be located in areas subject to radiation and geologic hazards.

This policy is not applicable.

1-60-210: DRAINAGE

It is the policy of the County that development not disturb the integrity of existing and natural drainage patterns, and to discourage land use and development activities that subject areas to increased potential for damage by flood, erosion or sedimentation, or increase the potential for water pollution.

The land use application is consistent with this policy and will meet the drainage standards of the Code.

1-60-220: EROSION

It is the policy of the County that development not contribute to the erosion of soil and rock and that natural vegetative cover be maintained and that areas disturbed by land use or development activities be revegetated.
The land use application is consistent with this policy and will meet the erosion standards of the Code.

1-60-230: SCENIC QUALITY

It is the policy of the County that its natural, rural scenery be preserved for the benefit of its residents and the continued viability of its resort economy. Undergrounding of utility lines is supported where and when appropriate to minimize visual impact.

The application is consistent with this policy and meets the standards for Scenic View Protection Areas of the Code. See the Scenic View Protection section addressed previously in this application, Section 7-20-120 of the Code. Views from the Maroon Creek Corridor have been carefully considered in the design and planning of each unit expansion and in the exterior remodel of the Le Chamonix building. See Attachments 11 and 12 which both help to illustrate the proposal and the resulting views from Maroon Creek Road.

1-60-240: CULTURAL/HISTORICAL RESOURCES

It is the policy of the County that historic and archaeological resources that meet national, state, or local criteria for historic designation are preserved, protected from neglect, destruction or harmful alteration, and maintained.

This policy is not applicable.

1-60-250: AIR QUALITY

It is the policy of the County that development not degrade air quality.

The application is consistent with this policy and will meet Pitkin County’s air quality standards.

1-60-260: ENERGY CONSERVATION

New development is encouraged to incorporate energy conserving and alternative energy systems and building systems that minimize consumption of energy.

The application is consistent with this policy and will meet the Pitkin County’s energy standards when applicable for the expansion of existing units.

1-60-270: NOISE

It is the policy of the County that development will not generate noise which would adversely impact community noise levels.

The application is consistent with this policy and will meet the Pitkin County’ noise standards.
1-60-280: WATER RESOURCES AND AQUATIC/RIPARIAN/WETLAND AREAS

(a) It is the policy of the County to preserve and protect its present water resources, recognizing the county’s semi-arid character and that significant transmountain and transbasin diversions and the vested rights of senior appropriators have materially curtailed the availability of water resources. Furthermore, wetlands and riparian ecosystems, which are important to maintaining the overall balance of ecological systems; and are important plant communities, wildlife habitat and movement corridors, should be conserved, protected and restored. The County seeks to protect citizens’ rights to permanently protected minimum stream flows in rivers and creeks, and to the preservation of remaining natural riparian areas and wetlands.

(b) Land uses within the region should be designed to preserve and protect present water resources, including surface and groundwater, and to avoid significant adverse effects on the quantity, quality, or dependability of water resources in the County. Land uses should protect against significant increased salinization of water, loss of minimum instream flows, and the need for future major public expenditures to reacquire or redistribute water resources.

(c) To protect water resources and/or riparian habitat, development in areas adjacent to water bodies, functional irrigation ditches and natural watercourse areas should maintain adequate setbacks where necessary.

The application is consistent with this policy and will meet the Pitkin County’s water resource standards.

1-60-290: WILDLIFE

It is the policy of the County that proposed land uses (including structures) are compatible with the ecosystem of wildlife habitats and do not pose immediate, long term or potential detrimental impacts to such habitats. The County seeks to preserve, restore and perpetuate native wildlife and plant diversity by maintaining sufficient habitat.

The land use application is consistent with this policy. The Le Chamonix property does not contain wildlife areas regulated by the Code.

1-60-300: LOGICAL EXTENSION OF UTILITIES

It is the policy of the County to regulate public and private utility extensions. Areas served by such extensions must be found suitable for development in accordance with the Pitkin County Comprehensive Plan.

Le Chamonix is within the UGB and is served with all utilities. Utility extensions are not required.

1-60-310: ADEQUATE PROVISION FOR WATER NEEDS
It is the policy of the County that the availability of a water supply of adequate quantity, pressure and dependability for fire protection and support of a proposed land use be in place prior to approval of the use.

Le Chamonix has been served by water since it was built in 1968 and has been served with water by the City of Aspen since 1994.

1-60-320: SEWAGE TREATMENT

It is the policy of the County that adequate sewage treatment facilities are feasible and available to serve existing and new developments.

Le Chamonix is served by the Aspen Consolidated Sanitation District.

1-60-330: SOLID WASTE MANAGEMENT

Pitkin County is committed to all economically and environmentally appropriate processes that are directed toward reuse opportunities and the prolonging of landfill life. The County supports efforts to reduce waste generation and the amount of solid waste disposed of in landfills, and to implement effective resource recovery and recycling activities.

The site is already served by a solid waste collection company.

1-60-340: TRANSPORTATION/TRANSIT/ROADS

(a) The County encourages transportation programs consistent with the County Asset Management Plan; modes and land use patterns that minimize automobile congestion, promote safety and reduce sources of air pollution.

(b) The County supports preservation of rail corridors for potential development of rail or other improved transit/trail alternatives in the future. No development should be allowed to prevent the options of the Community to pursue rail, trail or other improved transit alternatives along such corridors.

(c) Where practical as a means of retaining rural character, the County seeks to retain existing unpaved roads and to preclude the extension of winter maintenance on rural roads.

(d) The County seeks cooperation with emergency service agencies in establishing emergency access road standards that adequately address safety needs in the context of rural character.

(e) Development that generates traffic volumes in excess of the capacity of the County road system or that causes significant service level reductions is discouraged.
(f) Appropriate buffer strips should be preserved along federal, state and local roadways to protect public views, minimize safety concerns and environmental impacts, and to preserve corridors for future transportation facilities.

(g) Roadway capacity improvements should integrate alternative modes of transportation, such as bicycles and transit, and pedestrian ways so as to add "people carrying" capacity to the roadway, not just vehicular capacity, whenever feasible.

(h) New and upgraded roadways should be designed, engineered and constructed to minimize environmental and aesthetic damage and future maintenance costs consistent with public safety needs.

The proposed development is consistent with this policy as demonstrated in the Residential GMQS section of the land use application.

1-60-350: PITTKIN COUNTY AIRPORT (SARDY FIELD)

The County will partner with public, private and non-profit entities to support continued air safety, reliable and efficient air service at Sardy Field. Neighborhood impacts will be considered relative to expansions or improvements that would promote aviation operations.

This land use policy is not applicable to the proposed development.

1-60-360: TELECOMMUNICATIONS

The County encourages adequate, minimal impact regional and community telecommunications facilities to serve the needs of governments, emergency services, businesses, and citizens of Pitkin County.

(a) Where a telecommunications system utilizes a network of facilities, a comprehensive approach should be taken for evaluating potential sites in Pitkin County with a view to minimizing the number of sites required and any adverse impact.

(b) When feasible and not otherwise detrimental, multiple telecommunications facilities should be consolidated onto common towers, and/or located adjacent to, on or incorporated into existing or proposed buildings or other structures.

This land use policy is not applicable to the proposed development.

1-60-370: CITIZEN HOUSING

It is the policy of the County to encourage the existence of a supply of desirable and affordable housing for persons employed in Pitkin County, senior citizens, the handicapped, and other qualified persons of Pitkin County. Pitkin County seeks to preserve existing affordable housing to the extent possible; and to encourage the
development of affordable housing within established Urban Growth Boundaries, where employment, services and facilities are typically already established.

(a) It is the policy of Pitkin County to promote the availability of affordable housing for employees generated by proposed development.

(b) A diversity of housing types and densities is encouraged in order to ensure affordable housing for a range of individual and families. Deed restricted housing that ensures occupancy by full time residents is preferred for development, especially within Urban Growth Boundaries.

(c) Affordable housing of urban or suburban densities is not encouraged outside the Urban Growth Boundaries if it promotes sprawl or other development inconsistent with this or other policies or regulations of the County. Affordable housing outside Urban Growth Boundaries may be acceptable if it is: (i) Employee Dwelling Units (EDU) and Caretaker Dwelling Units (CDU); (ii) job related on-site housing; (iii) conversion of existing locally serving housing; (iv) on-site required mitigation housing; or (v) replacement of existing affordable housing.

(d) Quality residential areas, which function as integral neighborhood units, are encouraged.

(e) Rehabilitation of existing residential facilities should be promoted where feasible. The purchase and buy-down of existing units throughout the county is encouraged since it promotes affordable housing goals without increasing growth rates or impacts.

(f) Special attention should be directed to providing for dispersal of housing for low and moderate income families and low income senior citizens throughout the residential areas of the Urban Growth Boundaries with due consideration to other policies of the County and the availability of water and sewer service, fire protection, public transportation, employment, shopping, schools, social services, and recreational activities.

(g) The use of energy conservation and innovative home building techniques in order to reduce construction and/or operating costs without sacrificing safety or desirability of the housing shall be encouraged and supported. When appropriate, the revision or adoption of building codes will be encouraged to meet this objective. For deed restricted housing projects, a preference will be given to developers and contractors that utilize such techniques.

No new units are proposed and this policy is not applicable.

1-60-380: REQUIRE THAT DEVELOPMENT BEAR AN EQUITABLE SHARE OF RELATED BURDENS

It is the policy of the County that new development must pay an equitable share that would otherwise be borne by the general public, and/or make equitable contributions,
commensurate with its impacts, to ensure that no reduction in the quality of services, public facilities or programs occurs as a result of the development.

The proposed development is consistent with this policy as demonstrated in the residential GMQS section of the land use application. No new dwelling units are proposed.

1-60-390: GENERAL GOVERNMENT/ PUBLIC PARTICIPATION AND PLANNING PROCESSES

(a) Pitkin County acknowledges the benefit of regional planning. To that end, the County supports planning efforts between counties, towns, state and federal agencies. These cross-jurisdictional approaches are most notably important in the venues of transportation, housing, open space, water resources, agricultural lands, solid waste facilities, public safety, wildfire mitigation and human and social services. Intergovernmental agreements are encouraged to facilitate implementation of common land use goals.

(b) The County encourages general public participation when public and quasi-public bodies are making decisions, which significantly affect citizens and the formation of specific citizen advisory groups to participate in planning-related matters.

(c) Pitkin County promotes the preparation of community-based plans by Caucuses or other neighborhood groups that are consistent with the policies herein, and other policies adopted by the Board of County Commissioners. Recognizing the unique qualities and issues inherent in our County, creative approaches to land use are encouraged.

This policy is not applicable to the proposed development.

1-60-400: ECONOMIC SUSTAINABILITY AND CONDITION

A balanced, diversified economy should be promoted in order to maintain and enhance the quality of life in our community. The economy should offer desirable local employment opportunities without creating significant job growth. Desirable local businesses may include those that utilize environmentally sustaining operating practices, recycle monies back into the local economy, and do not adversely impact surrounding areas.

This policy is not applicable to the proposed development.

1-60-410: CONFORMANCE WITH OTHER LAWS

It is the policy of the County to consider whether approval of uses or development of lands within Pitkin County is consistent with applicable laws of the United State of America and the State of Colorado.

The Applicant will comply with all applicable laws.
ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, AMENDING TITLE 8 OF THE PITKIN COUNTY CODE, SPECIFICALLY THE 2006 LAND USE CODE FOR LAND USE CODE TEXT AMENDMENTS

Ordinance No. 029 - 2012

RECITALS

1. Land Use Code amendments have been proposed to create a new zone district for multi-family housing called the Residential Multi Family (RMF) Zone District.

Amendments will be made to the following Chapters and Sections:

EXHIBIT A – Chapter 3, Section 3-50: Urban/Suburban Zone Districts
EXHIBIT B – Chapter 4, Section 4-1: Table 4-20
EXHIBIT C – Chapter 5, Table 5-1(B) Dimensional Requirements
EXHIBIT D – Chapter 6, Section 6-30: Table 6-1
EXHIBIT E – Chapter 6, Section 6-30: Exemptions

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposed code amendments at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposed code amendments at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to code amendments request.

5. The BOCC finds that these code amendments are consistent with Pitkin County’s goals and policies and are necessary to promote public health, safety, and welfare.

6. The BOCC further finds that the amendments to the Land Use Code are consistent with County Comprehensive Plans and in compliance with Section 2-40-10.

NOW, THEREFORE, BE IT ORDAINED by the Pitkin County Board of County Commissioners that it hereby amends the above-referenced Sections of the 2006 Pitkin County Land Use Code, as set forth in Exhibits A-D as underlined.
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING AT A PUBLIC HEARING on the 24th day of October, 2012.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 22nd day of November 2012.

THIS ORDINANCE SHALL NOT BECOME EFFECTIVE UNLESS AND UNTIL THE LE CHAMONIX DETAILED SUBDIVISION SUBMISSION/FINAL PLAT AND PUD IS APPROVED BY THE BOCC

ATTEST:

[Signature]
Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

[Signature]
Michael Owsley,
Chairman

Date: 12-4-2012

APPROVED AS TO FORM:

[Signature]
John Ely,
County Attorney

APPROVED AS TO CONTENT:

[Signature]
Cindy Houben,
Community Development Director

Ordinance No. — 2012
Page 2 of 11
EXHIBIT A

The underlined section shall be added.

SECTION 3-50-90: RMF – RESIDENTIAL MULTI-FAMILY

(a) Intent
The RMF zone district may only be applied to existing multi-family dwelling units. This zone district may not be applied to lands that do not contain legal multi-family dwelling units.

(b) Location
The RMF zone district is only intended to be located within the Aspen Urban Growth Boundary, adjacent to established ski areas, and may only be located contiguous to major roads.

(c) Transferable Development Rights
TDR’s may not be severed and sold from lands located in the RMF zone district, unless the lot or parcel is determined to be constrained or visually constrained pursuant to Sec. 6-70-40 or if the property is designated on the Pitkin County Historic Register. TDR’s may be purchased and used in the RMF Zone District for the purposes of (a) increasing the floor area as established in Table 5-1 or (b) creating a new development right on a legal parcel located within the Aspen UGB pursuant to Secs. 6-70 and 2-40-30, and as set forth in Table 2-1.

(d) Lands in the RMF Zone District are subject to the GMOS (see chapter 6).
EXHIBIT B

The underlined shall be added to Section 4-20: Permitted Use Table:

<table>
<thead>
<tr>
<th>TABLE 4-1: Permitted Uses</th>
<th>Intended for Rural Areas</th>
<th>Intended for Urban Areas</th>
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<tr>
<td></td>
<td>Rural Districts</td>
<td>Use-Specific Regulations $</td>
</tr>
<tr>
<td></td>
<td>Urban / Suburban Residential Districts</td>
<td></td>
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<tr>
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<tr>
<td>Household Living</td>
<td>S M S A S S S S M A</td>
<td>6-30-010(a)</td>
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<td>Intended for Urban Areas</td>
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<td>Urban Districts, Suburban Residential District</td>
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<td>RS G</td>
<td>B A</td>
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<td>RR 7-35</td>
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<td>RS 3-35</td>
<td>RS 36 &amp; 39</td>
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<td>LI R 1-35</td>
<td>LI R 36 &amp; 39</td>
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<td>TR 2</td>
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<td>TR 11-20</td>
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<td>M 1</td>
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<td>Commercial &amp; Industrial</td>
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<td>Entertainment &amp; Recreation</td>
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<td>Adult Entertainment Establishment</td>
<td>Adult Entertainment Establishment</td>
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<td>Alpine Ski Area &amp; Support</td>
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<td>Amusement &amp; Entertainment Establishment</td>
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<td>Campground (formerly Commercial Camping Areas)</td>
<td>Campground (formerly Commercial Camping Areas)</td>
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<td>Golf Course</td>
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<td>Nordic Ski Area and Support Facilities</td>
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<td>Outdoor Recreational, Other</td>
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<td>Riding Stable or Academy (formerly Commercial Riding Stables)</td>
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<td>Bed and Breakfast</td>
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<tr>
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<td>Country Inn, Guest Ranch, and Resort Cabins</td>
<td>Country Inn, Guest Ranch, and Resort Cabins</td>
</tr>
<tr>
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<td>Hotels, Motel or Lodge</td>
<td>Hotels, Motel or Lodge</td>
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<td>Meeting Hall or Conference Center (formerly Reception Halls and Meeting Facilities)</td>
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<td>Restaurant and/or Bar</td>
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<td>Office and Clinic Uses</td>
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<tr>
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<td>Sales and Service Uses</td>
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<table>
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<tr>
<th>Use Category/ Use Type</th>
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<th>Intended for Urban Areas</th>
<th>Use-Specific Regulations §</th>
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<tr>
<td>Contracting or Subcontracting</td>
<td></td>
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<td>§4-30-040(k)</td>
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<td>Personal Service Outlet</td>
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<td>A</td>
<td>§4-30-040(t)</td>
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<td>Retail Sale of Goods (formerly Places for Retailing of Goods)</td>
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<td>A</td>
<td>§4-30-040(v)</td>
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<td>Automotive Parking Lot, Commercial</td>
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<td>Vehicle and Aircraft Sales and Service (formerly Vehicle and Aircraft Related Business)</td>
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<td>§4-30-040(g)</td>
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<td>Cellular Telephone Facility</td>
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<td>§4-30-040(m)</td>
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<td>Junk Yard</td>
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<td>§4-30-040(r)</td>
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<td>Radio or TV Transmitting Station</td>
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<td>§4-30-050(m) &amp; §4-30-050(b)(5)</td>
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<td>§4-30-050(c)</td>
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<td>Accessory Structures with Bathing Facility</td>
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<td>§4-30-050(b)</td>
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<td>Agricultural Stand</td>
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<td>§4-30-050(c)</td>
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<td>Arts and Crafts Studio, Accessory</td>
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<td>§4-30-050(d)</td>
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<td>Building-Mounted Cellular Telephone Antennae</td>
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<td>Bus Stop</td>
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<td>§4-30-050(j)</td>
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<td>Horse Boarding, Accessory</td>
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<td>Temporary Commercial Trail</td>
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<td>§4-30-050(q)</td>
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<table>
<thead>
<tr>
<th>Use Category/Use Type</th>
<th>Rural Districts</th>
<th>Urban/Suburban Residential District</th>
<th>Use-Specific Regulations</th>
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<td>S</td>
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<tr>
<td>Water Crossing or Diversion</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Wind Powered Electric Generator</td>
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<tr>
<td>Micro Hydro Electric Energy System</td>
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<tr>
<td>Snow Storage/Dumping Trucking</td>
<td>S</td>
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EXHIBIT C

Table 5-1(B) as it exists shall be deleted and replaced with the following:

<table>
<thead>
<tr>
<th>TABLE: 5-1B: Dimensional Requirements</th>
<th>R-30</th>
<th>R-15</th>
<th>R-15A</th>
<th>R-15B</th>
<th>R-6</th>
<th>RMF</th>
<th>VR</th>
<th>MHP</th>
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<tr>
<td>LOTS</td>
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<tr>
<td>Minimum Lot Area (sq. ft.)</td>
<td>30,000</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
<td>NOTE 11</td>
<td>6,000</td>
<td>1 acre</td>
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<tr>
<td>Minimum Lot Area Per Principal Use or Dwelling Unit (sq. ft.)</td>
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<td>NOTE 11</td>
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<td>.14</td>
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<td>Minimum Usable Open Space per Dwelling Unit (sq. ft.)</td>
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<td>Minimum Lot Width (sq. ft.)</td>
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<td>Maximum Dwelling Units Per Acre</td>
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<td>MINIMUM SETBACKS</td>
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<tr>
<td>From Arterial Highways</td>
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<tr>
<td>Structures / Outside Uses (ft.)</td>
<td>100 ft. setback for buildings / 100 ft. setback for outside uses</td>
<td>NOTE 3</td>
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<td>From Major Roads</td>
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</tr>
<tr>
<td>Structures / Outside Uses (ft.)</td>
<td>100 ft. setback for buildings / 50 ft. setback for outside uses</td>
<td>NOTE 3</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>From Collector Streets</td>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Structures / Outside Uses (ft.)</td>
<td>50 ft. setback for buildings / 25 ft. setback for outside uses</td>
<td>NOTE 3</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>From Property Lines</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Front Setback (ft.)</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>(1) Lot Size ≤ 3 ac = 30 ft.;</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>(2) Lot &gt; 3 ac. and ≤ 10 acres = 50 ft.;</td>
<td></td>
<td></td>
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<tr>
<td>(3) Lot &gt; 10 acres = 100 ft.</td>
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<tr>
<td>Side Setback (ft.)</td>
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<tr>
<td>(1) Lot &lt; 7,500 sq. ft. = 5 ft.;</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Lot ≥ 7,500 &amp; &lt; 30,000 sq. ft. = 10 ft.;</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Lot Size ≥ 30,000 &amp; &lt; 43,560 sq. ft. = 15 ft.;</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>(4) Lot ≥ 43,560 &amp; &lt; 3 ac. = 20 ft.;</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(5) Lot ≥ 3 ac. &amp; &lt; 20 ac. = 30 ft.;</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>(6) Lot ≥ 20 ac. = 50 ft.</td>
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<tr>
<td>Rear Setback (ft.)</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Lot Size &lt; 30,000 sq. ft. = 10 ft.;</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>(2) Lot &gt; 30,000 sq. ft. &amp; &lt; 10 ac. = 30 ft.;</td>
<td></td>
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<tr>
<td>(3) Lot ≥ 10 ac. = 50 ft.</td>
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<td></td>
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<tr>
<td>From Streams (ft.)</td>
<td>100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NOTE 4, 12 and 13</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>MAXIMUM HEIGHT</strong></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Height of Principal Structure (ft.)</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>NOTE 5</td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Maximum Height of Accessory Structure (ft.)</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>NOTE 6</td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Maximum Height of Exempt Agricultural Buildings</td>
<td>Refer to Sec. 5-20-70(i)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### TABLE 5-1B: Dimensional Requirements

**Urban Suburban Residential Zone**

Districts Other Than Affordable Housing Districts

<table>
<thead>
<tr>
<th>Allowable floor area based on Floor Area Ratio (FAR)</th>
<th>R - 30</th>
<th>R - 15</th>
<th>R - 15A</th>
<th>R - 15B</th>
<th>R - 6</th>
<th>RMF</th>
<th>VR</th>
<th>MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOTE 7</td>
<td>.13</td>
<td>.16</td>
<td>NOTE 7</td>
<td>NOTE 10</td>
<td>NOTE 30</td>
<td>NOTE 50</td>
<td>NOTE 8</td>
<td>NOTE 2</td>
</tr>
<tr>
<td>Gross Floor Area Exempt from Growth Management (without GMQS Allocation or TDR) (Base Maximum) (sq ft)</td>
<td>5,750 NOTE 9</td>
<td>5,750</td>
<td>5,750</td>
<td>5,750</td>
<td>5,750</td>
<td>Note 15</td>
<td>NOTE 8</td>
<td>N/A</td>
</tr>
<tr>
<td>Gross Floor Area Exempt from GMQS Allocation and/or TDR Purchase (Final Max. Floor Area)</td>
<td>15,000</td>
<td>15,000</td>
<td>10,250</td>
<td>5,750</td>
<td>15,000</td>
<td>Note 15</td>
<td>NOTE 8</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**NOTE 1:** 5,000 square feet, which shall include any land areas within the Redstone A Lots (as defined in this Land Use Code)

**NOTE 2:** Dimensional requirements for the MHP zone district are found in Table 7-4. The dimensional requirements for the Aspen Village Subdivision, Lazy Glen Subdivision, and Woody Creek Subdivision, are described in the PUD Development guide approved by Pitkin County for each development.

**NOTE 3:** Off-street parking, signs, and lights shall meet the setback requirements for outside uses. Access roads, highway regulatory and directional signs, safety lighting, and safety features shall be allowed between the right-of-way and the setbacks listed. Off street parking and lights don’t need to meet the setback required on collector streets.

**NOTE 4:** An additional setback may be required or a lesser setback may be allowed pursuant to Sec. 7-20-80.

**NOTE 5:** Maximum height principal structures: twenty-four (24) feet to the top of ridge; fourteen (14) feet to the top of eave (dormers excluded). See also Sec. 5-20-60(i) for Building Height calculation methodology.

**NOTE 6:** Maximum height accessory structures: twenty-one (21) feet to the top of ridge; twelve (12) feet to the top of eave (dormers excluded). See also Sec. 5-20-60(i) for Building Height calculation methodology.

**NOTE 7:** The allowable floor area shall be based on the least restrictive of the following formulas: (a) 3,500 square feet (plus 30% for pre-existing duplexes); or (b) floor area ratio (FAR) = .20 (plus 30% of allowed floor area for pre-existing duplexes). Only duplex units that existed prior to 1974 are permitted in the R-15A zone district, and no dwelling unit in the R-15A zone district shall exceed 5,500 square feet of floor area.

**NOTE 8:** (1) Lot with 50-74 ft. frontage = 2,000 square feet; (2) Lot with 75-99 ft. frontage = 2,300 square feet; (3) Lot with 100 ft or larger frontage = 2,500 square feet. See also Sec. 5-20-70 for Floor Area calculation methodology.

**NOTE 9:** Lots in the Meadowood Subdivision are exempt from Growth Management up to the total of their allowable floor area based on Floor Area Ratio PLUS the additional floor area allocated to each lot pursuant to BOCC Resolution No. 99-124 (which total may exceed 5,750 square feet).

**NOTE 10:** The allowable floor area shall be based on the least restrictive of the following formulas: (a) 3,500 square feet; or (b) floor area ratio (FAR) = .20. Duplexes are prohibited in the R-15B zone district and no dwelling shall exceed 3,500 square feet in floor area, and 5,750 in gross floor area (max sq. ft.).

**NOTE 11:** For the R-15B zone district, the 15,000 square foot minimum relates to Lot Size, and not Lot Area as defined in Section 11, Definitions.

**NOTE 12:** Development of a micro hydroelectric energy system may be allowed in a setback pursuant to Section 7-20-80(e) and 4-30-50(k).

**NOTE 13:** Stream restoration projects may encroach into this setback pursuant to Sections 7-20-40 and 7-20-80

**NOTE 14:** The individual floor area cap per unit in the RMF Zone District is 2,855 square feet.

**NOTE 15:** See Le Chamonix PUD guide for Growth Management Exemption and Maximum Floor Area

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**Ordinance No. _____ - 2012**

**Page 9 of 11**
**EXHIBIT D**

The underlined subsections shall be added to Section 6-30-30, Table 6-1: Summary of Exemptions:

<table>
<thead>
<tr>
<th>Exemption</th>
<th>Specific Categories, If Applicable</th>
<th>Section Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deed Restricted Dwelling Units</td>
<td>Deed Restricted Category Affordable Housing Sale Units</td>
<td>Sec. 6-30-40(a)</td>
</tr>
<tr>
<td></td>
<td>Deed Restricted Resident Occupied Housing Units</td>
<td>Sec. 6-30-40(b)</td>
</tr>
<tr>
<td></td>
<td>Caretaker Dwelling Units</td>
<td>Sec. 6-30-40(c)</td>
</tr>
<tr>
<td>Development Utilizing TDR’s</td>
<td>New Dwelling Units</td>
<td>Sec. 6-30-50(a)</td>
</tr>
<tr>
<td></td>
<td>Additional Floor Area</td>
<td>Sec. 6-30-50(b)</td>
</tr>
<tr>
<td>Preservation of Historic Structures</td>
<td></td>
<td>Sec. 6-30-60</td>
</tr>
<tr>
<td>Large Lots</td>
<td>500+ Acre Parcels</td>
<td>Sec. 6-30-70(a)</td>
</tr>
<tr>
<td>Parcels Created in the LIR Zone Puruant to the Cluster Option</td>
<td></td>
<td>Sec. 6-30-80</td>
</tr>
<tr>
<td>Conservation Development PUD (CD-PUD)</td>
<td></td>
<td>Sec. 6-30-90</td>
</tr>
<tr>
<td>Development of Up to 5,750 sq. ft. of Residential Floor Area on Certain Types of Pre-Existing Lots</td>
<td>Any Lot or Parcel Which Was Legally Created Before June 12, 1978</td>
<td>Sec. 6-30-100(a)</td>
</tr>
<tr>
<td></td>
<td>Board Approved Subdivisions, Fully Developed Land Subdivision Exemptions, and 35 Acre Parcels Created Prior to January 10, 2000 and Located within the Crystal River or Fraying Pan Areas</td>
<td>Sec. 6-30-100(b)</td>
</tr>
<tr>
<td>Remodels and Replacement</td>
<td>Remodeling</td>
<td>Sec. 6-30-110(b)</td>
</tr>
<tr>
<td></td>
<td>Replacement</td>
<td>Sec. 6-30-110(c) &amp; (d)</td>
</tr>
<tr>
<td>Civic and Institutional Uses</td>
<td></td>
<td>Sec. 6-30-120</td>
</tr>
<tr>
<td>New Lots Created within the VR and VC Zone Districts</td>
<td></td>
<td>Sec. 6-30-130</td>
</tr>
<tr>
<td>Barns</td>
<td>160 Acres or Larger</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td></td>
<td>Greater than 20 Acres but less than 160 Acres</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td></td>
<td>Less than 20 Acres</td>
<td>Sec. 6-30-140</td>
</tr>
<tr>
<td>Commercial and Tourist Accommodations Developments with Insubstantial Growth Impacts</td>
<td>Commercial Tourist Accommodations</td>
<td>Sec. 6-30-150</td>
</tr>
<tr>
<td>Change in Use</td>
<td>Residential</td>
<td>Sec. 6-30-160</td>
</tr>
<tr>
<td></td>
<td>Commercial</td>
<td>Sec. 6-30-160</td>
</tr>
<tr>
<td></td>
<td>Tourist Accommodation</td>
<td>Sec. 6-30-160</td>
</tr>
<tr>
<td>Minor Expansion of a Multi-Family Dwelling Unit in the RMF Zone District</td>
<td></td>
<td>Sec. 6-30-170</td>
</tr>
</tbody>
</table>
EXHIBIT F

The following section shall be added: Section 6-30-170:

MINOR EXPANSION OF A MULTI-FAMILY DWELLING UNIT IN THE RMF ZONE DISTRICT

A GMQS exemption is provided for minor expansions to a multi-family dwelling structure or individual dwelling unit in the RMF zone district. The GMQS exemption for a minor expansion to a multi-family dwelling unit is limited to construction of subgrade floor area.
ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, REZONING THE LE CHAMONIX MULTI-FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12, FROM AR-10 TO RMF

Ordinance No. 030 - 2012

RECITALS

1. Le Chamonix Association, Inc has applied to rezone the Le Chamonix Multi-Family Housing Complex, Units 1 through 12, from AR-10 to Residential Multi Family (RMF).

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposed rezoning at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposed rezoning at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to rezoning request.

5. The BOCC finds that the proposed land is eligible for the RMF zone district designation as it meets the intent of this zone district.

6. The BOCC further finds that the rezoning is consistent with Sections 2-30-40(i) and 2-40-10(c)(2) of the Pitkin County Land Use Code

NOW, THEREFORE, BE IT ORDAINED by the Pitkin County Board of County Commissioners that it hereby rezones the Le Chamonix Multi-Family Housing Complex Units 1 through 12 from AR-10 to RMF

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING AT A PUBLIC MEETING on the 24th day of October, 2012.

THIS REZONING SHALL NOT BECOME EFFECTIVE UNLESS AND UNTIL THE LE CHAMONIX DETAILED SUBDIVISION SUBMISSION/FINAL PLAT AND PUD IS APPROVED BY THE BOCC
PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 21st day of November 2012.

THIS ORDINANCE SHALL BECOME EFFECTIVE 30 DAYS AFTER PUBLICATION FOLLOWING FINAL ADOPTION BY THE BOARD OF COUNTY COMMISSIONERS.

ATTEST:  
Jeanette Jones  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO

Michael Owsley,  
Chairman

Date: 12-4-2012

APPROVED AS TO FORM:  
John Ely,  
County Attorney

APPROVED AS TO CONTENT:  
Cindy Houben,  
Community Development Director

PID#: 273514202002 through 012  
Case#: P010-12
Attachment A

Le Chamonix
12 units total

Legend

Ordinance No. 2012
Page 3 of 3
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING CONCEPTUAL SUBDIVISION AND PLANNED UNIT DEVELOPMENT APPROVAL FOR LE CHAMONIX ASSOCIATION INCORPORATED, AT THE LE CHAMONIX MULTI FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12

BOCC Resolution No. C2012

Recitals

1. Le Chamonix Association, Inc. collectively units 1 through 12, ("hereafter the Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for Conceptual Subdivision and Planned Unit Development (PUD) approval. The purpose of the application is to eliminate the legal non-conforming status of the multi-family housing complex and allow for creation of basement space. To accomplish the request, a new zone district has been proposed named the Residential Multi Family (RMF) zone district. The request proposes to rezone Le Chamonix to the RMF and create a PUD in effort to vary certain setbacks and parking in the new zone district. Because a PUD can only be created during the subdivision process, the Applicant has requested Conceptual Subdivision approval at this time, though no land is being subdivided. The Rezoning request and the Land Use Code Text Amendments are addressed in separate ordinances.

2. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

3. The Planning and Zoning Commission reviewed the proposal at a regularly scheduled meeting on May 1st, 2012. The Commission voted 4-0 to recommend approval to the BOCC.

4. The BOCC reviewed the proposal at 1st Reading, Conceptual Submission and a duly noticed continued public hearing and regularly scheduled public meeting, on September 12th, 2012. 2nd Reading was heard at a regularly scheduled public meeting on October 24th, 2012. Evidence and testimony were presented with respect to the request.

5. The BOCC finds that the proposal demonstrates compliance with Conceptual Subdivision and PUD sections of the Land Use Code.

6. The BOCC further finds that Applicant’s request to comprehensively address expansion potential and the non-conforming status at the Le Chamonix Multi-Family Housing Complex is the appropriate approach, in contrast to piecemeal applications by each unit owner.

NOW THEREFORE BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Multi-Family Housing Complex Conceptual Subdivision and PUD which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Le Chamonix is limited to 12 units of density.

RECEIPT #: 594479, 12/04/2012 at 03:25:07 PM, $0.00 Doc Code RESOLUTION
Janice K. Vos Caudill, Pitkin County, CO
3. Basement buildout space is exempt from Growth Management Competition or use of TDR's. Deck enclosure and any other expansion potential is subject to Growth Management Competition or use of TDR's.

4. At Detailed Subdivision/Final Plat Submission, the Applicant shall submit a refined PUD guide for the Le Chamonix property that outlines parking, allocated basement expansion and deck enclosure potential for each unit, and varied setbacks.

5. At Detailed Subdivision/Final Plat submission, the Applicant shall provide a draft easement or ownership title to the Pitkin County Open Space and Trails Department for the trail along Maroon Creek. This easement will be forward to OST for review. Prior to Detailed and Final Plat approval the easement shall be formally conveyed to the County.

6. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
Resolution No. 092-2012
Page 3 of 3

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 21st day of June, 2012.

INTRODUCED ON FIRST READING AT A CONTINUED PUBLIC HEARING on the 12th day of September, 2012.

APPROVED AND ADOPTED ON SECOND READING on the 24th day of October, 2012.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES on the 29th day of December 2012.

ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Michael Owsley,
Chairman
Date: 12-4-2012

APPROVED AS TO FORM:

John Ely,
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director

PID#’s: 273514202002 through 012
Case#: P010-12
Attachment A

Le Chamonix
12 units total
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING DETAILED/FINAL PLAT SUBMISSION AND PLANNED UNIT DEVELOPMENT APPROVAL FOR LE CHAMONIX ASSOCIATION INCORPORATED, AT THE LE CHAMONIX MULTI FAMILY HOUSING COMPLEX, UNITS 1 THROUGH 12

BOCC Resolution No. 068-2014

Recitals

1. Le Chamonix Association, Inc. collectively units 1 through 12, ("hereafter the Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for Detailed/Final Plat Subdivision approval and Planned Unit Development (PUD) approval. The purpose of the application is to eliminate the legal non-conforming status of the multi-family housing complex and allow for creation of basement space. To accomplish the request, the Land Use Code was amended and a new zone district has been created named the Residential Multi Family (RMF) Zone District pursuant to Ordinance No. 29-2012. The subject property has been rezoned to the RMF pursuant to Ordinance No. 30-2012. Both the Land Use Code Amendment and Rezoning become effective under this Resolution.

2. With this proposal, a PUD is created an effort to vary certain dimensional requirements in the new RMF Zone District. Because a PUD can only be created during the subdivision process, the Applicant has requested Detailed/Final Subdivision approval at this time, though no land is being subdivided.

3. The Le Chamonix Multi-Family Housing Complex is located at 1501 Maroon Creek Road and is legally described as the Le Chamonix Subdivision Units 1 through 12. Attachment A depicts the units as they exist today.

4. The Planning and Zoning Commission reviewed the proposal at a regularly scheduled meeting on November 12th, 2014. The Commission voted 5-0 to recommend approval to the BOCC.

5. The BOCC reviewed the proposal at 1st Reading, Detailed/Final Submission and a public hearing, on May 14th, 2014. 2nd Reading was heard at a public hearing on June 11th, 2014. Evidence and testimony were presented with respect to the request.

6. The BOCC finds that the proposal demonstrates compliance with Detailed/Final and PUD sections of the Land Use Code.

7. The BOCC further finds that Applicant’s request to comprehensively address expansion potential and the non-conforming status at the Le Chamonix Multi-Family Housing Complex is the appropriate approach, in contrast to piecemeal applications by each unit owner.

NOW THEREFORE BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Multi-Family Housing Complex Detailed/Final Submission and PUD which shall run with the land and be binding on all successors in interest:
1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Prior to submittal of any building permit applications, the Applicant shall record a Final Plat in accordance with Section 2.6 of the Land Use Application Manual and in a form acceptable to the Community Development Director and the County Attorney which shall be reviewed and recorded at the Clerk’s Office.

3. Deck enclosures, garage conversions to habitable floor area, and other expansions of floor area not under this approval are subject to the use of TDR’s or a GMQS allotment.

4. The Le Chamonix PUD Guide can be viewed as Attachment B.

5. Prior to recordation of the Detailed/Final Plat approval, a trail easement to the benefit of Pitkin County for the trail along Maroon Creek shall be recorded to the satisfaction of the Open Space and Trails Department.

6. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
INTRODUCED, FIRST READ, AND SET FOR PUBLIC HEARING ON THE 14TH DAY OF MAY 2014.


ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE 11TH DAY OF JUNE 2014.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE 11TH DAY OF JULY 2014.


ATTEST:

[Signatures]

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

[Signatures]

Robert A. Ittner Jr.,
Chair
Date: 7/9/14

APPROVED AS TO FORM:

[Signature]
John Ely,
County Attorney

APPROVED AS TO CONTENT:

[Signature]
Cindy Houben,
Community Development Director

PID##s: 273514202002 through 012
Case#: P067-13
Attachment A

Le Chamonix
12 units total
LE CHAMONIX ASSOCIATION INCORPORATED
PLANNED UNIT DEVELOPMENT GUIDE

I. Purpose

On June 14, the Pitkin County Board of County Commissioners (hereinafter the "Board") approved the Le Chamonix Association Incorporated Planned Unit Development (hereinafter "Chamonix PUD") Detailed Submission (Site Specific Development Plan) pursuant to the Pitkin County Land Use Code (hereinafter "Code"). Section 3-70-30 of the Code establishes the Planned Unit Development (hereinafter "PUD") standards which allow variance from the strict adherence to the area and bulk requirements of underlying zone districts within a PUD.

The purposes of the Chamonix Guide are to:

A. Clearly identify area and bulk requirements approved pursuant to Section 3-70-30 of the Code.

B. Clearly identify in one document representations and commitments made by Chamonix (hereinafter "Applicant") and the Board.

C. Clearly state and iterate in one document the standards, restrictions and regulations which govern land use development within the Chamonix PUD.

D. Facilitate the Pitkin County Zoning and Building Department reviews by establishing review standards.

E. Identify standards enforceable by Pitkin County in one document separate from the Chamonix Condominium Declarations and Protective Covenants which are not enforceable by Pitkin County.

II. Pitkin County Land Use Code

Chamonix PUD has been reviewed based upon the Pitkin County Land Use Code in effect on August 2, 2013.

The PUD Guide identifies variations from the Pitkin County Land Use Code approved by Pitkin County during the land use review process and restrictions which may be enforced by Pitkin County.
III. Allowed Uses

Allowed uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. The RMF zone is a residential zone intended for multi-family residential dwelling units. Residential uses are intended for use exclusively for dwelling purposes, but not including hotel or lodge rooms.

IV. Prohibited Uses

Prohibited uses are established in by the RMF zone district regulations in Section 3-50-90 of the Code. Tourist accommodation uses are prohibited in the RMF zone. Tourist Accommodation unit means any unit intended to be occupied principally by visitors to Pitkin County, located in a facility that offers customary on-site management and operation services for visitors. This use shall include units found in a lodge, hotel, motel, tourist dormitory, resort cabin, guest ranch, or similar facility, but shall exclude any high country hut, tourist camping or similar facility that does not provide on-site management and operation services or that does not meet the definition of dwelling unit in this Chapter 11 of the Code. Also excluded shall be dwelling units that are principally residences as defined in this Chapter 11 of the Code, and are subject to residential growth management quota system allotments even though they may from time to time be used by visitors.

V. Dimensional Requirements

This section establishes dimensional requirements for the PUD. The dimensional requirements of the Code apply to the Le Chamonix unless varied in this section. There are two dwelling units within Le Chamonix unit 1 as defined by the Pitkin County Land Use Code. Unit 1 may continue to be used as it is currently being used and is considered to be in conformance with zoning pursuant to this PUD Guide. The unit may be remodeled and in the event of the damage or destruction due to a disaster it may be reconstructed. However, if all the units in Le Chamonix are demolished and reconstructed there may be only one unit reconstructed within unit 1.

A. Lots

Minimum Lot Area (acres) 1 acre
Minimum Lot Area per Dwelling Unit .14 acre

B. Maximum Number of Dwelling Units on the Property 12

C. Maximum Dwelling Units Per Acre 10.5

D. Minimum Useable Open Space per Dwelling Unit (square feet) 500

E. Minimum Lot Width 75'
F. Minimum Setbacks from Property Lines

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>5'</td>
</tr>
<tr>
<td>Side</td>
<td>5'</td>
</tr>
<tr>
<td>Rear</td>
<td>20'</td>
</tr>
</tbody>
</table>

G. Maximum Height

Increases in the height of the Le Chamonix Condominiums will only be considered by Pitkin County based upon a plan for the entire Condominium structure and will be subject to a major PUD amendment, Site Plan and Scenic View Protection Reviews. Height increases on a unit by unit basis are prohibited.

The Height limit for the PUD is 28 feet for the primary structure and 20 feet for the accessory structure except for those units listed below.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>33' 3&quot;</td>
</tr>
<tr>
<td>9</td>
<td>31' 2&quot;</td>
</tr>
<tr>
<td>10</td>
<td>29'</td>
</tr>
<tr>
<td>11</td>
<td>28' 11&quot;</td>
</tr>
<tr>
<td>12</td>
<td>28' 3&quot;</td>
</tr>
</tbody>
</table>

Refer to Figure 1, Existing Building Heights and Height Calculations, to view methodology for determining height.

H. Existing Decks

The existing decks located on the north side of the structure are permitted. The decks located on the north side of the structure may be removed, removed, renovated and/or reconstructed subject to obtaining required Pitkin County building and demolition permits. The sizes of the decks (square feet) located on the north side of the structure are documented in Figure 2 and listed below.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>784</td>
</tr>
<tr>
<td>2</td>
<td>540</td>
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<tr>
<td>3</td>
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<td>9</td>
<td>673</td>
</tr>
<tr>
<td>10</td>
<td>487</td>
</tr>
<tr>
<td>11</td>
<td>232</td>
</tr>
<tr>
<td>12</td>
<td>430</td>
</tr>
</tbody>
</table>
I. Existing Floor Area

Table 1 documents the approved existing floor area and crawl space for each unit in Le Chamonix. The calculations for determining these floor area numbers pursuant to the Pitkin County Code are depicted in Figure 2 of this PUD Guide. Units 1 and 12 each include floor area being used as garages as noted in Table 1 and depicted in Figure 2.

Table 1

<table>
<thead>
<tr>
<th>Unit</th>
<th>Existing Floor Area**</th>
<th>Unfinished Crawl Space Over 5'6&quot; Per Code Counted in Allowable Floor Area</th>
<th>Unfinished Crawl Space Under 5'6&quot; Per Code is not Counted in Allowable Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3174 +379 G=3553</td>
<td>105</td>
<td>470</td>
</tr>
<tr>
<td>2</td>
<td>1772</td>
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<td>11</td>
<td>2390</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>12</td>
<td>2264 + 461G= 2725</td>
<td>220</td>
<td>995</td>
</tr>
<tr>
<td>Common</td>
<td>211</td>
<td>0</td>
<td>198</td>
</tr>
</tbody>
</table>

TOTAL: 28,515+ 840 Garage 1,616 4,075

W/ GARAGE: 29,355

- See Figure 2 for calculations of floor area.

** existing Floor Area includes unfinished crawl space over 5’6” identified in the 3rd column from the left.

Source: Davis Horn Incorporated and Scot Broughton Architects LLC, January 2014

J. Maximum Floor Area

Gross Floor Area for PUD based on Floor Area Ratio (FAR) .5
Floor Area for all Dwelling Units except Unit 1: 2,855
Floor area for Dwelling Unit 1: 3,174+379 Garage= 3,553
Floor area for Dwelling Unit 12: 2,264 + 461 Garage = 2,725
K. **Setback from Maroon Creek Road a Major Road**

This section establishes the major road setback from Maroon Creek Road to individual dwelling units in Chamonix. Attachment A depicts the measured shortest distance from each unit to the Maroon Creek Road right of way (major road). This shortest distance is the setback for each unit.

Unit 1: 9.3'
Unit 2: 10.4'
Unit 3: 18.2'
Unit 4: 18.4'
Unit 5: 55.1
Unit 6: 67.4'
Unit 7: 63.9'
Unit 8: 56.1'
Unit 9: 34.8'
Unit 10: 13.3'
Unit 11: 11.1'
Unit 12: 11.3'
Storage shed 0.0'

L. **Expansion of Dwelling Units**

The existing crawl spaces (areas which are less than 5' 6") under the dwelling units listed in this section may be expanded provided that the new floor area does not exceed the limitations in this section and the maximum floor area permitted per unit. The expansion of all other dwelling units in the PUD is prohibited unless the PUD is amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint or height is prohibited unless the PUD is amended pursuant to Section 2-40-50 of the Code.

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

M. **Enclosure of Decks**

The enclosures of decks located on the north side of the structure are not approved as part of this PUD approval. The portions of the decks which exceed 15 percent of the floor area of each unit are included in floor area based upon the existing Pitkin County Land Use Code floor area definition. Refer to Attachment 10 for the calculation of deck floor area.

The future enclosure of decks may be possible subject to Site Plan review approval by
Pitkin County and compliance with the floor area limitations established in this PUD Guide.

Ø. Increases in Floor Area, Finishing Unfinished Crawl Spaces Over 5’ 6” and Converting Floor Area Located In Garages to Living Space

Any deck enclosure requires a residential Growth Management Quota System (GMQS) allotment or a Transferable Development Right (TDR). Expanding the floor area of any dwelling unit other than the conversion of the unit crawl spaces (subgrade space) identified in Section V. L. (Units 2, 3, 6, 7, and 12) requires either a residential GMQS allotment or a TDR.

The existing crawl spaces (subgrade space) which are over 5’6” in height are identified in Table 1 (Units 1, 5, 6, 7 and 12). These unfinished subgrade spaces may be converted to finished space subject to compliance with the building codes.

The existing floor area located in the garages in Units 1 and 12 (see Section V.1.) may be converted to habitable floor area provided there is no change to the building footprint and there is no expansion in floor area. Conversion of floor area in garages to habitable floor area requires a residential GMQS allotment or exemption. No new garages which require additional floor area may be built without a residential GMQS allotment or exemption.

Any alteration of the building footprint is not permitted without additional Pitkin County land use review.

VI. Parking

Twenty (20) off-street parking spaces are required. Seven (7) of the twenty (20) parking spaces may be stacked provided that no more than one stacked space per unit is permitted. The parking spaces are not required to have 24 feet of back-up area.
RESOLUTION OF THE PITKIN COUNTY, COLORADO
BOARD OF ADJUSTMENT
GRANTING MAJOR ROAD AND SIDE YARD SETBACK VARIANCES FOR THE
RECONSTRUCTION OF RETAINING WALLS AT
LE CHAMONIX CONDOMINIUMS
Resolution No. 04-2011

WHEREAS, Le Chamonix Association Inc, owner of 1501 Maroon Creek Road, is requesting approval of a Major Road and Side Yard setback variances where 100 feet and 20 feet respectively are required for the re-construction of a failing retaining wall; and

WHEREAS, the lot contains approximately 2 acres, is located in the AR-10 zone district, and is more fully described in Exhibit A; and

WHEREAS, the Board of Adjustment is vested with the power to grant or deny such variances by virtue of Title II, Section 7-10.30, Pitkin County Code (Land Use Code) and Colorado Revised Statutes, 30-28-118(2)(C); and,

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following findings:

1. Proper notice procedures, including the notification of all adjoining property owners, has been shown by the applicant.
2. The required hardship or practical difficulty has been established.
3. Granting such relief will not cause substantial detriment to the public welfare and will not substantially impair the intent and purpose of the Zoning Resolutions and the zoning maps.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment that Major Road and Side Yard setback variances be granted for the re-construction of the retaining wall shown on Exhibit B, due to topographic hardships.

WARNING: Any violation of the terms of this resolution may result in rehearing and possible revocation.

The Resolution was adopted by vote of the Board of Adjustment of the County of Pitkin, State of Colorado.

DATED: May 3, 2011

ATTEST:

Joanna S. Schaffner, Date
/Pitkin County Zoning Officer

RECEPTION#: 579879, 05/13/2011 at 11:10:35 AM, 1 OF 3, R $0.00 Doc Code RESOLUTION
Janice K. Vos Caudill, Pitkin County, CO

Jamie McLeod, Date
Co-Chair, Board of Adjustment

Parcel ID#: 273514202001-012
Illustration of Variance Requested

- 20' Side Yard setback
- 0' Existing Encroachment
- 2' Proposed Encroachment
- 2' Total Encroachment
- 100 Foot Roadway Setback
- Property Line
- 7' Existing Encroachment
- 2' Proposed Encroachment
- 9' Total Encroachment

Note: Due to the angle of the property line, the new retaining wall will not encroach into the setback between the 2 pts. of encroachment.
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, GRANTING ACTIVITY ENVELOPE AND SITE PLAN APPROVAL FOR THE LE CHAMONIX HOMEOWNERS ASSOCIATION BANK RESTORATION PROJECT AND EXPANSION/RESTORATION OF A LEGAL NON-CONFORMING STRUCTURE WITH SIGNIFICANT CHANGES

BOCC Resolution No. 043-2011

Recitals

1. Le Chamonix Homeowners Association ("Applicant") has applied to the Pitkin County Board of County Commissioners ("BOCC") for a one step Activity Envelope and Site Plan Review for a bank restoration project to repair a failing timber retaining wall on the north side of the building. The Applicant also requests approval for Expansion/Restoration of a Legal Non-conforming Structure With Significant Changes due to the fact that the Le Chamonix complex resides within the 100’ road setback of Maroon Creek Road, the 100’ stream setback of Maroon Creek, and the side yard setback for the Lot.

2. The Le Chamonix complex is located at 1501 Maroon Creek and is within the AR-10 zone district and is legally described as the Le Chamonix Subdivision Units 1-12.

3. The Le Chamonix complex attained a variance from the Board of Adjustment for encroachments into the 100’ Maroon Creek Road Setback and the side yard setback pursuant to BOA Resolution No. 04-2011 (Reception No. 579879).

4. The BOCC heard this application at a duly noticed public hearing on May 11, 2011 at which time evidence and testimony were presented with respect to this application. No written public comment was received during the comment period.

5. The BOCC finds that the proposal demonstrates the need for restoration of the failing retaining wall located on the bank of Maroon Creek. This proposal, if implemented as demonstrated, will improve the bank of the Creek and improve the safety of the Le Chamonix complex as a whole.

6. The BOCC further finds that the under Section 7-20-80(c)(2) the application has been presented as a bank restoration project and has been designed for the purpose of restoring, and preventing further degradation of the bank.

7. The BOCC further finds that the Le Chamonix complex is a legal non-conforming structure, and under section 9-50-30, the proposal will not create adverse impacts. Restoration of the timber retaining wall will improve the function and safety of the wall.

NOW, THEREFORE, BE IT RESOLVED by the Pitkin County Board of County Commissioners that it hereby grants approval for the Le Chamonix Bank Restoration Project and Expansion/Restoration of a Non-Conforming Structure With Significant Changes subject to the following conditions, which shall run with the land and be binding on all successors in interest:
1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.

2. Prior to submission of any future permit applications, the Applicant shall be required to submit for approval by the County Attorney and Community Development a Site Plan with an Activity Envelope in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12. The above referenced approvals shall be a condition precedent to finalization and recordation.

3. The Applicant shall submit an earthmoving permit that identifies all areas disturbed by construction. The permit shall include a detailed revegetation plan that shows native riparian plantings and/or vegetation in the area. All revegetation shall occur within one growing season of the project's completion as represented in the application. Financial security for successful revegetation is required. A tree mitigation plan shall be submitted for the removal of any trees larger than six (6) inch DBH.

4. The Applicant shall provide a detailed construction management plan which delineates access to the site, and all disturbances, material storage, and parking areas. All disturbances shall be contained in the approved development envelope.

5. The Applicant shall submit a drainage and erosion control plan which addresses how sediments will be contained on site and prevented from polluting Maroon Creek.

6. Lane closures of Maroon Creek Road shall not disrupt special events that are scheduled to use the Road.

7. The Applicant shall clear Maroon Creek Road of debris associated with construction, on a daily basis, or more frequently if required.

8. The Applicant shall obtain a right of way permit for Maroon Creek Road closures during construction prior to issuance of the building permit.

9. No development shall occur outside the approved activity envelope.

10. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on May 11, 2014.

11. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES on the 10th day of April 2011.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS IN THE ASPEN TIMES WEEKLY ON 6-26-2011.

APPROVED AND ADOPTED at the public hearing on the 11th day of May, 2011.

ATTEST:

Jeanette Jones
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Rachel E. Richards, Chairwoman

Date: 6/8/2011

APPROVED AS TO FORM:

John Fry
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben,
Community Development Director

Case # 019-11

PIDs: 273514202001 thru 012

Resolution No. 045 -2011
Page 3 of 3
MAROON CREEK ROAD VIEW

WIRE MESH. BRONZE COLOR.
FENCE & GATES. WELDED
CONCRETE. NATURAL GREY
FENCE. BOARD FORMED
PROFILE. BLACK FINISH.
BEAM. STEEL C. CHANNEL
COLOR.
PATTERN. LIGHT BEIGE
VENEER. LEAD GE STONE
WALL FINISH. STONE
BRONZE FINISH.
WINDOWS AND DOORS.
BROWN TONES.
VERTICAL WOOD SIDING.
WALL FINISH. STAINED
SMOOTH FINISH.
WALL FINISH. GREY STUCCO.
AMENDED
LE CHAMONIX ASSOCIATION INCORPORATED
PLANNED UNIT DEVELOPMENT GUIDE
2019

I. Purpose

On __________, the Pitkin County Board of County Commissioners (hereinafter the "Board") approved the Le Chamonix Association Incorporated Amended Planned Unit Development (hereinafter "Le Chamonix Amended PUD") pursuant to the Pitkin County Land Use Code (hereinafter "Code"). Section 3-70-30 of the Code establishes the Planned Unit Development (hereinafter "PUD") standards which allow variance from the strict adherence to the area and bulk requirements of underlying zone districts within a PUD. This Amended PUD Guide retains all the applicable standards from the 2014 PUD approvals and makes amendments based upon the 2019 approvals for a Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS floor area allotment.

The purposes of the Chamonix Guide are to:

A. Clearly identify area and bulk requirements approved pursuant to Section 3-70-30 of the Code.

B. Clearly identify in one document representations and commitments made by Chamonix (hereinafter "Applicant") and the Board.

C. Clearly state and iterate in one document the standards, restrictions and regulations which govern land use development within the Chamonix PUD.

D. Facilitate the Pitkin County Zoning and Building Department reviews by establishing review standards.

E. Identify standards enforceable by Pitkin County in one document separate from the Chamonix Condominium Declarations and Protective Covenants which are not enforceable by Pitkin County.

II. Pitkin County Land Use Code

The Amended Le Chamonix PUD has been reviewed based upon the Pitkin County Land Use Code in effect on ________________.

The PUD Guide identifies variations from the Pitkin County Land Use Code approved by Pitkin County during the land use review process and restrictions which may be enforced by Pitkin County.

III. Allowed Uses
Allowed uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. The RMF zone is a residential zone intended for multi-family residential dwelling units. Residential uses are intended for use exclusively for dwelling purposes, but not including hotel or lodge rooms.

IV. Prohibited Uses

Prohibited uses are established by the RMF zone district regulations in Section 3-50-90 of the Code. Tourist accommodation uses are prohibited in the RMF zone. Tourist Accommodation unit means any unit intended to be occupied principally by visitors to Pitkin County, located in a facility that offers customary on-site management and operation services for visitors. This use shall include units found in a lodge, hotel, motel, tourist dormitory, resort cabin, guest ranch, or similar facility, but shall exclude any high country hut, tourist camping or similar facility that does not provide on-site management and operation services or that does not meet the definition of dwelling unit in Chapter 11 of the Pitkin County Land Use Code. Also excluded shall be dwelling units that are principally residences as defined in this Chapter 11 of the Code, and are subject to residential growth management quota system allotments even though they may from time to time be used by visitors.

V. Dimensional Requirements

This section establishes dimensional requirements for the PUD. The dimensional requirements of the Code apply to the Le Chamonix unless varied in this section. There are two dwelling units within Le Chamonix Unit 1 as defined by the Pitkin County Land Use Code. Unit 1 may continue to be used as it is currently being used and is considered to be in conformance with zoning pursuant to this PUD Guide. The unit may be remodeled and in the event of the damage or destruction due to a disaster it may be reconstructed. However, if all the units in Le Chamonix are demolished and reconstructed there may be only one unit reconstructed within unit 1.

A. Lots

<table>
<thead>
<tr>
<th>Minimum Lot Area (acres)</th>
<th>1 acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area per Dwelling Unit</td>
<td>.14 acre</td>
</tr>
</tbody>
</table>

B. Maximum Number of Dwelling Units on the Property

| 12 |

C. Maximum Dwelling Units Per Acre

| 10.5 |

D. Minimum Useable Open Space per Dwelling Unit (square feet)

| 500 |

E. Minimum Lot Width

| 75' |

F. Minimum Setbacks from Property Lines
Front  5'
Side   5'
Rear  20'

G. Maximum Height: 28 feet for the primary structure as shown in Figure 1 and 20 feet for the accessory structure; only two stories are allowed on the front, Maroon Creek Road side of the structure.

Increases in the height of the Le Chamonix Condominium units up to the maximum allowed 28 foot height limit in the RMF zone district have been considered by Pitkin County based upon a plan for the entire Condominium structure which was the subject of a Major PUD Amendment, Site Plan and Scenic View Protection Reviews and a GMQS allotment. Height increases on a unit by unit basis are allowed when in conformance with Board of County Commissioners Resolution No. ____ and in this Amended PUD Guide. The Height limit for the Amended PUD is 28 feet for the units in the primary structure except for Units 8, 9, 10, 11 and 12 and their height limits are:

Unit 8  33' 3”
Unit 9  31' 2”
Unit 10 29’
Unit 11 28' 11”
Unit 12 28' 3”

All units in the primary structure will retain two stories on the front, Maroon Creek Road side of the structure. This makes each unit’s height as viewed from Maroon Creek Road lower than 28 feet as illustrated in Figure 1. The height limit is 20 feet for the accessory structure. Refer to Figure 1 to this PUD Guide, Existing Building Heights and Height Calculations, to view methodology for determining height as approved in the 2019 Amended PUD.

H. Existing Decks

The existing decks located on the north side of the structure are permitted. The decks located on the north side of the structure may be renovated and/or reconstructed subject to obtaining required Pitkin County building permits. The sizes of the decks (square feet) are documented in Figure 2 and are as follows:

Unit 1: 784  Unit 7:  646
Unit 2: 540  Unit 8:  339
Unit 3: 609  Unit 9:  673
Unit 4: 666  Unit 10: 487
Unit 5: 526  Unit 11: 232
Unit 6: 493  Unit 12: 430

All Le Chamonix units and decks are oriented toward Maroon Creek (the water body) to
the north and northwest. Visual impacts are insignificant toward this side of the building and no scenic corridor is impacted.

I. Existing Floor Area.

Table 1 documents the approved existing floor area and crawl space for each unit in Le Chamonix. After the 2014 PUD approvals, the owner of Unit 12 obtained a GMQS allotment for 220 square feet of floor area in the 2015 GMQS competition in order to take one bay (220 square feet) of an existing two car garage (461 square feet) and convert the space to finished floor area, leaving only a one car garage of 241 square feet. This is the only change since the existing floor area was documented in 2014.

Table 1
Le Chamonix Existing Floor Area

<table>
<thead>
<tr>
<th>Unit</th>
<th>Existing Floor Area*</th>
<th>Unfinished Crawl Space Over 5'6&quot; Per Code Counted in Allowable Floor Area</th>
<th>Unfinished Crawl Space Under 5'6&quot; Per Code is not Counted in Allowable Floor Area</th>
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<td>1</td>
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TOTAL: 28,735+ 620 Garage 1,616 4,075
W/ GARAGES: 29,335

- See Figure 2 for calculations of floor area.
- Existing Floor Area includes unfinished crawl space over 5'6" in the middle column
- Units 1 and 12 each include floor area being used as a garage as noted in Table 1 above and depicted in Figure 2 attached to this PUD Guide.

Source: Davis Horn Incorporated and Scot Broughton Architects LLC, January 2019

4
J. Maximum Floor Area

Floor Area Per Dwelling for Units #2 through 12: 2,855
Floor Area for Unit 1: 3,174
Floor Area Plus Garage for Dwelling Unit 1: 3,174+379 Garage = 3,553

The floor area additions and total floor area allowed for each unit after the 2019 PUD Amendment will be:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Allowed</th>
<th>Existing</th>
<th>Proposed and Available to Achieve 2588</th>
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<tr>
<td>#1:</td>
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<td>3,553 includes 379 Garage</td>
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<tr>
<td>#2:</td>
<td>2,855</td>
<td>1,772</td>
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<tr>
<td>#12:</td>
<td>2,855</td>
<td>2,725</td>
<td>130</td>
<td>2,855 includes 241 Garage</td>
</tr>
</tbody>
</table>

1-12 Unit Expansions: 5,814
Laundry Expansion: 100
Five Percent Buffer: 285
Total Expansion Approved: 6,200 (rounded)

Source: Davis Horn Incorporated and Scot Broughton Architects, LLC, January 2019.

K. Setback from Maroon Creek Road a Major Road

This section establishes the major road setback from Maroon Creek Road to individual dwelling units in Chamonix. Attachment A depicts the measured shortest distance from each unit to the Maroon Creek Road right of way (major road). This shortest distance is the setback for each unit.

Unit 1: 9.3’
Unit 2: 10.4’
Unit 3: 18.2’
Unit 4: 18.4’
Unit 5: 55.1’
Unit 6: 67.4'
Unit 7: 63.9'
Unit 8: 56.1'
Unit 9: 34.8'
Unit 10: 13.3'
Unit 11: 11.1'
Unit 12: 11.3'
Storage shed 0.0'

L. Expansion of Dwelling Units

The expansion of all dwelling units in the Le Chamonix PUD up to the allowed maximum floor area of 2,855 square feet (3,553 for Unit 1) is now allowed pursuant to the Major Amendment to a PUD, Activity Envelope and Site Plan, Scenic View Protection and GMQS approvals granted under BOCC Resolution No. _____ and this Amended PUD Guide. The PUD is amended pursuant to Section 2-40-50 of the Code. Alteration of the building footprint and/or height is allowed pursuant to BOCC Resolution No. _____ and this Amended PUD Guide.

The existing crawl spaces (areas which are less than 5’ 6”) under the following dwelling units may be expanded provided that the new floor area does not exceed the limitations in this section and the maximum floor area permitted for each unit. The following units contain such crawl spaces (areas which are less than 5’6”).

Unit 2: 657 square feet
Unit 3: 653 square feet
Unit 6: 538 square feet
Unit 7: 197 square feet
Unit 12: 591 square feet

M. Enclosure of Decks

The portions of the decks which exceed 15 percent of the floor area in any given unit which are already included in floor area based upon the existing Pitkin County Land Use Code floor area definition can be converted to finished floor area in the unit as long as the space is consistent with the Land Use Code, the Amended PUD approvals and the Amended PUD Guide. Refer to Figure 2 for the calculation of deck floor area. The enclosure of deck areas is possible as long as the enclosure is consistent with the PUD and is in compliance with the floor area limitations established in this Amended PUD Guide.

O. Increases in Floor Area including Deck Area Enclosures, Floor Area Expansions, Finishing Unfinished Crawl Spaces Over 5’ 6” and Converting Floor Area Located in Garages to Living Space.
**Deck Area Enclosure.** As deck areas are on the rear side of the structure with minimal visual impacts, deck enclosures can occur if the space is in conformance with all approvals including the maximum allowed floor area of 2,855 square feet for Units 2 through 12 and 3,553 square feet for Unit 1. A Growth Management Quota System (GMQS) allotment or a Transferable Development Right (TDR) is not required for deck enclosures as long as the floor area in the unit complies with the maximum allowed floor area of 2,855 square feet of floor area (3,553 for Unit 1).

**Floor Area Expansion.** Floor area expansions up to the maximum allowed 2,855 square feet per unit are allowed as long as the expansions are found to be in conformance with the elevations and perspectives approved through this PUD Amendment, GMQS, Activity Envelope and Site Plan, and Scenic Review approvals and the adopted Amended PUD Guide.

**Existing Crawl Space .5’6” Moved to Above Grade.** The existing crawl spaces (subgrade space) which are over 5’6” in height are identified in Table 1 (Units 1, 5, 6, 7 and 12). These unfinished subgrade spaces may be converted to finished space subject to compliance with the building codes. This floor area can be moved above grade as long as the space is consistent with the Land Use Code, the Amended PUD Guide and meets the maximum allowed floor area requirements.

**Garages.** The existing floor area located in the garages in Units 1 and 12 may be converted to habitable floor area provided there is no change to the building footprint and there is no expansion in floor area. Conversion of floor area in garages to habitable floor area will no longer require a residential GMQS allotment or exemption as these expansions must be in conformance with these 2019 approvals including the elevations and perspectives approved as part of the Scenic Review approval and the Amended PUD Guide.

**Alteration of the Building Footprint.** Alteration of the building footprint is permitted if the building footprint alteration is consistent with the Amended PUD land use approvals particularly the perspectives and elevations approved as part of Scenic Review approvals and BOCC Resolution No _____, the Amended PUD Guide including the figures attached.

**VI. Parking**

Twenty (20) off-street parking spaces are required. Seven (7) of the twenty (20) parking spaces may be stacked provided that no more than one stacked space per unit is permitted. The parking spaces are not required to have 24 feet of back-up area.
LOCATION: 1501 Maroon Creek Road
PID#: 273514202001-012, 273514202800
ZONING: RMF
OWNER: Le Chamonix HOA and individual unit owners (12 units)
APPLICANT: Le Chamonix HOA
REPRESENTATIVE: Glenn Horn
PHONE and EMAIL: 925-6587; ghorn@rof.net
DATE: November 26, 2018
PLANNER: Leslie Lamont, 920.5482
leslie.lamont@pitkincounty.com
Type of Application: Residential GMQS Allotment for Additional Floor Area, Major PUD Amendment and Site Plan and Scenic Review

Background: Le Chamonix is a multi-family housing complex that consists of 12 units. In 2012, the property was rezoned to Residential Multi-Family pursuant to Ordinance No. 30-2012. In 2014, the BOCC approved Detailed/Final Plat and Planned Unit Development pursuant Resolution No. 068-2014. A PUD Guide was also approved as part of this process and all proposed expansions must comply with the PUD Guide.

Description of Project/Development: The Applicants requests approval for an overall plan for the entire Le Chamonix Condominium structure to allow for an expansion of floor area, to upgrade the front elevation façade, and to increase height to attain the 28 foot height limit. All proposed expansions will comply with the established Le Chamonix PUD Guide approved pursuant to Resolution No 68-2014 including the established 28 foot height limit, a maximum floor area of 2,855 square feet per unit and all setbacks including the front yard setback which was established on a unit by unit basis in the PUD Guide. There are a few situations where minor height and floor area limits above the 28 foot height and 2,855 square feet limits were approved due to existing conditions. No expansion or increase will occur in these areas.

A Major PUD Amendment, Site Plan Review and Scenic Review are required to obtain approval for an overall plan for the entire Le Chamonix Condominium structure so that:

1) the 28 foot height limit allowed in the PUD Guide can be attained;
2) the maximum 2,855 square feet of floor area allowed per unit can be accommodated in an acceptable Site Plan and elevation from Maroon Creek Road; as no expansion beyond subgrade space is allowed without further approval;
3) the Le Chamonix HOA meets the Le Chamonix PUD Guide requirement that plans for individual unit height increases be made as part of a plan for the entire structure as height increases are now prohibited on a unit by unit basis; and
4) minor alterations to the building footprint can occur as no alteration of the building footprint is permitted pursuant to the PUD Guide without additional Pitkin County land use review.

A residential GMQS allotment for 5,750 square feet of additional floor area is requested to allow expansion of the twelve units in Le Chamonix up to the 2,855 square feet maximum allowed floor area per unit. The only expansion now allowed without a GMQS allotment or TDR is the
finishing of subgrade space when the resulting total floor area after the expansion is below the 2,855 square feet maximum allowed per unit. The allotment for floor area can then be allocated throughout the twelve units depending upon the existing floor area, the constraints on development and circumstances involved in each unique unit.

Clarification is also requested on the amendments to the PUD Guide which will be necessary to reflect the approval of the Site Plan, Scenic Review and the GMQS allotment if approval is granted. In particular, Sections G - Maximum Height, Section L - Expansion of Dwelling Units and Section O - Increases in Floor area, Finishing Unfinished Crawl Spaces Over 5’6” and Converting Floor Area Located in Garages to Living Space will need amendment.

Pitkin County Land Use Code:
- Sec. 1-60: Land Use Policies
- Sec. 2-20-150(e)(2), Major Amendment to Development Permit
- Sec. 2-40-40: Growth Management Quota System Scoring/Allotments
- Sec. 2-40-50: Subdivision and PUD Review Procedures
- Sec. 3-70-30(j): PUD - Architectural Review
- Sec. 6-50-20: Standards for Scoring Applications for Residential Allotments – deadline for additional floor area competition is January 15 or July 1.
- Sec. 7-10-50: Site Plan and Activity Envelope
- Sec. 7-20-80: River and Stream Corridors and Wetlands
- Sec. 7-20-120: Scenic View Protection

Review By: P&Z and BOCC (2 readings – formal resolution)

Public Hearing? YES, at P&Z (for GMQS scoring) and BOCC. The Applicant shall post a public notice sign on the property at least 15 days prior to the date specified for the Public Hearings pursuant to Sec. 2-20-100(a)(3) of the Land Use Code. In addition, the Applicant shall mail notice at least 30 days prior to the Public Hearings (by first class mail) to all owners within 300’ of the property with the return address of the Community Development Department (form of notice to be obtained from the Community Development Department). The names and addresses shall be those on the current tax records of Pitkin County, as they appear no more than 60 days prior to the date of the Public Hearings.

Staff Will Refer Application to: Maroon Creek Caucus, Aspen Fire Protection District, City of Aspen Planning (Jen Phelan)

FEES: $10,604 (make check payable to "Pitkin County Treasurer")
- $9,800 Planning Office flat fee: (non-refundable; based on 25 hours of staff time; if staff review time exceeds 30 hours, the Applicant will be charged for additional time above 25 hours at a rate of $325/hour)
- $725 Clerk
- $54 Publication Fee

To apply, submit 1 unbound and one-sided copy of the following information. Also provide all documents in PDF format as one combined file on a flash drive or email to planningapps@pitkincounty.com.
1. Letter of request, addressing (in detail) each of the provisions of the Pitkin County Land Use Code identified above and sufficient to demonstrate that all substantive review criteria have been met;
2. 24" by 36" and 11" by 17" Site Plan as designated in Section 2.1.12 of the Pitkin County Land Use Application Manual;
3. Scenic View Protection Exhibits as designated in Section 2.1.12 of the Application Manual;
4. Consent from the owners of the property for a representative to process the application and represent the owners;
5. Disclosure and proof of ownership of the property, consisting of a current certificate from a title insurance company or attorney licensed to practice law in the State of Colorado, listing the names of all owners of the property and all mortgagees, judgments, liens, easements, contracts and agreements affecting use and development of the parcel and proof of the owner’s right to use the land for the purposes identified in the development application.
6. Executed Pitkin County Community Development Agreement for Payment of Land Use Application Fees form (attached);
7. List of property owners within 300’ owners; and
8. This Pre-Application Conference Summary Sheet.

NOTES:

➢ PLEASE INCLUDE THE PARCEL ID NUMBER ON ALL DOCUMENTS IN YOUR APPLICATION.
➢ ALL MAPS SHALL BE FOLDED.
➢ The Land Use Code is available on-line at http://pitkincounty.com/468/County-Code.
➢ The Land Use Application manual is available on-line at http://pitkincounty.com/196/Land-Use
➢ Applicant will be responsible for mailed and posted notice. Public Notice requirements are described in Section 2-20-100 of the Pitkin County Land Use Code. A signed, notarized copy of the affidavit confirming notice must be received from Applicant prior to approval.
December 11, 2018

Alice Davis AICP
Davis Horn Inc.
215 South Monarch Street Suite 104
Aspen, CO. 81611

Dear Alice:

Thank you for contacting the Fire Protection District about possible fire protection projects that could benefit from a financial contribution through the Residential GMQS application for the Le Chamonix Condominiums.

There are several projects that I think could benefit the Maroon Creek Road corridor, the Le Chamonix neighborhood as well as all of Pitkin County. That neighborhood is a wildfire interface area and as you know, wildfires are of major concern. The District is in need of a training vehicle for our fire protection workers as currently there is no location for the necessary training. Also, the replacement of a brush truck, a smaller vehicle critical for wildfire protection and firefighting is also a need. Either of these two needs of the Fire Protection District would be an excellent use of the $15,000 donation that you have offered.

The Aspen Fire Protection District would happily be the beneficiary of a $15,000 donation offered by the Le Chamonix HOA. It would indeed be a valuable contribution toward the purchasing of either of these important assets which would enhance fire protection in the Le Chamonix neighborhood.

Thank you,

Parker Lathrop
Deputy Chief / Fire Marshal

Aspen Fire Protection District
420 E Hopkins Ave
Aspen, Colo 81611

(970) 925-5532
November 19, 2018

Alice Davis AICP
Glenn Horn AICP
Davis Horn Inc.
215 S. Monarch Street Suite #104
Aspen, CO. 81611

Dear Ms. Davis and Mr. Horn:

It has come to the Aspen School District’s attention that the Davis Horn Incorporated is working on a Residential Growth Management Application for the Le Chamonix Condominiums across from the Aspen Highlands Ski Area at 1501 Maroon Creek Road. The Le Chamonix Home Owners Association (HOA) will be asking for between 5,000 and 6,000 square feet of floor area to be spread among the twelve existing units for minor expansions.

As part of the Le Chamonix GMQS land use application, Davis Horn Incorporated would like to again commit funds to the Aspen School District to address transportation needs in the Maroon Creek Valley. The Aspen School District can put this money to good use for transportation planning, bus and/or traffic studies or future projects or efforts to improve road capacity or road safety along Maroon Creek Road in the neighborhood. As a result the Le Chamonix HOA would like to contribute $5,000 to the Aspen School District to help resolve or reduce the ongoing transportation challenges in our neighborhood.

The Aspen School District would welcome the donation as we continue our work from the Community Forum Task Force on transportation and mobility and adopt many progressive transportation options in and around the schools, along Maroon Creek Road and in the neighborhood. Please accept this letter as a letter of encouragement, cooperation, and support of the Davis Horn Incorporated and the Le Chamonix Condominiums GMQS land application. Also, the Aspen School District expresses its gratitude for thinking about how we can put these dollars to good use for transportation related concerns along the Maroon Creek corridor.

Respectfully,

Dr. John Maloy
Superintendent of Schools
Aspen School District
0235 High School Road
Aspen, CO 81611
November 21, 2018

Alice Davis AICP
Davis Horn Inc.
215 S. Monarch Street Suite #104
Aspen, CO. 81611
970 925-6587

Dear Alice,

Thank you for contacting us about possible trail projects that could benefit from a financial contribution through the Residential GMQS application for the Le Chamonix Condominiums.

There are several parks and trails projects in the Maroon Creek Road corridor that could potentially benefit from this contribution. The primary ones that seem to be the best fit are the Maroon Creek Road paved commuter trail planning and additional upgrades to the Maroon Creek recreational single-track trail that runs through the Maroon Creek gorge. The first of these projects will provide an alternative paved trail connection between the round-a-bout and the Aspen Recreation Center. The goal of this project is to identify an alignment that avoids the Aspen school district campus and provides a more seamless connection.

The Maroon Creek Trail corridor project has been an ongoing effort to make significant improvements to this much loved community trail. Last year we re-built the old US Forest Service bridge at the bottom of this trail. Next year we are looking at making improvements to the trail on the east side of the gorge down to the bridge that crosses Maroon Creek.

This financial contribution that is being considered for these projects would indeed assist our efforts to implement these improvements and would be of community benefit. We appreciate your thinking of Parks, Open Space and Trails projects as being the beneficiary of this contribution.

Sincerely,

Austin Weiss,
City of Aspen Parks & Open Space Director
Le Chamonix Homeowners Association Incorporated
Martin Erck, President
Board of Directors
1501 Maroon Creek Road Unit 2
Aspen, CO 81611

January 7, 2019

Leslie Lamont
Pitkin County Community Development Department
130 South Galena Street
Aspen, CO 81611

RE: Authorization to Submit a Land Use Application for the Le Chamonix Homeowners
Association and the 12 Owners of Units 1 through 12; 1501 Maroon Creek Road
(Parcel ID 2735-142-02-001 through 2735-142-02-012)

Dear Leslie:

This letter authorizes Davis Horn Incorporated to submit a land use application for the Le
Chamonix Condominium Association and the twelve owners at Le Chamonix. Davis Horn
Incorporated is also authorized to represent them in the land use review process. Glenn Horn or
Alice Davis of Davis Horn Incorporated can be reached at 970 925-6587 and are located at 215
South Monarch Street Suite 104 in Aspen Colorado, 81611.

The parcel identification numbers (PIDs) for the property are 2735-142-02-001 through
2735-142-02-012. Please contact Glenn or Alice if you have any questions or concerns.

Sincerely,

[Signature]

Martin Erck
President of the Board of Directors
Le Chamonix Condominium Association Incorporated
PITKIN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
AGREEMENT FOR PAYMENT OF LAND USE APPLICATION FEES

PITKIN COUNTY (hereinafter COUNTY) and Le Chamonix Condominium Association Inc. (hereinafter APPLICANT) AGREE AS FOLLOWS:

1. APPLICANT has submitted to COUNTY an application for Major PUD Amendment, Activity Envelope and Site Plan, Scenic Review and GMOS Allotment for Additional Floor Area (hereinafter, THE PROJECT).

2. APPLICANT understands and agrees that Pitkin County Ordinance No. 012-2016 establishes a fee structure for land use applications and the payment of all processing fees is a condition precedent to a determination of application completeness. The fee structure is based on the County’s policy that development shall pay, in full, the cost of development review in Pitkin County. Fees have been set to be consistent and fair to the public and to reflect the expense incurred in providing such services to the public.

3. APPLICANT and COUNTY agree that because of the size, nature or scope of the proposed project, it may not be possible at the time of application to ascertain the full extent of the costs involved in processing the application.

4. APPLICANT and COUNTY agree that fees charged for the processing of land use applications shall accumulate if an application includes more than one type of land use review.

5. COUNTY and APPLICANT further agree that it is impracticable for COUNTY staff to complete processing or present sufficient information to the Planning Commission and/or Board of County Commissioners to enable the Planning Commission and/or Board of County Commissioners to make legally required findings for project approval, unless current billings are paid in full prior to decision.

6. Therefore, APPLICANT agrees that in consideration of the COUNTY’s waiver of its right to collect full fees prior to a determination of application completeness, APPLICANT shall pay a base fee in the amount of $10,604.00 which is based on 25 hours of staff time, and if actual time spent by staff to process the application exceeds the average number of hours by more than 20%, then the COUNTY will bill the APPLICANT quarterly for the additional time spent. Such periodic payments shall be made within 30 days of the billing date. APPLICANT further agrees that failure to pay such accrued costs shall be grounds for suspension of processing.

PITKIN COUNTY

Cindy Houben
Community Development Director

APPLICANT

Le Chamonix Condominium Association Inc.
Martin Eck President Board of Directors

Print Name

Signature

Date: 3/08/19
Mailing Address:
1501 Maroon Creek Road Unit 2
Aspen, CO. 81611
Pitkin County Mailing List of 300 Feet Radius
From Parcel: Le Chamonix on 01/04/2019

Instructions:
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http://www.pitkinmapsandmore.com
ROOKASIN IRIS
1501 MAROON CREEK RD #10
ASPEN, CO 81611

DONG JIE
1501 MAROON CREEK RD #9
ASPEN, CO 81611

BERGDAHL MATTHEW A & ELIZABETH A
0011 EXHIBITION LN
ASPEN, CO 81611

1501-4 MAROON CREEK LLC
150 N RIVERSIDE PLAZA #3300
CHICAGO, IL 60606

ASPER HIGHLANDS CONDO ASSOC INC
1200 S. BARTOW RD #40
LAKELAND, FL 338015901

CHAMONIX UNIT 6 LLC
38 BIGelow AVE
MILL VALLEY, CA 94942

1580 TIEBACK LLC
321 BROADWAY
SARATOGA SPRINGS, NY 12866

ASPER SKIING COMPANY LLC
PO BOX 1248
ASPEN, CO 81612

RUFUS CAMI CAMI LLC
1280 UTE AVE #7
ASPEN, CO 81611

ASPER HIGHLANDS CONDO ASSOC INC
1200 S. BARTOW RD #40
LAKELAND, FL 338015901

LYONS DAVID C
115 BOOMERANG RD #5409
ASPEN, CO 81611

LISHMAN ADRIANA
0115 BOOMERANG RD #5308
ASPEN, CO 81611

EASTWOOD HIGHLANDS INVESTORS
0133 PROSPECTOR RD #4102
ASPEN, CO 81611

ASPER HIGHLANDS VILLAGE PARK & LOAD
711 E VALLEY RD #103
BASALT, CO 816218370

LIPSEY SHIRA ILANA
PO BOX 2982
ASPEN, CO 81612

TIERNEY MICHAEL P & ANNE
PO BOX 2391
ASPEN, CO 81612

PERGANDE DON W & ROSALYN
0115 BOOMERANG RD #5102
ASPEN, CO 81611

THOMPSON JESSE
0115 BOOMERANG RD #5408
ASPEN, CO 81611

MEYERSTEIN TRUST
0115 BOOMERANG RD #5103
ASPEN, CO 81611

BUILDING 7 LLC
PO BOX 1248
ASPEN, CO 81612

ASPEN HIGHLANDS CONDO ASSOC
1200 S BARTOW RD #40
LAKELAND, FL 338015901

REITHER CHRISTOPHER R JR
0115 BOOMERANG RD #5406
ASPEN, CO 81611

JONES RICHARD MC CULLOCH JR
1501 MAROON CREEK RD #5
ASPEN, CO 81611

STEWARD MILTON M JR & CAROLE C
0115 BOOMERANG RD #5103
ASPEN, CO 81611

ASPEN SKIING COMPANY LLC
PO BOX 1248
ASPEN, CO 81612

EAGLE MELVIN & LEATRICE
9309 INGLEWOOD CT
POTOMAC, MD 20854

EASTWOOD HIGHLANDS INVESTORS
0133 PROSPECTOR RD #4102
ASPEN, CO 81611

MEYERSTEIN TRUST
0115 BOOMERANG RD #5103
ASPEN, CO 81611

MEYERSTEIN TRUST
0115 BOOMERANG RD #5103
ASPEN, CO 81611
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<tr>
<td>R &amp; S Hansen LLC</td>
<td>2054 Timber Ln, Houston, TX 77027</td>
<td>Aspen, CO 81611</td>
<td>Aspen Highlands Condo Assoc Inc</td>
<td>Lakeland, FL 338015901</td>
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<tr>
<td>Hooker Walter</td>
<td>0115 Boomerang Rd #5105, Aspen, CO 81611</td>
<td>Aspen, CO 81611</td>
<td>Meyerson Trust</td>
<td>Aspen, CO 81611</td>
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<tr>
<td>Shanks Robert H</td>
<td>0115 Boomerang Rd #5304, Aspen, CO 81611</td>
<td>Aspen, CO 81611</td>
<td>Maroon Neighbor Town Assoc</td>
<td>Aspen, CO 81611</td>
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<tr>
<td>Fasan Charles D</td>
<td>PO Box 1107, Aspen, CO 81612</td>
<td>Aspen, CO 81611</td>
<td>Zanadavor Alexander</td>
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<td>Aspen, CO 81611</td>
<td>Pi Castle Rock LLC</td>
<td>Denver, CO 80206</td>
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<td>Meyerstein Trust</td>
<td>0115 Boomerang Rd #5103, Aspen, CO 81611</td>
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<td>Cejic Partners LP</td>
<td>Greenwich, CT 06831</td>
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<td>Schille John Jr</td>
<td>1501 Maroon Creek Rd #9, Aspen, CO 81611</td>
<td>Aspen, CO 81611</td>
<td>Aspen Highlands Condo Assoc Inc</td>
<td>Lakeland, FL 338015901</td>
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<tr>
<td>Feher Lawrence D</td>
<td>0115 Boomerang Rd #5404, Aspen, CO 81611</td>
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<td>Pisani Mark &amp; Jill</td>
<td>Aspen, CO 81611</td>
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<td>Aspen Highlands Comm Metro Dist</td>
<td>PO Box 4100, Basalt, CO 816214100</td>
<td>Aspen, CO 81611</td>
<td>Wesson Kaleigh Irrev Asset Trust</td>
<td>Aspen, CO 81611</td>
</tr>
<tr>
<td>Siegel Cynthia Curtney</td>
<td>PO Box 100903, Fort Worth, TX 76185</td>
<td>Aspen, CO 81611</td>
<td>Aspen Highlands Condo Assoc Inc</td>
<td>Lakeland, FL 338015901</td>
</tr>
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<tr>
<th>Name</th>
<th>Address 1</th>
<th>City, State, Zip</th>
<th>Address 2</th>
<th>City, State, Zip</th>
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<tr>
<td>ASPEN HIGHLANDS CONDO ASSOC INC</td>
<td>1200 S. BARTOW RD #40</td>
<td>LAKELAND, FL 338015901</td>
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<td>ASPEN HIGHLANDS VLG AFF HBG 155 ONE PINE RD #66</td>
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<td>PI CASTLE ROCK LLC</td>
<td>3033 E 1ST AVE #502</td>
<td>DENVER, CO 80206</td>
<td>ASPEN HIGHLANDS CONDO ASSOC INC</td>
<td>1200 S. BARTOW RD #40</td>
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<td>DOMOSZLAY KATALIN</td>
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<td>ASPEN, CO 81611</td>
<td>MISHKIN AMY</td>
<td>115 BOOMERANG RD # 5403</td>
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<tr>
<td>ASPEN HIGHLANDS CONDO ASSOC INC</td>
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<td>LAKELAND, FL 338015901</td>
<td>TWOHIG PAUL</td>
<td>9 EXHIBITION LN</td>
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<tr>
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<td>1200 S. BARTOW RD #40</td>
<td>LAKELAND, FL 338015901</td>
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<td>LAKELAND, FL 338015901</td>
<td>ERCK STANLEY C</td>
<td>8121 RIVER RD #434</td>
</tr>
<tr>
<td>LE CHAMONIX CONDO ASSOC</td>
<td>1501 MAROON CREEK RD</td>
<td>ASPEN, CO 81611</td>
<td>MARKS EVAN QPR TRUST</td>
<td>1185 PARK AVE</td>
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<tr>
<td>PITKIN COUNTY</td>
<td>530 E MAIN ST #301</td>
<td>ASPEN, CO 81611</td>
<td>SOUTH POINT CONDO LLC</td>
<td>150 N MARKET</td>
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<td>1185 PARK AVE</td>
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<tr>
<td>USDA FOREST SERVICE</td>
<td>ASPEN-HOPE RANGER DISTRICT 620 MAIN ST</td>
<td>CARBONDALE, CO 81623</td>
<td>ERCK STANLEY C</td>
<td>8121 RIVER RD #434</td>
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</tbody>
</table>
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338645 Date: January 3, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 1, Aspen, CO 81611

Legal Description:
Condominium Unit 1, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Cynthia Courtney Siegel

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

A Deed of Trust executed by Cynthia Courtney Siegel, to the Public Trustee, to secure an indebtedness of $800,000.00 in favor of Wells Fargo Bank NA recorded September 23, 2013, as Reception No. 603942.

Warranty Deed recorded September 23, 2013, as Reception No. 603941.

PLAT recorded January 23, 2018 as Reception No. 644668.

The liability of Stewart Title Company, its affiliates and associates, for any errors or omissions affecting or relating to the information appearing in this report is strictly limited to the amount paid for this report. The aforementioned liability is limited to the customer who ordered this report. There are no expressed or implied warranties assuring or representing that this report is reliable for title information, and therefore, should be verified by a Commitment for Title Insurance.

No representation is made as to the completeness, validity, or legal sufficiency of the documents referenced herein, nor have any of such documents been examined to determine whether or not there are any exceptions, reservations, encumbrances or other matters which might be detrimental to Title.

No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom
Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338657

Date: January 3, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 2, Aspen, CO 81611

Legal Description:
Condominium Unit 2, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: Daniel C. Erck Revocable Trust, Daniel C. Erck Trustee as to an undivided one-half (1/2) interest
and
Stanley C. Erck as to an undivided one-half (1/2) interest

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded December 21, 2015, as Reception No. 625779.
Warranty Deed recorded August 13, 2004, as Reception No. 500771.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338670

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 3, Aspen, CO 81611

Legal Description:
Condominium Unit 3,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668. County of Pitkin, State of Colorado

Apparent Owner of Record: Rufus Cami Cami, LLC, a Colorado limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 12, 2008, as Reception No. 547325.
Warranty Deed recorded February 28, 2008, as Reception No. 546728.

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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative

File No.: 338670
File No.: 338676

Customer Reference: 1501 Maroon Creek Road, Unit 4, Aspen, CO 81611

Legal Description:
Condominium Unit 4,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668. County of Pitkin, State of Colorado

Apparent Owner of Record: 1501-4 Maroon Creek, L. L. C., a Delaware Limited Liability Company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 14, 2011, as Reception No. 578359.

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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom
Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338734

Customer Reference: 1501 Maroon Creek Road, Unit 5, Aspen, CO 81611

Legal Description:
Condominium Unit 5,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception
No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments
recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.
County of Pitkin, State of Colorado

Apparent Owner of Record: Richard McCulloch Jones, Jr.

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as
disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the
effective date of December 14, 2018:

None

Warranty Deed recorded October 18, 1988, in Book 576 at Page 66.

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relating to the information appearing in this report is strictly limited to the amount paid for this report. The
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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral
interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338683

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 6, Aspen, CO 81611

Legal Description:
Condominium Unit 6,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.
County of Pitkin, State of Colorado

Apparent Owner of Record: Chamonix Unit 6, LLC, a Colorado limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded October 12, 2012, as Reception No. 593038.

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No search has been made for any reservations, restrictions, covenants, easements, rights of way, mineral interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company
Kurt Beereboom

Authorized Representative
WRITEEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338692

Customer Reference: 1501 Maroon Creek Road, Unit 7, Aspen, CO 81611

Legal Description:
Condominium Unit 7,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception
No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments
recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644968.
County of Pitkin, State of Colorado

Apparent Owner of Record: Daniel K. Miller and Nancy L. Miller

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as
disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the
effective date of December 14, 2018:

None

Warranty Deed recorded October 29, 2004, as Reception No. 503688.

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interests, water rights, and any other encumbrances which are not a deed of trust, mortgage or lien.

Stewart Title Company

Kurt Beereboom

Authorized Representative

Page 1 of 1
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338697

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 8, Aspen, CO 81611

Legal Description:
Condominium Unit 8,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Melvin Eagle and Leatrice Eagle

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

A Deed of Trust executed by Melvin Eagle, Leatrice Eagle, Melvin B. Eagle and Leatrice S. Eagle, to the Public Trustee, to secure an indebtedness of $863,000.00 in favor of Wells Fargo Bank NA recorded April 22, 2013, as Reception No. 598861.

Warranty Deed recorded September 1, 2005, as Reception No. 514227.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338710

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 9, Aspen, CO 81611

Legal Description:
Condominium Unit 9, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644688.

County of Pitkin, State of Colorado

Apparent Owner of Record: Jie Dong and John Schille, Jr.

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded March 8, 2008, as Reception No. 521598.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338715

Customer Reference: 1501 Maroon Creek Road, Unit 10, Aspen, CO 81611

Legal Description: Condominium Unit 10, LE CHAMONIX APARTMENTS, pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Iris Rookasin

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 20, 2018:

None

Warranty Deed recorded March 25, 2003, as Reception No. 480524.

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Stewart Title Company

Kurt Beereboom

Authorized Representative
stewart title
Real partners. Real possibilities.

WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338722

Customer Reference: 1501 Maroon Creek Road, Unit 11, Aspen, CO 81611

Legal Description:
Condominium Unit 11,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: R & S Hansen, L.L.C., a Texas limited liability company

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

A Deed of Trust executed by R S Hansen LLC, to the Public Trustee, to secure an indebtedness of $360,000.00 in favor of M Schwartz LLC No 1 recorded July 2, 2018, as Reception No. 648524.

Warranty Deed recorded July 2, 2018, as Reception No. 648523
Warranty Deed recorded December 23, 2014, as Reception No. 616237.

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Stewart Title Company
Kurt Beereboom

Authorized Representative

File No.: 338722
WRITTEN OWNERSHIP AND ENCUMBRANCE REPORT

File No.: 338726

Date: January 4, 2019

Customer Reference: 1501 Maroon Creek Road, Unit 12, Aspen, CO 81611

Legal Description:
Condominium Unit 12,
LE CHAMONIX APARTMENTS,
pursuant to the Amended and Restated Condominium Declaration recorded May 19, 2009 as Reception No. 559115 and according to the First Amended Condominium Map for Le Chamonix Apartments recorded January 23, 2018 in Plat Book 120 at Page 90 as Reception No. 644668.

County of Pitkin, State of Colorado

Apparent Owner of Record: Kaleigh Wesson Irrevocable Asset Trust

Deeds of Trust, Mortgages and Liens which purport to affect the above described property, as disclosed by the records of the Clerk and Recorder of Pitkin County, Colorado, through the effective date of December 14, 2018:

None

Warranty Deed recorded January 31, 2018, as Reception No. 644849.

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Stewart Title Company

Kurt Bezrebom

Authorized Representative
MAROON CREEK ROAD HEIGHT ELEVATION

MAROON CREEK ROAD MODIFICATIONS ELEVATION

Bldg Section- Unit 5

Bldg Section- Unit 9

Bldg Section- Unit 11

28.0'

28.0'

28.0'

LE CHAMONIX CONDOMINIUMS

1581 MAROON CREEK ROAD
PITKIN COUNTY
CO

GENERAL

ISSUED FOR

(2) Project Status 2/1/2019

COPYRIGHT

PROJECT DATA

AG6

SHEET TITLE

SHEET NO.
COPYRIGHT

ISSUED FOR

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Written dimensions shall take precedence over scaled dimensions and shall be verified at the job site. Any dimensional discrepancy shall be brought to the attention of the Architect prior to commencement of the work.

#Project Status

5/21/2009

LE CHAMONIX CONDOMINIUMS

1501 MAROON CREEK ROAD

PITKIN COUNTY

CO

PO Box 4096 / 23280 Two Rivers Rd., Unit 3 / Basalt, CO 81621
[t] 970/927-0552 / [f] 0554 / [e] sbarchitects@sopris.net

GENERAL

SCOT BROUGHTON Architects, LLC

LE CHAMONIX CONDOMINIUMS

1501 MAROON CREEK ROAD

PITKIN COUNTY

CO

UNIT 8 THRU 12 EXISTING

UNIT 8 THRU 12 MODIFICATIONS CONCEPT

UNITS 1 THRU 4 EXISTING

UNITS 1 THRU 4 MODIFICATIONS CONCEPT

UNITS 4 THRU 8 EXISTING

UNITS 4 THRU 8 MODIFICATIONS CONCEPT

SCALE: 1/8" = 1'-0"
COPYRIGHT
ISSUED FOR

All designs ideas, arrangements and plans indicated by these drawings and specifications are the property and copyright of the Architect and shall neither be used on any other work nor be used by any other person for any use whatsoever without written permission.

Written dimensions shall take precedence over scaled dimensions and shall be verified at the job site. Any dimensional discrepancy shall be brought to the attention of the Architect prior to commencement of the work.

#Project Status: 5/21/2009

LE CHAMONIX CONDOMINIUMS
1501 MAROON CREEK ROAD
PITKIN COUNTY
CO

GENERAL
ISSUED FOR
PROJECT No:
DRAWN BY:
CHECKED BY:
ISSUE DATE:
SHEET:

SCOT BROUGHTON Architects, LLC
PO Box 4096 / 23280 Two Rivers Rd., Unit 3 / Basalt, CO 81621
[t] 970/927-0552 [f] 0554 / [e] sbarchitects@sopris.net

5/28/19

MAROON CREEK ROAD ELEVATION

UNITS 1 THROUGH 6 ELEVATION

UNITS 7 THROUGH 12 ELEVATION

SCOT BROUGHTON Architects, LLC
PO Box 4096 / 23280 Two Rivers Rd., Unit 3 / Basalt, CO 81621
[t] 970/927-0552 [f] 0554 / [e] sbarchitects@sopris.net

5/28/19
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ISSUED FOR
All designs ideas, arrangements and plans indicated by these drawings and specifications are the property and copyright of the Architect and shall neither be used on any other work nor be used by any other person for any use whatsoever without written permission.

Written dimensions shall take precedence over scaled dimensions and shall be verified at the job site. Any dimensional discrepancy shall be brought to the attention of the Architect prior to commencement of the work.

#Project Status
5/21/2009

LE CHAMONIX CONDOMINIUMS
1501 MAROON CREEK ROAD
PITKIN COUNTY
CO

MCR Perspectives
SCALE: 1:27.84, 1:120.40
SHEET TITLE
PROJECT DATA
DRAWN BY:
CHECKED BY:
ISSUE DATE:
SHEET:
#Pln
ANB
SBA
5/28/19
14
of
23

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MAROON CREEK ROAD ELEVATION

UNITS 1, 2, & 3 LOOKING NORTH

UNITS 1, 2 & 3 LOOKING NORTH

UNITS 2, 3, & 4 LOOKING SOUTH

UNITS 4, 5, & 7 LOOKING NORTH

UNITS 4, 5, 6 & 7 LOOKING NORTH

UNITS 4, 5, 6 & LAUNDRY LOOKING SOUTH

UNITS 7, 8, & 9 LOOKING NORTH
WALL FINISH: GREY STUCCO; SMOOTH FINISH.

WALL FINISH: STAINED VERTICAL WOOD SIDING; BROWN TONES.

WINDOWS AND DOORS: BRONZE FINISH

WALL FINISH: STONE VENEER; LEDGE STONE PATTERN; LIGHT BEIGE COLOR.

BEAM: STEEL 'C' CHANNEL PROFILE; BLACK FINISH.

FENCE: BOARD FORMED CONCRETE, NATURAL GREY COLOR.

FENCE & GATES: WELDED WIRE MESH, BRONZE COLOR.
AGENDA ITEM SUMMARY

TO: Board of County Commissioners
   Regular Meeting – September 25, 2019

THRU: Cindy Houben, Community Development Director

FROM: Suzanne Wolff, Assistant Director

RE: Resolution Allocating 2018 Rural Area Residential GMQS Allotment for a New Lot to JCH, LLC

SUMMARY: Section 2-40-40(d) of the Land Use Code states, “Upon receipt of the Planning and Zoning Commission Resolution forwarding their ranking and final scores, the Board may by resolution, allocate development allotments to the eligible applicant….”

The Planning and Zoning Commission’s score for the following application for a 2018 Rural Area Residential GMQS allotments for a new lot was forwarded to the BOCC on September 11, 2019:

- **JCH LLC:** Requesting 8,250 square feet of floor area for a single family residence on a new lot and Activity Envelope approval. The property is located at 550 and 562 Midnight Mine Road and is legally described as Lot 16 of Castle Creek Valley Ranch.

There are 25,000 square feet available in the Rural Area for the 2018 Rural Area Residential GMQS competition for new subdivision lots and newly created parcels.

The Commission accepted the scoring drafted by staff and gave the JCH LLC application a score of 26 points, which exceeds the threshold of 22 points; therefore, the lot is eligible for the requested development allotment.

The Commission’s scores were forwarded to the BOCC by Resolution on September 11, 2019, as required by Sec. 2-40-40(c) of the Land Use Code. No appeals to the scoring have been filed within the required time frame.

The Planning Commission Tally Sheet is attached for reference, as requested by the BOCC at the September 11, 2019 meeting.

RECOMMENDATION: Staff recommends that the Board approve a motion to adopt a Resolution Allocating 2018 Rural Area Residential GMQS Allotment for a New Lot to JCH, LLC.

Attachments:

A. Planning Commission Tally Sheet 8/20/19
ATTACHMENT A

PITKIN COUNTY RESIDENTIAL GMQS – ADDITIONAL FLOOR AREA
PLANNING COMMISSION TALLY SHEET

PROJECT NAME: JCH LLC  DATE: 8/20/19

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<th>SCORE</th>
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<td>A. Availability and Appropriateness of Public and Private Facilities and Services</td>
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Minimum Threshold (22)

TOTAL POINTS 26
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO, ALLOCATING 2018 RURAL AREA RESIDENTIAL GMQS ALLOTMENT FOR A NEW LOT TO JCH, LLC

Resolution No. ___-2019

RECITALS

1. On August 20, 2019, the Planning and Zoning Commission (“Commission”) held a duly noticed public hearing at which time evidence and testimony were presented with respect to the 2018 Rural Area Residential GMQS competition for new lots and parcels.

2. The Commission reviewed the JCH LLC application requesting 8,250 square feet of floor area for a future single-family residence located on a new subdivision lot – Lot 16B, Castle Creek Valley Ranch Subdivision.

3. The property is located at 550 Midnight Mine Road and is legally described as Lot 16, Castle Creek Valley Ranch. The State Parcel Identification Number for this property is 2735-261-01-001.

4. There are 25,000 square feet of floor area available in the Rural Area for the 2018 competition.

5. The Commission accepted Staff’s recommended scoring of 26 points by a vote of 6-1.

6. The application met the minimum threshold score of 22 points AND achieved the minimum threshold score for each scoring category, as required to be eligible for an allotment.

7. Pursuant to Section 2-40-40(c) of the Land Use Code, the Commission’s scores for the JCH, LLC application were forwarded by resolution to the Board of County Commissioners (“BOCC”) at a regular meeting on September 11, 2018.

8. No appeals to the scoring have been filed within the required time frame.

NOW, THEREFORE BE IT RESOLVED by the BOCC that it does hereby allocate 8,250 square feet of floor area to Lot 16B, Castle Creek Valley Ranch Subdivision as a result of the 2018 Rural Area Residential GMQS competition for new lots and parcels.

1. The allotment shall be conditioned upon recordation of a covenant documenting the commitments and representations made by the Applicant in the application for the allotment, and any amendments thereto. This covenant shall be reviewed and approved by the Community Development Department as well as the County Attorney’s Office and recorded against the property within 180 days of the date the allotment is approved by resolution of the Board of County Commissioners of Pitkin County, Colorado and prior to any issuance of a building permit to utilize the awarded floor area.

2. The Applicant shall also satisfy any commitments and representations – such as recordation of a property interest or commitment to finance or provide capital improvement – made in the application for an allotment, and any amendments thereto, prior to or concurrent with recordation of the GMQS covenant, except those commitments logically related to any existing or subsequent development...
application or permit that shall be memorialized in the covenant as a condition precedent to
recordation of the Final Plat or other County review or approval. Absent recordation of the covenant
memorializing the square footage allotment for the property and satisfaction of the commitments
stated in the application within 180 days or any extension thereof approved by the Community
Development Director for cause, the approval granting the allotment shall have no force and effect.


BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

By__________________________
Greg Poschman, Chair

Date_____________________

Jeanette Jones
Deputy County Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Ely,
County Attorney

Cindy Houben,
Community Development Director

Case # P070-18. PID# 2735-261-01-001
AGENDA ITEM SUMMARY

TO: Board of County Commissioners
Regular Meeting – September 25, 2019

THRU: Cindy Houben, Community Development Director

FROM: Suzanne Wolff, Assistant Director

RE: Forwarding 2019 Rural Area Residential GMQS Competition Scores for Additional Floor Area

SUMMARY: The attached resolution of the Planning and Zoning Commission forwards the 2019 Rural Area Residential GMQS scores for the competition for additional floor area. The following development application was submitted for the 2019 competition in the Rural Area:

- **Helvetica Endeavours LLC**: Requesting 6,079 square feet of additional floor area through the GMQS competition for one existing residence. The property is located at 361& 365 Hall Drive, and is legally described as Lot 2 of the M.A.A. Inc. Filing No. 1, as described on the amended plat in Plat Book 4 at Page 466.

There are 25,000 square feet available in the Rural Area for the 2019 Rural Area Residential GMQS competition for additional floor area.

The Commission accepted the scoring drafted by staff and gave the application a score of 20 points by a vote of 6-1. The score meets the threshold of 20 points and there were no competing applications; therefore, the lot is eligible for the requested development allotment.

Any appeals of the scoring must be filed in writing within 15 days of the Commission’s public hearing. Once the 15 day appeal period has expired, the BOCC shall by resolution allocate the allotments.

RECOMMENDATION: No action is required at this time.
RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF PITKIN COUNTY, COLORADO, FORWARDING THE 2018 RURAL AREA RESIDENTIAL GROWTH MANAGEMENT QUOTA SYSTEM SCORES FOR NEW LOTS AND PARCELS TO THE BOARD OF COUNTY COMMISSIONERS

Resolution No. PZ-___-2019

RECITALS

1. On September 3, 2019, the Planning and Zoning Commission ("Commission") held a duly noticed public hearing at which time evidence and testimony were presented with respect to the 2019 Rural Area Residential GMQS competition for additional floor area.

2. The Commission reviewed the Helvetica Endeavours LLC application requesting 6,079 square feet of additional floor area for one existing single-family residence.

3. The property is located at 361 & 365 Hall Drive, and is legally described as Lot 2 of the M.A.A. Inc. Filing No. 1, as described on the amended plat in Plat Book 4 at Page 466.

4. There are 25,000 square feet of floor area available in the Rural Area for the 2019 competition for additional floor area.

5. The Commission accepted the scoring drafted by staff and gave the application a score of 20 points by a vote of 6-1 (Attachment A – Score Sheet).

6. The application met the minimum threshold score of 20 points and there were no competing applications, therefore, the lot is eligible for the requested allotment.

NOW, THEREFORE BE IT RESOLVED by the Commission that it hereby forwards the 2018 Rural Area GMQS score for the JCH LLC application to the Board of County Commissioners, and recommends that the BOCC grant the requested development allotment, subject to the following:

1. The allotment shall be conditioned upon recordation of a covenant documenting the commitments and representations made by the Applicant in the application for the allotment, and any amendments thereto. This covenant shall be reviewed and approved by the Community Development Department as well as the County Attorney’s Office and recorded against the property within 180 days of the date the allotment is approved by resolution of the Board of County Commissioners of Pitkin County, Colorado and prior to any issuance of a building permit to utilize the awarded floor area.

2. The Applicant shall also satisfy any commitments and representations – such as recordation of a property interest or commitment to finance or provide capital improvement – made in the application for an allotment, and any amendments thereto, prior to or concurrent with recordation of the GMQS covenant, except those commitments logically related to any existing or subsequent development application or permit that shall be memorialized in the covenant as a condition precedent to recordation of the Final Plat or other County review or approval. Absent recordation of the covenant memorializing the square footage allotment for the property and satisfaction of the commitments
stated in the application within 180 days or any extension thereof approved by the Community
Development Director for cause, the approval granting the allotment shall have no force and effect.

APPROVED ON THE 3rd day of September, 2019.

PLANNING AND ZONING COMMISSION
OF PITKIN COUNTY, COLORADO

_________________________
Jeffrey Woodruff, Chair
Date

ATTEST:

_________________________
Bonnie Shiles, Administrative Assistant

APPROVED AS TO FORM: APPROVED AS TO CONTENT:

_________________________ _______________________________
Richard Neiley III, Cindy Houben
Assistant County Attorney Community Development Director

Case # P012-19. PID #2735- 144-01-003
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