

**Ordinance 2019-11**

**AN ORDINANCE APPROVING THE RESIDENCES AT THE TOWER  
CONDOMINIUMS PLAT LOCATED AT 8680 EMPIRE CLUB DRIVE, PARK CITY,  
UTAH**

WHEREAS, the owners of the property known as the Residences at the Tower Condominiums, located at 8680 Empire Club Drive, petitioned the City Council for approval of the Residences at the Tower Condominiums plat; and

WHEREAS, on October 31<sup>st</sup> and November 28<sup>th</sup>, 2018, and January 30<sup>th</sup>, 2019, the property was properly posted and legal notice was sent to all affected property owners; and

WHEREAS, on October 27<sup>th</sup> and November 28<sup>th</sup>, 2018, and January 30, 2019, proper legal notice was published in the Park Record and on the Utah Public Notice website according to requirements of the Land Management Code; and

WHEREAS, the Planning Commission held public hearings on December 12, 2018, January 23, 2019, and February 13, 2019, to receive input on the Residences at the Tower Condominium plat;

WHEREAS, the Planning Commission, on February 13, 2019, forwarded a positive recommendation to the City Council; and,

WHEREAS, the City Council on February 28, 2019 held a public hearing on the condominium plat; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Residences at the Tower Condominium plat consistent with the Village at Empire Pass Master Planned Development, the 2007 Amended Flagstaff Development Agreement and Technical Reports and the Residences at the Tower Conditional Use Permit.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Residences at the Tower Condominium plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact

1. Residences at the Tower condominium plat identifies 14 private market rate multi-family residential units totaling 42,453 sf, utilizing 21.227 UE, as well as 1 ADA unit and 1 deed restricted affordable unit, a police substation and the private Talisker Club located on Lot 9 of the First Amended Village at Empire Pass Phase I subdivision.

2. Lot 9 is located in the RD-MPD zoning district and contains 1.53 acres and is addressed as 8680 Empire Club Drive.
3. Access to the property is from Village Way and Empire Club Drive, which are both private streets.
4. Lot 9 is currently partially developed with the private Talisker Club that includes dining and other indoor and outdoor amenities for members.
5. The market rate multi-family residential units range in size from 1,806 sf to 4,229 sf with an average unit size of 3,032 sf. The 737 sf ADA unit is required to be identified as common area. The 737 sf EHU is also platted as common area.
6. A 509 sf police sub-station, platted as commercial area, is proposed on the lower level as a requirement of the Emergency Response Plan Exhibit #7 of the Flagstaff Development Agreement.
7. The property is subject to the Flagstaff Mountain Annexation and Development Agreement approved by City Council per Resolution No. 99-30 on June 24, 1999 and amended on March 2, 2007, as well as associated Technical Reports.
8. The Amended Agreement is the equivalent of a Large-Scale Master Plan and sets forth maximum project densities, location of densities, and developer-offered amenities for the annexation area.
9. The Amended Agreement specifies that a total of 87 acres, within three development pods (A, B1 and B2), of the 1,750 acres of annexation property may be developed for the Mountain Village. The Mountain Village is further constrained to a maximum density of 785 unit equivalents (UE) configured in no more than 550 dwelling units as multi-family, hotel, or PUD units, provided the number of PUD units does not exceed 60, and PUD units are included in the totals for multi-family units.
10. To date 509 multi-family units (757.28 UE) (of which 60 are PUD style units) and 16 single family units have been approved, platted and/or built within Pods A, B1 and B2 (according to current tabulations). This number includes the 70 units noted in the plat notes for the B2 East subdivision and also includes Empire Residence CUP units currently under construction as Building 3 and Moon Shadow Condominiums for 8 PUD units pending plat recordation). This number also includes all of the Larkspur Townhomes, including Larkspur Townhomes 6 which condominium plat is currently under review.
11. Constructed lodge style buildings include Shooting Star, One Empire Pass, Silver Strike, Flagstaff, Arrow Leaf A and B, Grand Lodge and Ironwood. Lodge buildings still to be approved within Pod A are: Building 1- Residences at the Tower (subject property) and Building 4. The Empire Residences (Lodge Building 3) are currently under construction.
12. There is sufficient density remaining within Amended Agreement and VEP MPD for the proposed 14 multi-family units (21.227 UE).
13. Amended Agreement requires a total of 118.9 AUE (Affordable Unit Equivalents) where 1 AUE is 800 sf. A total of 94.175 off-mountain AUE and 24.725 on-mountain AUE are required. Off-mountain housing has been satisfied. On-mountain housing is partially complete with 16.675 AUE built and 8.05 AUE remaining. These remaining AUE are assigned to Buildings 1, 3, 4 and B2 East.
14. Lodge Building 1 was assigned 0.75 AUE (600 sf) per the Developer at time of sale.
15. The proposed affordable unit consists of 737 sf (0.921 AUE) (not including dedicated storage areas located separate from the unit) platted as common area and shall be deed restricted per requirements of the Housing Resolution prior to plat recordation.

16. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass (VEP MPD) (Pods A and B1) within the Flagstaff Mountain Annexation and Development area for Lodge Buildings grouped around the Silver Strike lift and ski runs, various townhouses making up a second tier of units, with PUD style detached units and single family lots on the perimeter. A common amenity building, known as the Tower Club, was central to the VEP MPD. A common mail area, indoor and outdoor recreation facilities, pedestrian connections and transportation pick-up/drop-off area were included. The VEP MPD also approved heights and Volumetrics for the Lodge buildings.
17. On September 30, 2004, the City Council approved the Village at Empire Pass Phase 1 Subdivision that platted the east side lots of the Village at Empire Pass.
18. On April 13, 2005, the Planning Commission approved the Tower Club Phase I CUP consisting of 2,264 sf of MPD Resort Support Commercial (private dining, kitchen, small convenience store), and 6,616 sf of residential and resort accessory uses (ski lockers, recreation amenities, meeting room, kids club, circulation, storage, mechanical, as well as outdoor amenities such as pool, hot tubs, etc.). The Club was constructed in 2005 and 2006.
19. On February 13, 2008, the Planning Commission approved the Tower Club Phase II CUP for residential units on Lot 9. The approval for 25 units totaling 67,625 sf (33.81 UE) and one (1) ADA unit was granted an extension to July 1, 2010, by the Planning Commission on March 11, 2009. A building permit for Phase II was not issued and the CUP expired. This current CUP proposal represents a reduction in residential density and residential area by 11 units and 25,000 sf (12.58 UE) from the 2008 approval.
20. On January 6, 2011, the City Council approved an amendment to the VEP Phase 1 Subdivision amending Lot 9 to address access, parking, and trail easements. The amended plat was recorded on January 4, 2012.
21. On December 14, 2016, the Planning Commission approved an amendment to the Tower Club Phase I CUP to allow a 1,115 sf expansion of the private dining area, as well as expanded outdoor patio area, 1,000 sf of expanded basement area for accessory uses. The CUP expansion increased the MPD Resort Support Commercial on Lot 9 to 3,379 sf. Construction of the expansion was completed in 2018. The building currently consists of 10,995 sf as indicated on the plans.
22. On October 9, 2018, the Planning Department received a complete application for a Condominium plat and a Conditional Use Permit for a fourteen (14) multi-family unit residential building to be located on Lot 9 of the First Amended Village at Empire Pass Phase One Subdivision.
23. The property is subject to subdivision plat notes that require compliance with the Amended Flagstaff Annexation and Development Agreement, approval of a Conditional Use Permit for each lodge building prior to issuance of a building permit, a declaration of condominium and a record of survey plat prior to individual sale of units, membership in the Empire Pass Master HOA, a 20' snow storage easement along the street frontages, water efficient landscaping, and various utility and maintenance provisions.
24. The proposed condominium plat memorializes the density, size and configuration of units to be construction in one phase and identifies areas of private, common and limited common ownership, and private club area.

25. The Amended Agreement allows a maximum of 75,000 sf of MPD Resort Support Commercial uses. Lot 9 currently is approved, with the Amended Tower Club CUP for 3,379 sf (kitchen, dining, small store) of MPD Resort Support Commercial Uses. Montage Resort was approved for 63,059 sf of MPD Resort Support Commercial and Grand Lodge was approved with 1,275 sf.
26. Total utilized MPD Resort Support Commercial Uses for this building, including this CUP expansion, is 5,803 sf (adding 2,424 sf of Resort Support Commercial uses for Spa, kitchen, and lounge).
27. There is sufficient MPD Resort Support Commercial remaining for the proposed private club expansion as 4,863 sf (according to current tabulations) remain if this project is approved. This space is identified on the plat as part of the Club Unit with additional lines and labels calling out the specific square feet of these areas. A table of the Resort Support Commercial space shall also be included on the plat.
28. The Emergency Response Plan requires a police sub-station to be dedicated within the Empire Club building in Pod A. The Plan calls for "a facility with 3 office spaces, approximately 12' by 12' each, with a combined square footage of not less than 500 sf, plus two reasonably proximate parking spaces". The unit is to be made available to Park City as an empty "white box" for no cost, and not subject to HOA dues or other assessments, as soon as occupancy permits are ready to be issued for the rest of the building and residential units. This space will be identified as a Commercial Unit specifically for the police substation that can be transferred to the City.
29. Guest amenity areas (pools and recreation areas, locker rooms, storage, club office and mechanical, entry areas, lobby and reception areas, lounge/après ski, restrooms, etc.) are proposed on the first, second and third levels. Common residential accessory uses do not require use of UEs. Total floor area of Club and residential guest accessory uses is 14,021 square feet.
30. Based on unit sizes, a minimum of 22 parking spaces are required when taking into consideration the 25% parking reduction (from the 29 required spaces) per the Flagstaff Development Agreement and MPD.
31. An underground parking structure provides 22 parking spaces, including 1 ADA spaces, as well as limited common storage areas for each unit. Two surface spaces are provided at the street for the police sub-station. One surface space will be provided for short term pick-up and drop-off.
32. Each unit has one assigned limited common parking space and the remaining spaces are common.
33. The plat is consistent with the approved Village at Empire Pass Master Planned Development and the Residences at the Tower Conditional Use Permit in terms of density, units, UE, building height, uses, setbacks, and parking.
34. The MPD requires Construction Mitigation Plans to be submitted with each CUP and building permit addressing all requirements of the Amended Agreement and Technical Reports.
35. A Master Homeowners Association document and Maintenance Agreement for the Mountain Village were reviewed and approved by the City prior to issuance of the initial building permits within the Mountain Village. This property is also subject to these documents, in addition to any declaration of condominium and CCRs recorded with the condominium plat.
36. The condominium plat allows for the sale of individual units.

### Conclusions of Law

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the 2007 Amended Flagstaff Annexation and Development Agreement, the Village at Empire Pass MPD, the First Amended Village at Empire Pass Phase 1 Subdivision, the Park City Land Management Code and applicable State laws regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed condominium plat.
4. Approval of the condominium plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

### Conditions of Approval

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium plat for compliance with State law, the Land Management Code, 2007 amended Flagstaff Development Agreement, Village at Empire Pass MPD and these conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is submitted in writing and approved by the City Council.
3. City Engineer and SBWRD approval of the final infrastructure and utility plans is a condition precedent to plat recordation.
4. Development within Empire Pass is governed by that certain Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, the 20-Acre Quinn's Junction Parcel, and Iron Mountain entered into by and between United Park City Mines Company, Deer Valley Resort Company, and Park City Municipal Corporation, a third class city of the State of Utah, and recorded on March 2, 2007, as Entry No. 806100 in Book 1850 at Page 1897 in the records of the Summit County Recorder, as amended or supplemented from time to time ("Development Agreement"). The Development Agreement required the Developer, as such term is defined in the Development Agreement, to develop a Historic Preservation Plan, which said 127 page Historic Preservation Plan was prepared by SWCA, Inc., on August 2000 and is entitled, *Historic Preservation Plan for Flagstaff Mountain Association, Park City, Summit County, Utah*, as amended or supplemented from time to time including by that certain *Historic Preservation Plan, Exhibit 6* dated May 2001 (and subsequently Revised and Approved December 2001)(collectively, the "Historic Preservation Plan"). The *Historic Preservation Plan, Exhibit 6* dated May 2001 (and subsequently Revised and Approved December 2001)("Exhibit 6") identified historic preservation work needed at 21 historic mining sites within the Flagstaff Mountain Annexation Boundary and specified that the master homeowner association was responsible for maintaining any site that was not part of an ongoing operation.
5. The Agreement between the Empire Master Owner's Association and Park City attached at Exhibit B ("Agreement") to set forth a plan for the Association to address the Maintenance, as defined herein, needs of certain historic mining sites thereby achieving substantial compliance with the Historic Preservation Plan for the time periods set forth herein. The Agreement shall be executed in full and ratified by the City Council prior to recordation of the Twisted Road Subdivision or other REDUS

plat, whichever comes first.

6. Conditions of approval of the Village at Empire Pass Master Planned Development (MPD), First Amended Village at Empire Pass Phase 1 Subdivision, and the Residences at the Tower Conditional Use Permit (CUP) apply to this plat.
7. All applicable required and recorded utility, access, snow storage, trails, etc. easements shall be indicated on this condominium plat prior to recordation and building permit issuance.
8. The plat shall note that public safety access and public utility easements are hereby dedicated for all private streets and that the private streets shall be owned, operated, maintained and repaired by the Master Association for the use and benefit of the owners of property in Empire Pass at Deer Valley in accordance with the Master Declaration.
9. This property is also subject to a Master Homeowners Association document and Maintenance Agreement for the Mountain Village, in addition to any declaration of condominium and CCRs recorded with the condominium plat.
10. A Construction Mitigation Plan, including truck routing, is a submittal requirement of the building permit application.
11. The deed restricted employee housing unit (EHU) shall be a minimum of 737 sf (0.921 AUE), exclusive of additional storage area to be dedicated to this unit. One AUE is equivalent to 800 sf according to the 2007 Development Agreement.
12. The EHU and ADA units shall be platted as common area.
13. A deed restriction for the EHU unit, acceptable to the City, shall be recorded with or prior to plat recordation. The deed restriction shall outline and resolve any issues or concerns regarding maintaining affordability of the unit. The plat shall note that the EHU is subject to a deed restriction. The EHU and ADA units shall be available for occupancy at the same time as the entire building and when the market rate units are issued a certificate of occupancy.
14. The CCRs shall limit the HOA dues related to the deed restricted employee housing unit (EHU) in order to ensure the Unit remains affordable. The CCRs shall reflect a lower par-value to reflect the reduced cost of the unit (or exempt the unit from HOA fees) to ensure that the unit doesn't lose its affordability due to HOA fees.
15. The CCRs shall be submitted with the condominium plat for review and approval by the City prior to final condominium plat recordation.
16. Conditions related to the police sub-station unit shall be described in the CCRs, and/or by separate agreement with the City, prior to recordation, consistent with language in the Emergency Response Plan of the Amended Flagstaff Agreement.
17. The plat shall note that fire sprinklers are required for new construction on the Lot per the Chief Building Official at the time of review of building permits and all requirements for emergency access according to the Park City Fire District and Park City Building Department shall be addressed prior to building permit issuance.
18. The plat shall note the number and square footages of all residential units and shall indicate the total square footage and Unit Equivalents of the 14 market rate units and all common areas.
19. The plat shall note the Resort Support Commercial square footage and a table of the Resort Support Commercial space shall be included on the plat. The plat shall note the Club and residential guest accessory square footage and shall include a table on the plat.

20. The CC&Rs shall provide notice and process for the tracking and collection of the Real Estate Transfer Fee as required and defined by the Flagstaff Mountain Development Agreement, as amended.
21. A plat note shall restrict the Resort Support Commercial areas and associated Club accessory areas as a Private Club for members and shall not be sold or used as a commercial or retail establishment for the public, with the exception of the store area.
22. A plat note shall restrict the police substation commercial unit as a police substation. In the event that the police substation is vacated by the City, the HOA may apply to amend this plat and the CUP for common or limited area storage, mechanical or other similar uses. No commercial, office or residential use is allowed unless additional density/UEs are acquired and the addition of such is approved by plat and CUP amendment.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 28<sup>th</sup> day of February, 2019.

PARK CITY MUNICIPAL CORPORATION



  
Andy Beerman, MAYOR

ATTEST:

  
Michelle Kellogg, City Recorder

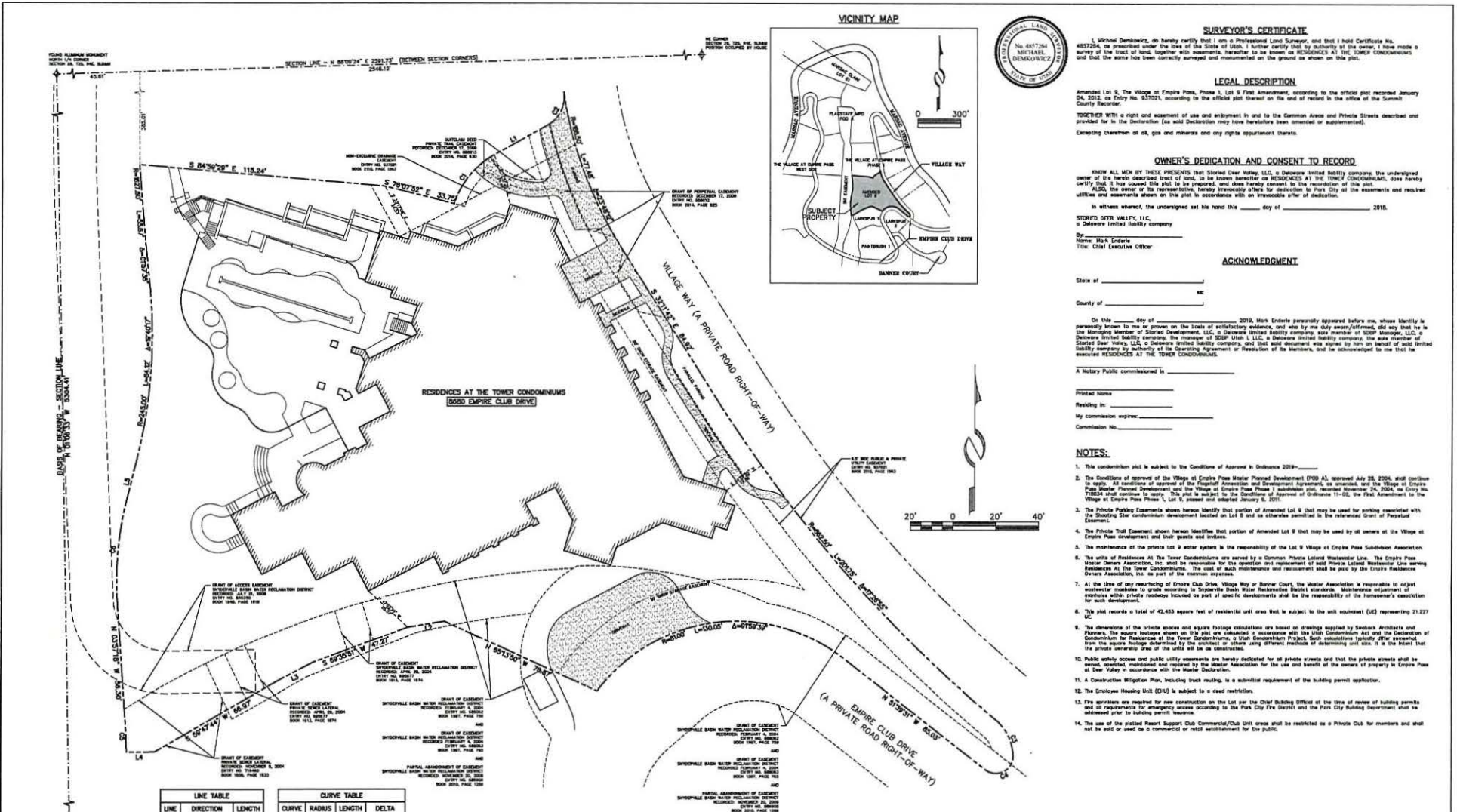
APPROVED AS TO FORM:

  
Mark Harrington, City Attorney

**Exhibit**

Exhibit A – Condominium plat

Exhibit B – Memorandum of Agreement



## RESIDENCES AT THE TOWER CONDOMINIUMS

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERIDIAN  
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 8



**SNYDERVILLE BASIN WATER RECLAMATION DISTRICT**  
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER  
RECLAMATION DISTRICT STANDARDS ON THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
S.B.W.R.D.

**PLANNING COMMISSION**  
APPROVED BY THE PARK CITY  
PLANNING COMMISSION THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
CHAIR

**ENGINEER'S CERTIFICATE**  
I FIND THIS PLAT TO BE IN  
ACCORDANCE WITH INFORMATION ON  
FILE IN MY OFFICE THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
PARK CITY ENGINEER

**APPROVAL AS TO FORM**  
APPROVED AS TO FORM THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
PARK CITY ATTORNEY

**COUNCIL APPROVAL AND ACCEPTANCE**  
APPROVAL AND ACCEPTANCE BY THE PARK CITY  
COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
MAYOR

**CERTIFICATE OF ATTEST**  
I CERTIFY THIS PLAT MAP  
WAS APPROVED BY PARK CITY  
COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019  
BY \_\_\_\_\_  
PARK CITY RECORDER

**RECORDED**  
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED  
AT THE REQUEST OF \_\_\_\_\_  
\_\_\_\_\_  
FEE RECORDER  
TIME \_\_\_\_\_ DATE \_\_\_\_\_ ENTRY NO. \_\_\_\_\_

- NOTES:**
- The condominium plat is subject to the Conditions of Approval in Ordinance 2018-\_\_\_\_\_.
  - The Conditions of Approval of the Village of Empire Pass Master Planned Development (MPD) A, approved July 25, 2014, shall continue to apply. All conditions of approval of the Final Plat Amendment and Development Agreement, as amended, and the Village of Empire Pass Master Planned Development and the Village of Empire Pass Phase 1 subdivision plat, recorded November 24, 2014, as City No. 77824 shall continue to apply. This plat is subject to the Conditions of Approval of Ordinance 11-01, the First Amendment to the Village of Empire Pass Phase 1 Lot 1, passed and adopted January 5, 2011.
  - The Private Parking Elements shown herein identify that portion of Amended Lot 9 that may be used for parking associated with the Standing Stee Condominium development located on Lot 9 and is otherwise permitted in the referenced Draft of Plat Amendment.
  - The Private Trail Elements shown herein identify that portion of Amended Lot 9 that may be used by all owners of the Village at Empire Pass development and their guests and visitors.
  - The maintenance of the private Lot 9 water system is the responsibility of the Lot 9 Village at Empire Pass Subdivision Association.
  - The utility of Residences At The Tower Condominiums are served by a Common Private Lateral Wastewater Line. The Empire Pass Master Planned Development, the plat is responsible for the operation and maintenance of said Private Lateral Wastewater Line serving Residences At The Tower Condominiums. The cost of such maintenance and replacement shall be paid by the Empire Pass Master Planned Development, as part of the common expenses.
  - At the time of any reworking of Empire Club Drive, Village Way or Banner Court, the Master Association is responsible to adjust horizontal easements to grade according to Supplemental Basin Water Reclamation District wastewater. Maintenance adjustment of easements shall include easements included as part of specific developments shall be the responsibility of the homeowner's jurisdiction.
  - The plat records a total of 42,653 square feet of residential unit area that is subject to the unit equipment (UE) representing 21,327 UE.
  - The dimensions of the private access and egress feature calculations are based on drawings supplied by Sweden Architects and Planner. The survey measure shown on this plat are calculated in accordance with the Utah Condominium Act and the Declaration of Condominium for Residences of the Tower Condominiums, a Utah Condominium Project. Such calculations primarily offer approximate. Such an area may be modified or changed by the use of other methods of determining unit size. It is the intent that the private easement shown on this plat be as shown.
  - Public safety access and public utility easements are hereby dedicated for all private streets and that the private streets shall be owned, operated, maintained and repaired by the Master Association for the use and benefit of the owners of property in Empire Pass at Deer Valley in accordance with the Master Declaration.
  - A Construction Mitigation Plan, including truck routing, is a submitted requirement of the building permit application.
  - The Employee Housing Unit (EHU) is subject to a deed restriction.
  - Fire sprinklers are required for new construction on the Lot per the Chief Building Official at the time of review of building permits and all requirements for emergency access according to the Park City Fire District and the Park City Building Department shall be addressed prior to building permit issuance.
  - The use of the plat's Record Support Club Common/Club Unit shall be restricted as a Private Club for members and shall not be used or used as a commercial or retail establishment for the public.










**NOTE:**  
 The primary purpose of this sheet is to illustrate the overall Club Unit ownership. See other sheets for specific ownership details.



SHEET 2 OF 8

## RESIDENCES AT THE TOWER CONDOMINIUMS

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28,  
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERIDIAN  
 PARK CITY, SUMMIT COUNTY, UTAH

-  COMMON AREA
-  RESIDENTIAL UNIT
-  LIMITED COMMON RESIDENTIAL
-  COMMERCIAL UNIT
-  RESORT SUPPORT COMMERCIAL / CLUB UNIT

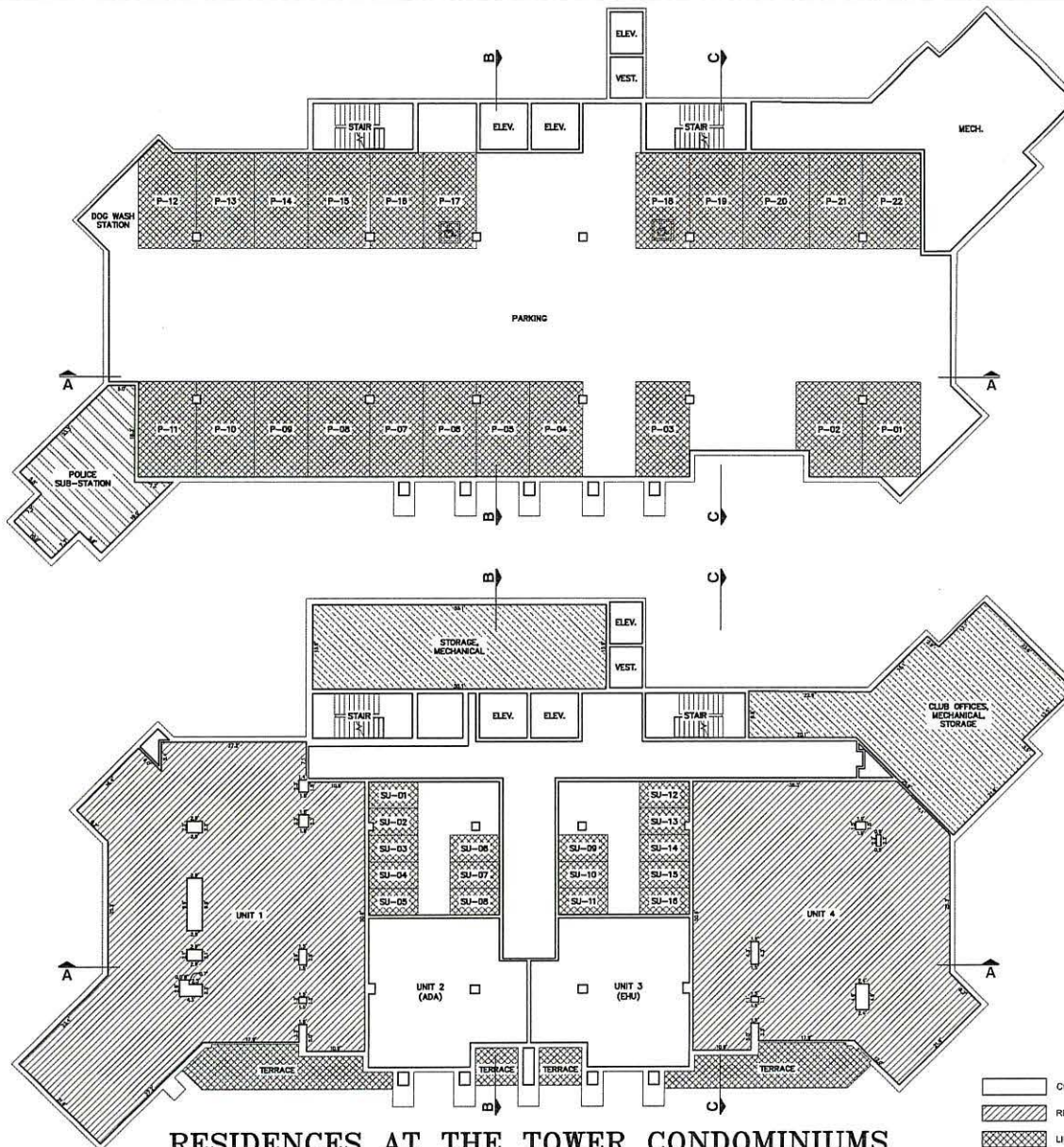
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<b>RECORDED</b>			
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED			
AT THE REQUEST OF _____			
FEE _____		RECORDER _____	
TIME _____	DATE _____	ENTRY NO. _____	

(435) 649-9487



ALLIANCE  
 Engineering Inc.

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS  
 222 Main Street P.O. Box 2884 Park City, Utah 84002-2884



LEVEL P1  
SCALE: 1" = 10'

LEVEL P1 SQUARE FOOTAGE TABLE

UNIT	SQUARE FOOTAGE
POLICE SUB-STATION	509 SF

LEGEND

EHU = EMPLOYEE HOUSING UNIT  
ADA = AMERICAN DISABILITIES ACT  
SU = STORAGE UNIT  
P = PARKING

LEVEL 1  
SCALE: 1" = 10'

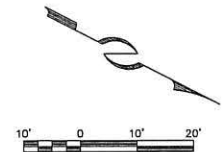
LEVEL 1 SQUARE FOOTAGE TABLE

UNIT	SQUARE FOOTAGE
1	3,014 SF
2 (ADA)	737 SF
3 (EHU)	737 SF
4	2,403 SF

LEVEL 1 CLUB UNIT SQUARE FOOTAGE TABLE

UNIT	SQUARE FOOTAGE
STORAGE, MECHANICAL	876 SF
CLUB OFFICES, MECHANICAL, STORAGE	1,143 SF

NOTE:  
See additional Club Unit ownership on sheet 2.



- COMMON AREA
- RESIDENTIAL UNIT
- LIMITED COMMON RESIDENTIAL
- COMMERCIAL UNIT
- RESORT SUPPORT COMMERCIAL / CLUB UNIT

## RESIDENCES AT THE TOWER CONDOMINIUMS

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERIDIAN  
PARK CITY, SUMMIT COUNTY, UTAH

(435) 649-8487  
**Alliance Engineering Inc.**  
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS  
323 Main Street P.O. Box 2854 Park City, Utah 84002-2854

SHEET 3 OF 8

JOB NO.: 20-7-18 FILE: X:\Empire\dwg\svr\plot\2018\200718.dwg

**RECORDED**

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED  
AT THE REQUEST OF \_\_\_\_\_

FEE \_\_\_\_\_ RECORDER \_\_\_\_\_  
TIME \_\_\_\_\_ DATE \_\_\_\_\_ ENTRY NO. \_\_\_\_\_

2/15/19

## EXHIBIT L

### MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2019, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and body politic ("City"), and EMPIRE PASS MASTER OWNERS ASSOCIATION, INC., a Utah nonprofit corporation ("Association"), each a "Party" and collectively the "Parties" herein.

#### Recitals

A. The area known as Empire Pass ("Empire Pass") is a residential mountain development located in Park City, Summit County, Utah, a portion of which is located within the boundaries and jurisdiction of the City.

B. Empire Pass is governed by the covenants, conditions, and easements set forth in that certain *Certificate of Amendment and Amended and Restated Master Declaration of Covenants, Conditions and Restrictions of Empire Pass* recorded on December 14, 2004 as Entry No. 719855 in Book 1666 at Page 1054 in the records of the Summit County Recorder, as amended and supplemented from time to time (collectively, "Declaration"). The Association is a Utah nonprofit corporation organized to administer and enforce the terms of the Declaration and to exercise the rights, powers, and duties set forth in the Declaration.

C. Development within Empire Pass is governed by that certain *Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, the 20-Acre Quinn's Junction Parcel, and Iron Mountain* entered into by and between United Park City Mines Company, Deer Valley Resort Company, and Park City Municipal Corporation, a third class city of the State of Utah, and recorded on March 2, 2007, as Entry No. 806100 in Book 1850 at Page 1897 in the records of the Summit County Recorder, as amended or supplemented from time to time ("Development Agreement").

D. The Development Agreement required the Developer, as such term is defined in the Development Agreement, to develop a Historic Preservation Plan, which said 127 page Historic Preservation Plan was prepared by SWCA, Inc., on August 2000 and is entitled, *Historic Preservation Plan for Flagstaff Mountain Association, Park City, Summit County, Utah*, as amended or supplemented from time to time including by that certain *Historic Preservation Plan, Exhibit 6* dated May 2001 (and subsequently Revised and Approved December 2001)(collectively, the "Historic Preservation Plan"). The *Historic Preservation Plan, Exhibit 6* dated May 2001 (and subsequently Revised and Approved December 2001)("Exhibit 6") identified historic preservation work needed at 21 historic mining sites within the Flagstaff Mountain Annexation Boundary and specified that the master homeowner association was responsible for maintaining any site that was not part of an ongoing operation.

E. The Parties desire to enter into this Agreement to set forth a plan for the Association to address the Maintenance, as defined herein, needs of certain historic mining sites thereby satisfying the requirements of the Historic Preservation Plan for the time periods set forth herein.

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual covenants set forth herein, the Parties agree as follows:

1. Recitals. The Recitals A through E are incorporated herein and made a part hereof.

2. Definition. As used herein, the term “Maintenance” or “Maintain” shall mean the maintenance work required to stabilize a structure to arrest decay but not to stop a structure’s decay completely. The term “Maintenance” or “Maintain” does not require that any work be performed to make a structure habitable or compliant with any code, regulation, statute, or law. The term “Maintenance” or “Maintain” refers to recommended repairs, stabilization and public protection options in Exhibit 6, and does not require that a structure be restored to habitability.

3. Payments. Association agrees to cause the following payments to be made, within 30 days of execution of this Agreement as follows:

(a) To Park City Museum & Historical Society, the amount of Sixty-Five Thousand Dollars (\$65,000), to reimburse the society for amounts expended in preserving the Little Belle Mine Ore Bin facilities in summer 2018.

(b) To City, from Storied Deer Valley LLC, a Delaware limited liability company (“Storied”), and Redus Park City, LLC, a Delaware limited liability company (“Redus”), the amount of Forty Thousand Dollars (\$40,000.00) each, for a total of Eighty Thousand Dollars (\$80,000.00), to be held by City in escrow for costs incurred by the Association in completing the roof stabilization and related structure protection work at the Judge M + S building during the summer of 2019, and other priorities identified by the Director and agreed to by the Association.

(c) The escrow described in Subsection 3(c) shall be distributed to Association, by City, within 14 days of Association supplying City with evidence of paid invoices for work performed on the Judge M + S building, and other priorities identified by the Director and agreed to by the Association.

4. Process for Determining Maintenance Work to Be Done on Sites. From 2019 through 2029, the Association agrees to meet with the City’s staff (“Staff”), at a minimum, once a year, on or before each March 1<sup>st</sup> (the “Annual Meeting”) to discuss prior construction season’s Maintenance work and project prioritization and scope of any Maintenance work (“Scope of Work”) to be done during the upcoming construction season on any historic mining sites identified on Exhibit 6, with a priority being those projects identified on Exhibit “A” hereto (“Sites”). The Parties acknowledge that the Sites upon which it was mutually agreed that Maintenance work would take place are not located on land owned by or under long term lease to the Association. Notwithstanding any other provision of this Agreement to the contrary, the Parties agree that this Agreement shall be applicable to those Sites to the extent that legal access is provided to the Association, and as may be required to permit the Association to satisfy its obligations hereunder.

- (a) At each Annual Meeting, the Parties shall discuss, at a minimum, the following:
- (i) Review of the process, timeline and costs associated with the most recent construction season’s project(s);
  - (ii) Determination of Scope of Work, process, responsibility and timeline for documenting and recording the project’s work;
  - (iii) Determination if additional work is needed for the following year for the recently maintained, stabilized or completed Site(s);
  - (iv) Review of potential need to secure any Sites to which no Maintenance work has been done in order to deter vandalism, damage or destruction, or to stabilize such Sites;

- (v) Assessment of remaining funds and identification of funding strategies for the next year's budget;
- (vi) Review and update of projects and Sites;
- (vii) Preparation by the Staff, after consultation with the Association, of an annual report to the Community Development Director;
- (viii) The results of City inspection of the Sites to evaluate their condition and potential work to be performed;
- (ix) Selection of projects for upcoming construction season;
- (x) Communication and coordination, as necessary, with the Friends of Ski Mountain Mining History ("FSMMH"); and
- (xi) Determination of the necessary permitting process, including timelines and responsible parties.

(b) After the completion of the meeting, the Parties shall agree on the Scope of Work to be done during the upcoming construction season.

5. Performance of Work on Sites.

(a) Upon the agreement by the Parties of the Scope of Work to be undertaken during each construction season, Association shall be responsible for project management, oversight and payment of contractors. Association shall provide City with project accounting at end of each construction season.

(b) Unless otherwise agreed in writing, the Association shall be the contracting party on the mutually agreed Maintenance work on the Sites. The Association may apply its customary policies, procedures and requirements, including without limitation, insurance and workmen's compensation requirements, to all contractors, subcontractors and materialmen working at a Site or accessing a Site through Empire Pass.

(c) In connection with, or prior to, any work being performed, the Association shall submit work plans and cost estimates to a City-employed individual designated by the Staff. Association shall be responsible for processing and payment of invoices for approved Scope of Work. In the event that any work is performed directly by Association, Staff shall review and approve any payments to Association from Maintenance Funds. At its option, the Association may also require lien/payment bond waivers from contractors paid from previous draw requests or disbursements (*e.g.*, lien waivers provided "in arrears"), in accordance with ordinary and customary construction practices.

6. Inspection, Maintenance, and Securing of Sites. The obligation to inspect the Sites for the purposes of this Agreement shall be upon the City, and the Association shall have no obligation to inspect or to monitor the Sites. Each construction season, Association shall diligently pursue the completion of Scope of Work agreed to in the Annual Meeting with Staff. To the extent funds on hand are not sufficient to pay for contemplated annual Scope of Work, the Association and City will agree on a revised "Scope of Work" and estimated cost budget for such Maintenance work for the upcoming year based on funds available, subject to the following terms and conditions:

(a) On an annual basis for ten (10) years, on or before May 1<sup>st</sup> each year, the Association shall contribute half of the annual amount required to establish a maintenance fund in the amount of Forty Thousand Dollars (\$40,000.00) ("Maintenance Fund"). In consideration of the Association entering into this Agreement, the City agrees to forego, annually, Twenty Thousand Dollars (\$20,000.00) of "Open Space/Transit Management Fee" ("OSTM Fee") income owed to the City each year from transactions according to Section 7.15 of the Declaration. OSTM Fee income foregone by City shall be added to the Maintenance Fund and City shall allow the Association to utilize such OSTM Fee money for purposes of discharging the obligations described in this Agreement. The Association shall have the option, in its sole discretion, to pay all or a portion of its annual maintenance contribution in advance, and to credit the amount of prepaid maintenance contributions against the next year's or years' maintenance contributions that would otherwise be payable by the Association.

(b) The Association's initial obligation to contribute towards the Maintenance Fund shall be ten (10) years from the first maintenance contribution by the Association. On or before the ninth (9th) anniversary of the first maintenance contribution by the Association, the Parties agree to meet to discuss future ongoing funding levels appropriate to continue to satisfy Association's obligations under Exhibit 6 to the Development Agreement, and a possible extension of this Agreement in furtherance thereof. Unless otherwise agreed, the Association and City contribution shall automatically renew for an additional ten (10) years, provided that the total annual Maintenance Fund amount shall be reduced to \$20,000.00 (\$10,000 each) unless otherwise agreed by the Parties.

(c) The Association shall have the right, but not the duty, to spend monies out of the Maintenance Fund on other historical mining projects other than the Sites so long as such historical mining projects are located within the boundaries and jurisdiction of the City and such expenditure is approved in advance by both the Association and the City. After the first ten (10) years, the Association shall have the right, but not the duty, to spend monies out of the Maintenance Fund for open space responsibilities, including funding for the Conservation Easement grantees [City and Summit Land Conservancy] consistent with express purposes of the OSTM pursuant to the Development Agreement, and Open Space Technical Report.

(d) Maintenance contributions made by the Association for these purposes during this ten (10) year period which are not spent for such purposes within the calendar year in which they are contributed will be carried over and combined with the maintenance contribution for the following year, to be applied toward the mutually agreed Scope of Work for the following year, so that yearly maintenance contributions can accumulate to fund larger Maintenance projects, if necessary. Maintenance contributions will be held by the Association in the Maintenance Fund, and disbursed to pay for work upon mutual agreement of the Association and Staff.

(e) Unless otherwise agreed in writing between the Parties, the Association shall be the contracting party for all required Maintenance work to be performed for the agreed ten (10) year period on Sites, and the Association may require such licenses, bonding, insurance and other conditions and requirements for third parties performing such work on behalf of the Parties as the Association customarily imposes on third party contractors working at Empire Pass. The City shall waive any permit, inspection and other fees applicable to work contracted for by the Association or the City pursuant to this Agreement. Nothing in the Association's status as the "contracting party" shall impose any payment obligations or other financial liability on the Association, except as otherwise expressly set forth herein with respect to the maintenance contribution described above. The Association will use reasonable efforts to solicit three (3) quotes for any third party work and will inform the City Implementation Department of the status of any solicitation for work.

(f) Nothing herein shall be deemed to impose any obligation or legal liability on the Association for Maintenance of Sites, except as expressly provided in the Development Agreement/ Historic Preservation Plan and as mutually agreed between the Association and the City, and no ongoing obligations beyond those exist.

7. Obligations of the Parties. The Parties agree that no later than six (6) months after execution of this Agreement by the Parties, the Parties shall have worked in good faith to prepare and shall have executed an updated historic preservation plan identifying outstanding work requirements on the Sites (the "New Exhibit"). The update will take the form of an amendment to Exhibit 6, and require Planning Commission public hearing and approval, and a written acknowledgment of acceptance from both Parties.

8. Long Term Maintenance License(s) and Access Rights. Association and City shall make best efforts to secure long term maintenance and access rights required for Association to perform maintenance work on third party Sites as prescribed in Section 4 of this Agreement. Association will be the initial point of contact with applicable property owners.

9. Open Space Obligations. To clarify management responsibilities assigned under Section 4.4 of *Flagstaff Mountain Resort Open Space Management Plan, Exhibit 5* dated May 2001 (and subsequently Revised and Approved December 2001)("Exhibit 5"), the Parties hereby agree and acknowledge that the Association is only responsible for managing any open space areas owned by the Association.

10. No Assumption of Environmental Liability. Nothing in this Agreement or in the Association's acting as contracting party for any of the work contemplated by this Agreement, shall be deemed an assumption of, or impose any liability on the Association, financial or otherwise, for any environmental remediation or clean-up related to the Sites, or the pre-existing conditions thereon.

11. Due Authorization and Execution. Each Party hereto represents and warrants to the other Party that execution and delivery of this Agreement has been duly authorized by all necessary action.

12. Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding on and inure to the benefit of the successors and assigns of the Parties.

13. Notices. All notices under this Agreement must be in writing and delivered to the notice address below (i) by registered, express, or certified mail, (ii) by courier or messenger service, or (iii) by electronic mail with acknowledgement of receipt. Notice is deemed given on the date delivered or attempted but delivery is refused.

If to the Association:

Empire Pass Master Owners Association, Inc.  
Attn: President  
4188 SR 248  
P.O. Box 99 Kamas, Utah 84036

With a copy to:

Douglas C. Shumway, Esq.  
Miller Harrison Lawyers  
50 W. Broadway, Ste 450

Salt Lake City, UT 84101

If to the City:

Park City Municipal Corporation  
PO Box 1480  
Park City, Utah 84060  
Attention: Planning Department

With a copy to:

Park City Attorney's Office  
PO Box 1480  
Park City, Utah 84060

Either Party may change its addresses for notices pursuant to a written notice which is given in accordance with the terms hereof. The foregoing notice requirements are subject to the provisions below. As used herein, the term "business day" shall mean any day other than a Saturday, a Sunday, or a legal holiday for which U.S. mail service is not provided. Whenever any date or the expiration of any period specified under this Agreement falls on a day other than a business day, then such date or period shall be deemed extended to the next succeeding business day thereafter.

14. No Third Party Beneficiaries. Nothing in this Agreement is intended to create an enforceable right, claim or cause of action upon any third party that is not a Party to this Agreement, with the exception of the intended third party beneficiaries Redus Park City LLC and Storied.

15. Miscellaneous.

(a) Counterparts; Facsimile Transmission. This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which may contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

(b) Due Authorization and Execution. Each Party represents and warrants to the other Party that execution and delivery of this Agreement have been duly authorized by such Party, and that this Agreement is valid and binding upon such Party. This Agreement is subject to approval by the City Council within forty-five (45) days of execution.

(c) No Partnership. The parties do not by this Agreement, in any way or for any purpose, become partners or joint venturers of each other in conduct of their respective businesses or otherwise.

(d) Severability. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

(e) Waivers and Amendments. No provision of this Agreement may be waived to any extent unless and except to the extent the waiver is specifically set forth in a written instrument executed by the Party to be bound thereby. This Agreement may be amended or modified only by an instrument to that effect executed by the parties hereto, and only to the extent expressly set forth therein.



(f) Captions. The captions of each section are added as a matter of convenience only and shall be considered of no effect in the construction of any provision of this Agreement.

(g) Attorneys' Fees. If any Party hereto shall bring any suit or action against another for relief, declaratory or otherwise, arising out of this Agreement, the prevailing Party shall have and recover against the other Party, in addition to all court costs and disbursements, such sum as the applicable court may adjudge to be reasonable attorneys' fees.

(h) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah.

(i) Time of the Essence. Time shall be of the essence with respect to the performance and observance of the covenants, agreements, terms, conditions and provisions set forth herein.

(j) No Default. Upon their execution of this Agreement, the Parties each acknowledge and agree that neither the Association, nor Redus, nor Storied are in Default under the Historic Preservation Plan. So long as the Parties perform the obligations set forth in this Agreement, including diligently pursuing any additional maintenance or preservation work identified in the New Exhibit with available funding from the Maintenance Fund, there shall be no default under the Historic Preservation Plan.

(k) Interpretation of this Agreement. The Parties agree that the purpose of this Agreement, with its New Exhibit, shall be to modify, clarify and implement the Historical Preservation Plan and to confirm the responsibilities for implementation of the preservation purposes described in the Development Agreement.

[Remainder of page intentionally left blank]

[Signatures on following pages]

EXECUTED AS OF THE DATE FIRST WRITTEN ABOVE.

"CITY"

Park City Municipal Corporation, a Utah  
municipal corporation and body politic

By: \_\_\_\_\_  
Mayor

Attest:

By \_\_\_\_\_  
City Recorder

Approved as to Form:

By \_\_\_\_\_  
City Attorney's Office

"ASSOCIATION"

EMPIRE PASS MASTER OWNERS ASSOCIATION,  
INC., a Utah non-profit corporation

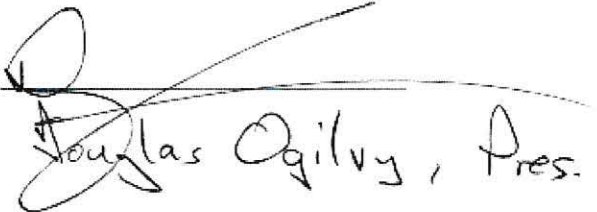
By:   
Douglas Ogilvy, Pres.

EXHIBIT "A"

SITES-

a) *Judge Mining & Smelting Company Office*. Because this structure is owned by a third party, any Maintenance required on this structure is contingent on the Association having secured easements from the third party owner to perform such Maintenance work. The Parties will work together to determine the scope of the required roof repair and other required Maintenance efforts.. The Parties agree that the Association's Maintenance efforts will be limited to the building structure, and that the Association shall not be required to restore the interior in any way or to pursue any adaptive reuse of this structure.

b) *Daly West Mine Fire Hydrant Shacks*. The Parties hereby agree that this structure is still in good condition. There is no apparent need for immediate work other than ongoing Maintenance. Because this structure is owned by a third party, any Maintenance required on this structure is contingent on the Association having secured easements from the third party owner of the structure to perform such repair work.

c) *Little Bell Mine Ore Bin*. The Parties hereby agree that this structure is still in good condition. There is no apparent need for immediate work other than ongoing Maintenance. Because this structure is owned by a third-party, any maintenance required on this structure is contingent on the Association having secured easements from the third-party owner of the structure to perform such repair work.

d) *Interpretive Signs*. The Parties hereby agree that the Association shall install, maintain, and replace those interpretive signs agreed to by the Parties in fulfilment of interpretive signage obligation in the Historic Preservation Plan.